

# **Annual Reports**

## **Local Gender Bias and Gender Fairness Committees**

**2002-2003**

April 15, 2003

## Local Gender Bias and Gender Fairness Committees

### Courts Outside NYC

#### *Third Judicial District Gender Fairness Committee*

**Hon. Leslie Stein**  
Albany City Court  
Albany City Hall, Room 209  
Albany, NY 12207  
518-434-5112

#### *Fourth Judicial District Gender Fairness Committee*

**Hon. Jo Anne Assini**  
Schenectady County Family Court  
612 State Street  
Schenectady, NY 12305  
518-388-4305

**Eileen Kassner, Esq.**  
Chambers of Hon. Vincent Reilly, Jr  
Schenectady County Supreme Court  
612 State Street  
Schenectady, NY 12305  
518-388-4322

**Nicole Duve**  
Court Attorney  
Franklin County Courthouse  
355 West Main Street  
Malone, NY 12953  
518-481-1732

#### *Fifth Judicial District Committee*

**Hon. Kate Rosenthal**  
Syracuse City Court  
511 South State Street  
Syracuse, NY 13202  
315-477-2775

#### *Sixth Judicial District Committee*

**Hon. Mary Anne Lehmann**  
Binghamton City Court  
Governmental Plaza  
Binghamton, New York 13901  
607-772-7006

#### *Seventh Judicial District Committee*

**Hon. Ann Marie Taddeo**  
Supervising Judge  
Monroe Family Court  
300 Hall of Justice  
Rochester, NY 14614-2187  
716-428-5488

#### *Eighth Judicial District Gender and Racial Fairness Committee*

**Hon. Sheila Di Tullio**  
Judge, Erie County Court  
92 Franklin Street, Part 3  
Buffalo, New York 14202  
716-858-2143 or 21242

#### *Ninth Judicial District Committee to Promote Gender Fairness in the Courts*

**Hon. Terry Jane Ruderman**  
Judge, Court of Claims  
140 Grand Street, 9th Floor  
White Plains, NY 10601  
914-428-6888

*Nassau County Judicial Committee on  
Women in the Courts*

**Hon. Claire Weinberg**  
County Court Judge  
99 Main Street  
Hempstead, NY 11550  
516-572-2111

**Hon. Denise Sher**  
Chair Emeritus  
District Court Judge  
99 Main street  
Hempstead, NY 11550  
516-572-2166

*Suffolk County Women in the Courts  
Committee*

**Cheryl Zimmer, Esq.**  
c/o Justice H. Patrick Leis  
400 Carelton Ave.  
Central Islip, NY 11722  
631-853-7735

## **Courts Within NYC**

*New York City Civil Court Committee*

**Hon. Sara Lee Evans**  
Civil Court Judge  
111 Centre Street  
New York, New York 10013  
212-374-8156

**Hon. Maria Milin**  
Housing Court Judge  
111 Centre Street  
New York, New York 10013  
212-374-8469 *New York City Criminal  
Court Anti-Bias Committee*

**Hon. Dorothy Chin-Brandt**  
Queens Criminal Court  
1125-01 Queens Blvd.  
Kew Gardens, NY 11415  
718-20-3616

*Gender Bias Committee of the Family  
Courts of the City of New York*

**Angela Gammone**  
Senior Court Clerks  
NYC Family Court  
283 Adams Street  
Brooklyn, New York 11201  
718-643-5316

*Anti-Bias Committee, New York County,  
Supreme Court, Civil Term*

**Hon. Marilyn Shafer**  
Justice, Supreme Court  
60 Centre Street  
New York, New York 10007  
212-374-3254

*Gender Bias Committee, New York County,  
Supreme Ct, Criminal Term*

**Hon. Carol Berkman**  
Supreme Court  
100 Centre Street, Room 429  
New York, New York 10013  
212-374-8555

*Bronx County Supreme Court Committee*

**Hon. Richard Lee Price**  
Acting Justice, Supreme Court  
851 Grand Concourse  
Bronx, New York 10451  
718-590-3590

*Queens County Supreme Court Gender  
Fairness Committee*

**Hon. Sheri Roman**  
Justice, Supreme Court  
125-01 Queens Blvd.  
Kew Gardens, NY 11415  
718-520-4416

*Brooklyn Gender Fairness Committee*

**Hon. Marsha Steinhardt**  
Justice, Supreme Court  
360 Adams Street, Room 935  
Brooklyn, NY 11201  
718-643-5127





*Third Judicial District Gender Fairness Committee*

**Hon. Leslie Stein, Chair**  
Albany City Court  
Albany City Hall, Room 209  
Albany, NY 12207

518-434-5112

CONFIDENTIAL - SECURITY INFORMATION

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 08/14/01 BY 60322 UCBAW/STP

SIIC-454-816

**LOCAL COMMITTEES 2002-2003**

Name of the Committee Third Judicial District Gender Fairness Committee

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

Hon. Leslie E. Stein, 40 Steuben St., Suite 601, Albany, NY 12207

(518) 434-2145 fax: (518) 434-5980 e-mail: lstein@courts.state.ny.us

Meeting Dates in the Past Year May 8, 2002, Sept. 18, 2002

Activities for Domestic Violence Awareness Month 2001 \_\_\_\_\_

Written materials were made available to the Courts in each of the  
7 counties in the Third Judicial District and were displayed and  
distributed in various locations. In some locations, the Committee  
"partnered" in this effort with Domestic Violence Organizations.

Activities for Women's History Month 2002 \_\_\_\_\_

See Plans for Next Year

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Other Activities in the Past Year \_\_\_\_\_

See Annexed Addendum

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Plans for Next Year \_\_\_\_\_

See Annexed Addendum

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**Please attach copies of flyers or programs from events or written materials about your committee.**

**Please return this form by March 25, 2003, to:**

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

THIRD JUDICIAL DISTRICT GENDER FAIRNESS COMMITTEE  
ADDENDUM TO 2002 ANNUAL REPORT

Other Activities in the Past Year

At the meeting held on May 8, 2002, the Committee heard a presentation by Kay Ann Porter (Assistant Special Inspector General for Bias Matters) and Alice Chapman (Administrator of the Unified Court System Workforce Diversity Office). They explained the functions of their offices, how complaints are addressed and how they work together.

In addition, Rachel Kretser, Esq., reported to the Committee on the Annual Meeting of the NYS Judicial Committee on Women in the Courts. That was followed by a discussion of ideas and suggestions for the future direction and activities of the local Committee, incorporating the results of a survey which had been sent to all Committee members requesting their input.

At the meeting on September 18, 2002, presentations were made by two batterers intervention programs. Representatives from each program spoke about the services provided, the referral process, payments and other aspects of the programs. There was also a discussion of activities and written materials related to Domestic Violence Awareness Month.

In addition, based upon responses received from the survey sent to Committee members and further discussions, the Committee is continuing to investigate ways of undertaking more programs and activities. In furtherance of this goal, the Committee obtained permission from the Administrative Judge to expand its membership and is beginning to pursue opportunities to "partner" with other organizations.

A sampling of written materials from presentations made to the Committee and from Committee activities are included in this Report.

Plans for Next Year

1. Expand membership.
2. Increase activities during Domestic Violence Awareness Month and consider activities for Women's History Month in 2004.
3. Continue to bring in speakers on topics of interest to Committee members.
4. Activities/programs in partnership with other organizations, including:
  - Local Gender Fairness Survey (Capital District Women's Bar Assoc.)
  - How to Become a Judge Program (National Assoc. of Women Judges, NYSBA, WBASNY, Albany Law School and local bar associations)
  - Book Distribution to Family Court Children's Centers (Kiwanis)

Other future plans include the creation of a Committee mission statement and the preparation of a pamphlet for litigants in Family Court on matters such as custody/visitation proceedings or other Family Court proceedings.

*The New York State Office of Court Administration's  
Gender Fairness Committee*

*has partnered with  
Columbia-Greene Domestic Violence*

*to*

*acknowledge the Month of October*

*as*

**DOMESTIC VIOLENCE AWARENESS MONTH**

*And to assist in educating the public to  
recognize the signs of domestic violence in family members,  
friends and co-workers and to assure that assistance is available  
to anyone who falls victim to this outrageous crime.*

*-Please help yourself to our brochures-*







**domestic violence**  
community crisis, community action  
**batterers' intervention program**  
16 First Street, Troy, NY 12180

**MYTH** —  
**what happens in the home is a private, family matter.**

Battering is a crime. The privacy traditionally granted to perpetrators encourage their behavior and further endanger the victim.

**MYTH** —  
**domestic violence is a problem of low income groups.**

Every major study of domestic violence has found that battering cuts across all classes, races, ages, religions and occupations.

**MYTH** —  
**the victim provokes the violence in some way.**

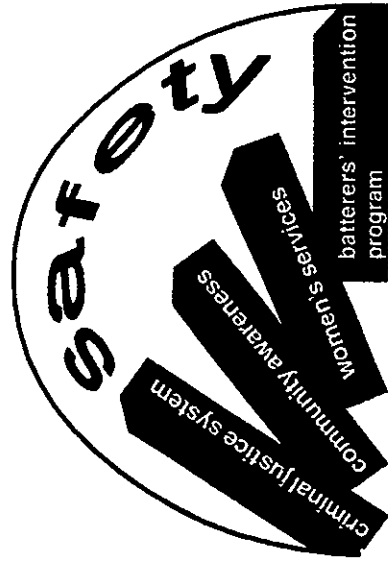
Violence is the sole responsibility of the violent person. No one deserves to be beaten, stalked or raped.

**MYTH** —  
**batterers resort to violence when they lose control.**

Abuse is deliberate; perpetrators select the targets of their abuse. They often chose the circumstance of their violence, including the amount of injury inflicted by their assaults. Perpetrators batter victims to achieve and maintain power over their victims.

**MYTH** —  
**as long as the abuse is directed at the adult, children in the home are safe.**

Children whether physically abused themselves or witnesses to the abuse of others are also victims of domestic abuse.



**domestic violence**  
community crisis, community action

**batterers' intervention program**

**hudson mohawk recovery center**

## a definition

Domestic violence is an extensive range of behaviors: emotional, psychological, physical or sexual abuse - that one person in an intimate relationship uses in order to maintain power and control over the other.

This behavior pattern results in an environment of fear for the victim. Once started, domestic violence tends to escalate and may result in bodily harm, permanent physical injury or death.

Many people have learned that violence is an acceptable way of solving problems and they have the right to be violent. These beliefs are, in some ways fostered by our societal, cultural, economic and political beliefs, and thus supported by society at large. Only a coordinated community response involving the criminal justice system, women services, community awareness and batterers' intervention programs can help end domestic violence.

## battering is a socially learned behavior that CAN BE unlearned.

The Batterers' Intervention Program is an educational course providing batterers an opportunity to work on accepting responsibility for their behavior, and to learn alternatives to their controlling, abusive behavior.

The program teaches that participants can stop all forms of abuse, all tactics of control against their partners, but only if they want to. The course will provide participants with the information they need in order to stop their abuse.

## about the batterers' program

### assessment

All referrals must participate in a standardized testing procedure of at least three one-hour sessions. The purpose of the assessment process is to explore the participant's motivation, and to explain goals of the educational sessions. The assessment may also identify the high risk behaviors and alcohol and other drug using patterns which require immediate attention.

### class sessions

Participation in 52 weekly class sessions is required.

The goals are:

- to assist participants in recognizing their problem behaviors;
- to instruct participants that hitting any person and/or child is criminal behavior;
- to have participants assume responsibility for their actions, and end the unfair advantage of power and control gained through abuse; and,
- to assist participants in implementing positive behaviors that better enable them to achieve their goals and to change abusive patterns.

### exit evaluation

This is used to determine that the program requirements have been met and whether further services are needed.

### fees

Program fee is on a sliding scale.

## services for victims

Partners of participants in the Batterers' Intervention Program are encouraged to call the **Unity House Families in Crisis Program** for support, information and counseling.

**Families in Crisis** is committed to ending family violence.

The program is based on the belief that all people have the right to live without the fear of battering. Victims of domestic violence are supported in their right to make decisions for themselves.

### Services provided include:

- Counseling, advocacy and support
- 24-hour battered women's hotline
- Individual group counseling
- Help in courts, with welfare and with housing
- Shelter for battered women and their children

### To receive more information about this program, please contact:

Families in Crisis  
3215 Sixth Avenue  
Troy, New York 12180  
(518) 272-5917  
HOTLINE: 272-2370

The Batterers' Intervention Program is part of **Hudson Mohawk Recovery Center, Inc.** The program was developed in coordination with:

- The Rensselaer County District Attorney's Office
- The Rensselaer County Probation Department
- Unity House Families in Crisis Program

## batterers' intervention program

16 First Street, Troy, New York 12180 (518) 272-9534

*Fourth Judicial District Gender Fairness Committee*

**Hon. Jo Anne Assini**  
Family Court Judge, Schenectady County  
612 State Street  
Schenectady, NY 12305

518-388-4305

**Eileen Kassner, Esq.**  
Chambers of Hon. Vincent Reilly, Jr  
Schenectady County Supreme Court  
612 State Street  
Schenectady, NY 12305

518-388-4322

**Nicole Duve, Esq.**  
Court Attorney  
Franklin County Courthouse  
355 West Main Street  
Malone, NY 12953

588-481-1732

FOURTH JUDICIAL DISTRICT OF NEW YORK

IN SENATE

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

THE PEOPLE OF THE STATE OF NEW YORK,

vs.



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
SCHENECTADY COUNTY FAMILY COURT  
620 STATE STREET  
SCHENECTADY, NEW YORK 12305  
(518) 388-4305  
Fax: (518) 388-4496

*Hon. Jo Anne Assini*  
*Family Court Judge*

*James C. Armour*  
*Chief Clerk*

*Hon. Mark L. Powers*  
*Family Court Judge*

*Melissa J. Mills*  
*Deputy Chief Clerk*

---

*Colleen M. Quirion, Esq.*  
*Hearing Examiner*

*Kathleen J. Cullen, Esq.*  
*Hearing Examiner*

March 31, 2003

Jill Laurie Goodman, Counsel  
New York State Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

Regarding: 2002-2003 Revised Committee Report Fourth Judicial District

As co-chairs of the Fourth Judicial District Women in the Courts Committee, we proudly submit our 2002-2003 annual report detailing district-wide initiatives throughout the past year.

*Please discard the previous report from our District sent to you last week in error and replace it with the enclosed revised report including all of the attachments.*

We look forward to a productive and informative meeting on April 30<sup>th</sup>, at which time we will be pleased to contribute to a full discussion of committee objectives and proposals for the future.

Very truly yours,

Honorable Jo Anne Assini  
Family Court Judge  
Schenectady County

Eileen B. Kassner, Esq.  
Associate Court Attorney  
Schenectady County

Honorable Nicole Duve  
Court Attorney  
Town Justice, Town of Potsdam

cc: Ms. Marilyn Jordan  
Executive Assistant  
Fourth Judicial District

## Local Committees Reports - 2002-2003

**Name of the Committee:** Fourth Judicial District Committee on Women in the Courts

**Name, Address, Telephone, Fax Numbers and E-mail Address of the Chairs:**

Honorable Jo Anne Assini, Family Court Judge, Schenectady County  
620 State Street, Schenectady, New York 12305, 518-388-4305.  
[Jassini@courts.state.ny.us](mailto:Jassini@courts.state.ny.us)

Eileen Kassner, Esq., Court Attorney, Schenectady County  
620 State Street, Schenectady, New York 12305, 518-388-4305  
[Ekassner@courts.state.ny.us](mailto:Ekassner@courts.state.ny.us)

Nicole Duve, Esq., Court Attorney, Franklin County  
355 West Main Street, Malone, New York 12953, 518-481-1732  
[Nduve@courts.state.ny.us](mailto:Nduve@courts.state.ny.us)

**Meeting dates in the past year:** August 9, 2002, October 25, 2002, January 8, 2003, February 4, 2003, March 5, 2003, March 13, 2003, March 21, 2003.

### **ACTIVITIES FOR DOMESTIC VIOLENCE AWARENESS MONTH 2002:**

**St. Lawrence County, Best Practices Seminar, May 10, 2002**

The Honorable Nicole Duve, Potsdam Town Justice and Court Attorney Franklin County, presented Sexual Harassment Training to local counsel in a CLE-approved program.

**Montgomery County, October 4, 2002; Proclamation Ceremony for Domestic Violence Awareness month (see attached)**

This event included government officials in Montgomery County paired with domestic violence agencies in a show of support and rally for the Montgomery County Task Force on Domestic Violence. The ceremony was designed to raise awareness and advance the "zero tolerance" policy.

**Fourth Judicial District in Conjunction with ComLinks, a Community Action Domestic Violence Intervention Organization covering Franklin and Essex Counties, October 22, 2002:**

This conference held in Lake Placid, New York was designed for Judges, town and village Justices and members of the bar and featured Officer Mark Wynn, a nationally acclaimed presenter as keynote speaker. The Honorable Robert Main, Jr., Franklin County Judge, also offered a presentation regarding the issuance of protective orders.

**Schenectady County, October 28, 2002, "Domestic Violence: A Community Response"**

Panel presentation- This was a panel presentation by community leaders, Honorable Jo Anne Assini, Schenectady County Family Court Judge, Honorable Robert M. Carney, Schenectady County District Attorney, Honorable Harry Buffardi, Schenectady County Sheriff, Chief James Hamilton, Rotterdam Police Department, Carole Merrill-Mazurek, Director of Services to Women and Families, Schenectady County Y.W.C.A.. This forum was a step-by-step informational seminar defining the roles of each agency in combating domestic violence. (see attached).

**Essex County Law Guardian Training, November 8, 2002 entitled "Effective Representation of Victims/Survivors of Domestic Violence and their Children"**

A training program designed for Law Guardians practicing in Family Court to heighten sensitivity to the larger family dynamic.

**Essex County, Task Force Meetings, January 8, 2003 and February 12, 2003**

Meetings convened to develop a coordinated domestic violence community response. Members of this task force also lobbied in Albany on February 4, 2003, Legislative Awareness Day, in which Governor Pataki addressed issues of family violence and members met with Senator Little and Assemblyman Sayward to advance STOP Domestic Violence Agendas.

**Clinton County, April 22, 2003; "How Safe is your Courtroom?"**

This four hour program is open to Town and Village Justices, attorneys, law enforcement personnel and domestic violence advocates and will involve instruction on the issuance of orders of protection and commonly held misconceptions regarding family abuse. Invited addresses will be conducted by the Clinton County District Attorney, the New York State Police, the New York State Office for the Prevention of Domestic Violence, the Honorable Penelope Clute, Plattsburgh City Court Judge and the Coordinator/Mediator from the Clinton County Conflict Resolution Center. (See attached).

**ACTIVITIES FOR WOMEN'S HISTORY MONTH 2003:**

**Schenectady County, March 21, 2003**

**"Working Women of the 21<sup>st</sup> Century" Schenectady County, March 21, 2003:**

An empowerment Seminar for Young Women in Need of Strong Female Role Models- This event brought together thirty professional women of the community, each of whom has distinguished herself in a historically male-dominated profession including law, engineering, management, accounting, financial planning, law enforcement, military service, television news personality, politics and others who leave their mark everyday proving that the balance of work, family and personal life can be achieved with grace and style. These impressive women graciously provided their time to meet personally with thirty-five young girls, ranging in age from twelve to eighteen, all of whom are presently or have been involved in juvenile delinquency or persons in need of supervision proceedings in the Family Court, Schenectady County. Many



of the girls were brought from their residential placements, away from their families. The program allowed a casual and warm atmosphere designed to motivate the girls to pursue their own personal ambitions and connect one-on-one with women who are achieving their dreams and goals regardless of where they began. (See attached).

#### **OTHER ACTIVITIES IN THE PAST YEAR:**

*Luncheon and Planning Meeting*, August 9, 2002 with Marilyn Jordan, Judge Jo Anne Assini, Alice Chapman, Eileen Kassner, and Nicole Duve.

*Luncheon and Planning Meeting*, February 10, 2003 with Judge Jo Anne Assini, Mary Lolik, Director of Schenectady County Probation, Cindy Morgan, Supervisor, Schenectady County Probation, Eileen Kassner and Jennifer Moffett, law school intern.

*A series of monthly Class in the Courtroom* lunchtime presentations held in the Schenectady County Courthouse on a variety of topics as follows:

March 2002- Adolescent Problems

April 2002- Drug Court

May 2002- Supreme Court

June 2002- Jury Duty

August 2002- City Court

September 2002- Medication Therapy, Juveniles and the Family Court

October 2002- The Surrogate's Court

November 2002- The Court of Appeals

January 2003- The Law Library

February 2003- Alternative Dispute Resolution, Mediation and the Housing Authority

March 2003- The Plight of the Self-Represented Litigant

(see attached)

#### **PLANS FOR NEXT YEAR:**

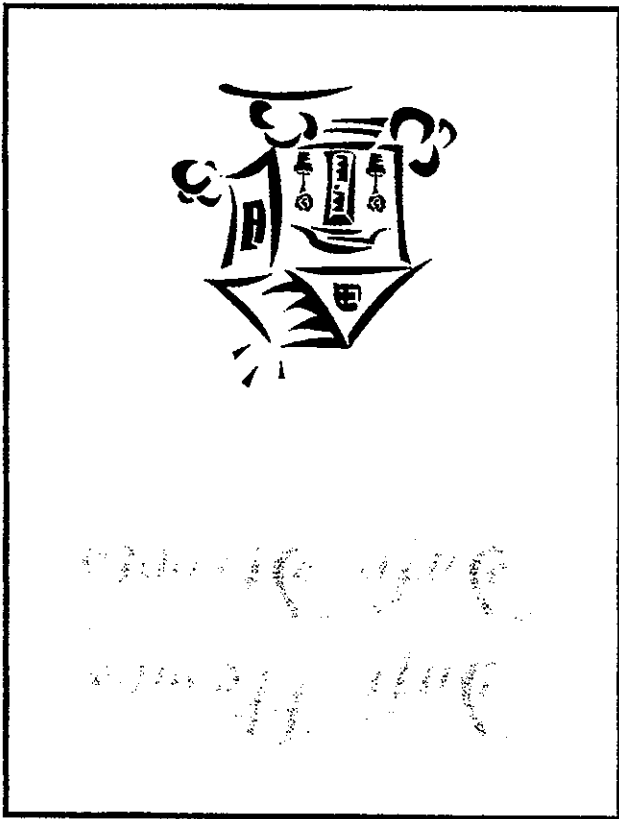
Emphasis will be placed on continued work with the JD/PINS population to help these young women break the cycle of unplanned pregnancy, domestic violence, dependence on social services, staying in low-level jobs, and failure to pursue education.

Additional ideas include career days for adolescents and young female victims of abuse and domestic violence, the establishment of a mentoring program pairing professional women and troubled girls.

Another thought is the arranging of a book signing by female authors in conjunction with a popular local bookstore.

Another proposal is to organize a fashion show through local merchant sponsors drawing attention to domestic violence issues.

In regard to Women's History Month, one proposal expected to be pursued in the future is the compilation of a historical profile on all women who work in the District including, title, length of service, educational background, promotions and personal data.



Design by Ginger Cato / Catholic Charities DV Legal Advocate



Local governmental officials and agencies will show their support of the efforts of The Montgomery County Task Force on Domestic Violence.

The task force was created to educate and protect our community through awareness and taking a "ZERO TOLERANCE" stand on Domestic Violence/Abuse.

Friday October 4, 2002

Proclamation to be read by Assemblyman Paul Tonko

9 o'clock a.m.

Supervisors' Chambers  
County Office Building  
Fonda, NY 12068

*You are invited to  
attend  
Montgomery County's  
Domestic Violence  
Awareness Month  
Proclamation  
Ceremony.*

For further information, please contact:  
Peggy Carney, Task Force Coordinator  
842-3489

**Do you know that October is National Domestic  
Violence Awareness Month?**

Please join us for a Panel Presentation entitled:

***Domestic Violence:  
A Community Response  
Monday, October 28, 2002  
12:00 to 1:00 p.m.  
County Building  
620 State Street, sixth floor***

Presented by Community Leaders:

**Honorable Jo Anne Assini  
Schenectady County Family Court Judge  
Honorable Robert M. Carney  
Schenectady County District Attorney  
Honorable Harry Buffardi  
Schenectady County Sheriff  
Chief James Hamilton  
Rotterdam Police Department  
Carole Merrill-Mazurek  
Director of Services to Women and Families,  
Schenectady County Y.W.C.A.**



*State of New York  
Family Court Chambers  
Schenectady, New York 12305*

*Jo Anne Assini  
Judge*

October 15, 2002

Dear Community Leader:

As you aware, October is Domestic Violence Awareness Month. In order to mark this event and increase community awareness of this problem, we would like to invite you and your staff to a panel discussion about how our community responds to domestic violence. The discussion will be held in courtroom five, which is on the first floor of the Schenectady County Courthouse on Monday, October 28, 2002 from 12:00 until 1:00 p.m.

Joining me on the panel will be the Honorable Robert M. Carney, Schenectady County District Attorney; Honorable Harry Buffardi, Schenectady County Sheriff; Chief James Hamilton, Rotterdam Police Department; Carole Merrill-Mazurek, Director of Services to Women and Families, Schenectady County Y.W.C.A.; and a former victim of domestic violence.

We hope that you will join us for this discussion and will urge members of your staff to attend this free event by posting a copy of the enclosed notice. As you know, domestic violence reaches across economic, racial, social, age, ethnic, sexual, and religious borders. Domestic violence takes many forms. In fact, you may already know a victim of domestic violence. We hope that this discussion will help you to become more knowledgeable about a problem that has a significant impact upon so many families in our community. On behalf of Ms. Merrill-Mazurek, Chief Hamilton, District Attorney Robert Carney and Sheriff Harry Buffardi, I look forward to seeing you on the 28<sup>th</sup>.

Very truly yours,

A handwritten signature in cursive script that reads "Jo Anne Assini".

Jo Anne Assini  
Family Court Judge



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
FOURTH JUDICIAL DISTRICT  
65 SOUTH BROADWAY, SUITE 101  
SARATOGA SPRINGS, NEW YORK 12866  
(518) 587-3019  
FAX (518) 587-3179

**JONATHAN LIPPMAN**  
Chief Administrative Judge

**JOSEPH J. TRAFICANTI, JR.**  
Deputy Chief Administrative Judge  
Courts Outside New York City

**JAN H. PLUMADORE**  
District Administrative Judge  
Fourth Judicial District

**MARILYN F. JORDAN**  
Executive Assistant

March 26, 2003

Dear Clinton County Magistrates:

On April 22, 2003, the Clinton County Domestic Violence Task Force will present "How Safe Is Your Courtroom?", a program for judges, attorneys, law enforcement personnel and advocates. This program will include discussions on courtroom safety, Orders of Protection and common misconceptions about Domestic Violence.

The program will be offered from 8:00 a.m. - 12:00 noon and again from 12:45 p.m. - 4:30 p.m. Town and Village Justices who attend one of these sessions may earn up to three elective credits towards their 2003 mandatory Continuing Judicial Education requirements. Credit forms will be available at the training site. For further information, contact Judith C. H. Gibbons, Probation Supervisor, Clinton County Probation Department, 34 Court Street, Plattsburgh, NY 12901 (Phone: 518-565-4670; Fax: 518-565-4651).

The issue of Domestic Violence is a serious problem in our communities and Town and Village Justices are often in the position of first responders. This program will offer you valuable information about how you can best handle this issue in your courtrooms.

Very truly yours,

A handwritten signature in cursive script that reads "Jan H. Plumadore".

**HON. JAN H. PLUMADORE**  
District Administrative Judge

JHP:pk

**PLATTSBURGH CITY COURT**

41 City Hall Place  
Plattsburgh, NY 12901  
(518) 563-7870  
fax (518) 563-3124

**Penelope D. Clute**  
City Court Judge

**Kathryn F. Herlihy**  
Chief Clerk

March 14, 2003

TO: Judge Plumadore  
FROM: Judge Clute *PC*  
RE: **April 22, 2003 Training for Magistrates in Plattsburgh**

The Clinton County Domestic Violence Task Force is presenting a 4 hour training entitled "How Safe is Your Court Room?" on April 22. The program will be presented twice, so a person can attend either the morning or the afternoon session. I will be speaking on Orders of Protection. A copy of the Agenda is enclosed.

The local Magistrates have been invited. Some have called the Task Force asking if they can receive any education credits for attending. The Task Force then asked me to ask you whether (1) you would encourage the Magistrates to attend and (2) whether there is some kind of credit they can be given.

If the answer is "yes" to one or both of those questions and you are willing to send a letter out to the local justices, the Task Force will be glad to assist with that mailing, if you wish. Probation Supervisor Judy Gibbons is the contact person for the training. If there is something she should do to apply for the granting of credits, please do not hesitate to contact her directly at 565-4670, or to let me know.

Thank you for your time and assistance!

MAR 14 2003

**D E C E I V E D**

**MAR 12 2003**

**PLATTSBURGH CITY COURT**  
**How Safe Is**

# Your Court Room?

**Clinton County Domestic Violence Task  
Force**

**34 Court Street  
Plattsburgh, NY 12901**



**APRIL 22, 2003**

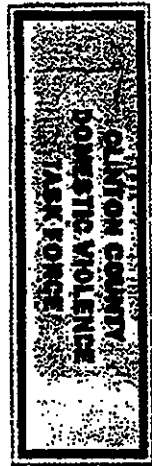
**Second Floor of the**

**Old Court House**

**133 Margaret Street**

**Plattsburgh, NY 12901**





The Clinton County Domestic Violence Task Force promotes a coordinated community response to domestic violence. Meetings are held monthly to discuss current policies and procedures that affect our community.

Target Audiences:

Judges, Attorneys, Law Enforcement, and

Advocates

Objectives:

- ✓ How to keep your court room safe.
- ✓ When is an Order of Protection appropriate?
- ✓ What constitutes a Violation of an Order of Protection?
- ✓ Understanding why mediation is not an appropriate referral.
- ✓ Addressing common misconceptions about domestic violence.



R.S.V.P. BY APRIL 15, 2003

8:30 - 9:15 Check In

9:15 - 9:30 Welcome Rich Cartmell, District Attorney

9:30 - 9:45 Safety in the Court Room Marc McDonnell, New York State Police

9:45 - 10:00 Domestic Violence Bob Passonno, Trainer for the Office for Prevention of Domestic Violence

10:00 - 10:15 Break

10:30 - 11:45 Orders of Protection: A Judge's Point of View: Penelope Cuta, Plattsburgh City Court Judge

11:45 - 12:00 Mediation and Domestic Violence. Michele Bowen, Clinton County Coordinator of Conflict Resolution



12:15 - 1:00 Check In

1:00 - 1:15 Welcome Rich Cartmell, District Attorney

1:15 - 1:30 Safety in the Court Room Marc McDonnell, New York State Police

1:45 - 2:45 Domestic Violence Bob Passonno, Trainer for the Office for Prevention of Domestic Violence

2:45 - 3:00 Break

3:00 - 4:15 Orders of Protection: A Judge's Point of View: Penelope Cuta, Plattsburgh City Court Judge

4:15 - 4:30 Mediation and Domestic Violence Michele Bowen, Clinton County Coordinator of Conflict Resolution

For reservations please fax this page to:  
Judith C. H. Gibbons, Probation Supervisor  
Clinton County Probation Department  
34 Court Street  
Plattsburgh, NY 12801

Fax: (518) 565-4851  
Telephone: (518) 565-4870

Session you wish to attend

- Session I
- Session II

Name \_\_\_\_\_

Address \_\_\_\_\_

Title \_\_\_\_\_ Agency \_\_\_\_\_

Phone \_\_\_\_\_

\*Free parking available in DuRoi Street parking lot



In Celebration of National Women's History Month  
Working Women of the 21<sup>st</sup> Century

Honorable Jo Anne Assini, Family Court Judge  
Court Officer Jacqueline Bernard  
Erika Burns-Gravell, Probation Officer  
Reverend Vicki Brooks-McDonald, Protestant Chaplain  
Barbara Cervasio, Probation Officer  
Susan Ciani Casey, Esq., Assistant District Attorney  
Nicole Evers, Electrical Engineer, General Electric Company  
Martha Gardner, Statistician, General Electric Company  
Dr. Audra Hanley, Physician  
Nadine Hair, Professional Firefighter, Schenectady City Fire Department  
Beth Hathaway, Probation Officer  
Cheryl Hill, Corrections Officer, Schenectady County Sheriff's Department  
Eileen Kassner, Esq., Court Attorney  
Mary Lolik, Director of Probation  
Ellen Malkis, Deputy Elections Commissioner  
Danielle Merfeld, Manager at G.E. in Micro/nano structures technologies group  
Cindy Morgan, Supervisor, Schenectady County Probation  
Claire Pugliese, Certified Public Accountant, The Golub Corporation  
Katie Pugliese, Graduate Student in Elementary Education, St. Rose  
Rosie Pugliese, Graduate Student in Psychology, S.U.N.Y. Albany  
Lt. Colonel Karen Riley, Air National Guard  
Lydia Rollins, Vice President, Salomon Smith Barney Financial  
Anne Saile, President and Chief Executive Officer, Bellevue Women's Hospital  
Joan Taub, Professional Singer  
Officer Deborah Tolley, Scotia Police Department  
Becca Voelker, Engineer, General Electric Company  
Susan Watson, Certified Public Accountant  
Marybeth Wenger, T.V. Reports/Anchorwoman, Newscenter 6, WRGB  
Lynee Wilson, Probation Officer  
Michele Wilson, Professional Firefighter, Schenectady City Fire Department

---

Name: \_\_\_\_\_

In Celebration of National Women's History Month  
Working Women of the 21<sup>st</sup> Century

Welcome! The purpose of this gathering is for you to find out more about formerly male-dominated careers that are opening up to women. Please meet as many people as you can this afternoon. We will all get together around 4:30 p.m. and share some of what you learned. Please ask as many adults as you can at least one question (you can choose from this list, or make up your own) and keep notes.

- 1.) What school subjects are important in your job?
- 2.) Did you have to go to college? If so, what degree or degrees do you have?
- 3.) Do you have a boss? If so, is your boss a man or a woman?
- 4.) Do you have children? If so, has that been difficult in your job?
- 5.) Do you ever work on nights or weekends? If so, how often?
- 6.) What is your favorite part of your job?
- 7.) If you could change one thing about your job, what would it be?
- 8.) How did you get your current job?

Is your child on the way to becoming a criminal?

The New York State Unified Court System, 4<sup>th</sup> Judicial District, Schenectady County Supreme Court Law Library is sponsoring the first public "lunch and learn" (byo) program. This informational series on how the Courts function begins with this month's topic on ADOLESCENT PROBLEMS. This program is being offered at 12 and 1:00 p.m. on March 28, 2002. It will feature a panel discussion by Hon. Jo Anne Assini, Family Court Judge, Laura Velez, Schenectady County Department of Social Services, William Osta, and Steve Signore, Schenectady County Attorney Office and Joseph Mancini, Schenectady County Probation office representative. Please attend this premier event which will be held in Courtroom #5 in the Schenectady County Judicial Building, 1<sup>st</sup> floor, 612 State Street.



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PHONE: (518) 388-4310      PATRICIA L. SCHULTZ, M.L.S.  
FAX: (518) 377-5909      SENIOR LAW LIBRARIAN

## Drug court press release

### WHAT IS DRUG COURT?

You are welcome to come to the second in the series of Class on the Courts, sponsored by the New York State Unified Court System, Fourth Judicial District, Schenectady County Supreme Court Law Library at **noon** on April 25, 2002.

Hon. Michael C. Eidens is the program director of the Schenectady County Drug Courts. Joining him for an information panel will be City Court Judge Hon. Karen Drago, Assistant District Attorney Patricia Flaherty, Assistant Public Defender Deborah Slack, Drug Court Coordinator Nicolle Chaffin and Treatment Coordinator Ronald Butler and Bob Rice from the Schenectady County Probation Department.

The objective of Drug Court is to provide drug and other treatment services for drug addicted non violent criminal offenders. The goal is to break the cycle of recidivism by drug addicted offenders thereby reducing drug crimes and improving the quality of life in our community.

The planning process began in June 2000 and a federal training grant (DCPO) was awarded in September 2000. The Steering committee met monthly and became operational in August of 2001.

Once an individualized treatment plan is developed, the court monitors the treatment program which involves group counseling, individual counseling, external self help meetings, vocational planning, addressing of health issues, family issues, housing issues, legal issues and emotional health issues.

The program will be held in Courtroom #6 first floor Schenectady County Judicial Building, 612 State Street from 12 noon - 1 P.M..

If you have questions please call the Supreme Court Law Library 388-4310



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### press release

You are welcome to attend the third in the series of Class on the Courts, sponsored by the New York State Unified Court System, Fourth Judicial District, Schenectady County Supreme Court Law Library at 12:00 P.M. on May 23, 2002. This program is free and open to the public.

May's topic is "*The New York Supreme Court - A Path thru the Maze*". Our panelists are: Hon. Vito C. Caruso, Senior Supreme Court Justice, Jo Anne Haelen, Court Attorney, Sherry Barnum, Chief Clerk of County and Supreme Courts and Sharon Sheffer, Deputy Chief Clerk. This program will allow the lay person to become informed as to the type of cases that are adjudicated in this court and have an inside look into the processing of a court case thru the New York State Judicial System.

The program will be held in Courtroom #6 first floor Schenectady County Judicial Building, 612 State Street, from 12 noon - 1 P.M..

If you have questions please call the Supreme Court Law Library 388-4310



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### **press release**

You are welcome to attend the fourth in the series of Class on the Courts, sponsored by the New York State Unified Court System, Fourth Judicial District, Schenectady County Supreme Court Law Library at 12:00 P.M. on June 27, 2002. This program is free and open to the public.

June's topic is "Jury Duty - Is It Grand?" presented by Hope Splittgerber, Schenectady County Commissioner of Jurors and by Al Chapleau, Assistant District Attorney, Schenectady County. This event will help to explain the differences between the various types of Jury duty that a citizen may be called upon to perform.

The program will be held in Courtroom #5, first floor Schenectady County Judicial Building, 612 State Street, from 12 noon - 1 P.M..

If you have questions please call the Supreme Court Law Library 388-4310



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Press Release  
New York State Unified Court System  
Schenectady County Supreme Court Law Library  
Class in the Courtroom - August 2002

The Schenectady County Supreme Court Law Library is pleased to announce another public forum on how the Unified Court System functions. Schenectady is one of the few cities in New York State to have more than one city court. We will explore the jurisdiction of City Court, the "Peoples Court" on Thursday, August 22, 2002 at 12:00 P.M. The program will be held in the Civil Courtroom, located on the second floor of City Hall, Jay Street in Schenectady. The panelist will be Hon. Guido Loyola and City Court Chief Clerk Pat Jordan. Please come and learn about your Judicial System.





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Press Release  
Class in the Courtroom- September 26, 2002

**"Medication Therapy, Juveniles and the Family Court System"**

The Schenectady Supreme Court Law Library is pleased to announce the September 26, 2002 class in the courts program . The public is welcome to come learn about "Medication Therapy, Juveniles and the Family Court System" from a distinguished panel comprised of Hon. Mark Powers, Schenectady County Family Court Judge, Dr. Stephen Sandler , psychiatrist, and Dr. Nina Singh, psychologist. The program will be held in Courtroom 5 located on the first floor of the Courthouse 612 State Street at noon on 9/26/02

For additional information contact the law library staff at 388-4310.



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## PRESS RELEASE

The Schenectady County Supreme Court Law Library invites the public to attend a Class in the Courtroom on the operation of Surrogate's Court from 12:00 PM - 1:00 PM on Thursday, October 24, 2002 on the first floor of the Courthouse located at 612 State Street.

The Surrogates' Court is a unique court that advocates for the legal welfare of those who cannot speak for themselves due to death, age or disability in the administration of estates, adoptions and other matters. The staff in Surrogate's Court works daily one-on-one with citizens. This opportunity will address some issues common to many people who use the court as a source of legal relief as well as a source of public records. Surrogate Barry D. Kramer and his staff will stage a dramatization of situations that occur frequently in the court. The audience will be encouraged to participate in a question and answer session at the conclusion of the presentation.

Please feel free to contact the Schenectady County Supreme Court Law Library at 388-4310 for further information.

Class in the Courtroom Series

"The Court of Appeals- New York's Highest Court"

The NYS Unified Court System Joseph F. Egan Memorial Supreme Court Law Library presented on November 21<sup>st</sup>, 2002, an educational program to a rapt audience of employees and the general public on the Court of Appeals. This program featured Retiring Court of Appeals Justice Howard A. Levine.

Judge Levine was insightful and entertaining offering an insider's look into the operation of this distinguished court. Judge Levine provided tales of the traditions of the high court, along with photographs of his fellow Court of Appeals justices and views of the historic courthouse including a photograph of their conference room. The presentation reflected his humor and good nature that has made Justice Levine's acquaintance so appreciated by his fellow co-workers and members of the bar. This homecoming farewell was the highpoint of a year of monthly presentations, choked with emotion and pride for one of Schenectady's own.



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January 10, 2003

Come one, Come all, to the first of 2003's class in the court programs. Attend a presentation on "What's the Law, Where Do I Find It?" A insider's look into the Joseph F. Egan Memorial Supreme Court Law Library, to be held on January 23, 2003 at 1:00 p.m. at the Schenectady County Judicial Building, 612 State Street, Courtroom 1, 4<sup>th</sup> floor. For further information please contact the Law Library at 388-4310.



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PRESS RELEASE

Announcing February's Class in the Court's program on "*Alternative Dispute Resolution, Mediation and the Housing Authority*" hosted by the Schenectady Supreme Court Law Library in the Judicial Building, 612 State Street, Schenectady, NY at 12 noon on Thursday, February 27, 2003. This program will illuminate the work done locally by the New York State Unified Court System, Division of Court Operations, Office of Alternative Dispute Resolutions. Our panel consists of representatives from the Unified Court System's Office of Alternative Dispute Resolution Programs in Cohoes, NY, the Public Policy Dispute Resolution program at the Government Law Center at Albany Law School, Law Order and Justice Center in Schenectady, NY; and Schenectady Municipal Housing Authority. All are welcome and encouraged to attend this informative presentation. For more information, please contact the library staff at 388-4310.



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PRESS RELEASE

The public is invited to participate in "*The Plight of the Self-Represented Litigant*" March's Class in the Courts offering sponsored by the Schenectady County Supreme Court Law Library. This presentation will have representatives from the Fourth Judicial District Administrative Judges' Office, Supreme and County Courts Chief Clerks office, Surrogates' Court, Family Court, City Court (Civil and Criminal) and the Supreme Court Law Library. This informative hour will cover what a self represented litigant can expect in the way of court staff support and guidance. It will be held on Thursday, March 27, 2003 at the Judicial Building, 612 State Street, Schenectady, NY from 12 noon to 1:00 PM. This event is free. All are encouraged and are welcome to attend. If you have any questions please contact law library staff at 388-4310.



*Fifth Judicial District Committee*

**Hon. Kate Rosenthal**  
City Court Judge  
Syracuse City Court  
511 South State Street  
Syracuse, NY 13202

315-477-2775



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### LOCAL COMMITTEES REPORTS - 2002-2003

Name of the Committee 5th Judicial District Women in the Courts Committee

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

Hon. Kate Rosenthal, 511 So. State Street, Syracuse, New York 13202

Telephone: (315) 477-2785 Fax: (315) 474-2601

Meeting Dates in the Past Year 8/22/02; 10/24/02

Activities for Domestic Violence Awareness Month 2002 \_\_\_\_\_

Activities for Women's History Month 2003 \_\_\_\_\_

Other Activities in the Past Year Publicized to the Bar Associations of the 5th District, the mission and members of the Committee.

Post-it® Fax Note	7671	Date	4-22-03	# of pages	2
To	Jill Goodman	From	Judge Rosenthal		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	212-428-2793	Fax #			

Explored the possibility of holding a CLE to promote women as  
judges in the political arena; offered to assist the Magistrate's  
Association with a CLE on Orders of Protection.

Plans for Next Year \_\_\_\_\_

**Please attach copies of flyers or programs from events or written materials about your committee.**

Please return this form by **Monday, March 24, 2003**, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

*Sixth Judicial District Committee*

**Hon. Mary Anne Lehmann**  
Binghamton City Court  
Governmental Plaza  
Binghamton, New York 13901

607-772-7006

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DATE 10/15/2003 BY 60322 UCBAW/STP

EXCEPT WHERE SHOWN OTHERWISE

DATE 10/15/2003 BY 60322 UCBAW/STP

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JOHN T. HILLIS  
MARY ANNE LEHMANN  
ROBERT C. MURPHY

CITY COURT JUDGES

BINGHAMTON CITY COURT  
GOVERNMENTAL PLAZA  
38 HAWLEY STREET  
BINGHAMTON, NEW YORK, 13901  
TELEPHONE (607)772-7006  
FAX (607)772-7041

KAREN A. AMBROZIK  
CHIEF CLERK

SHERRY L. BAKER  
DEPUTY CHIEF CLERK

March 17, 2003

Hon. Betty Weinberg Ellerin  
Chair, NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York, 10004

and

Jill Laurie Goodman  
Counsel, NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York, 10004

Dear Justice Ellerin and Counsel Goodman:


Enclosed please find copies of our memorandums in regard to our activities for the past year, 2002. The Sixth Judicial District has been extremely busy in terms of domestic violence issues, as you can see from the enclosed memoranda.

We are actively engaged in developing a Domestic Violence Court here in the City of Binghamton. Those efforts have given rise to a statistical study of Domestic Incident Reports to develop statistical information in the development of that court. As an offshoot of the discussions involving opening the Domestic Violence Court in the City of Binghamton, the Inter-agency Planning Committee of the Family Violence Prevention Council is working in conjunction with the courts and magistrates throughout the county. We believe that that can be adapted to all ten counties in the Sixth Judicial District. We have enclosed the resources portion of that book that was actually mailed to the magistrates in advance for their immediate use in their court.

I have also enclosed a copy of our chronology of the steps taken in establishing the Domestic Violence Court. Our latest meeting was February 20, 2003 and our next meeting is scheduled for March 20, 2003. Further, the team will be traveling to San Diego from April 22-25 for the final training segment based upon the grant given to the Binghamton City Court team through the auspices

of the Office of Court Innovation. By this time next year we hope to inform you that our Domestic Violence Court has been in operation for almost six months and that we are making significant progress in our community in dealing with the problem and educating the public. Wishing you all the best, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read "Mary Anne Lehmann". The signature is fluid and cursive, with the first name "Mary" and last name "Lehmann" clearly distinguishable.

MARY ANNE LEHMANN  
City Court Judge of Binghamton

enc.

cc: Hon. Judith F. O'Shea

**LOCAL COMMITTEES REPORTS - 2002-2003**

Name of the Committee Gender Fairness Committee, Sixth Judicial District

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

Hon. Mary Anne Lehmann  
City Court of Binghamton  
Governmental Plaza, Floor 5  
38 Hawley Street  
Binghamton, New York, 13901

Telephone (607) 772-7006 Fax (607) 772-7041

Meeting Dates in the Past Year \_\_\_\_\_

Activities for Domestic Violence Awareness Month 2002 \_\_\_\_\_

see attached memoranda

Activities for Women's History Month 2003 \_\_\_\_\_



Other Activities in the Past Year \_\_\_\_\_

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Plans for Next Year \_\_\_\_\_

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Please attach copies of flyers or programs from events or written materials about your committee.

Please return this form by **Monday, March 24, 2003**, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004



**UNIFIED COURT SYSTEM  
SIXTH JUDICIAL DISTRICT  
STATE OFFICE BUILDING  
44 HAWLEY STREET, SUITE 1501  
BINGHAMTON, NEW YORK 13901-4466  
Phone: (607) 721-8541  
Fax: (607) 721-8634**

**JONATHAN LIPPMAN**  
Chief Administrative Judge

**JOSEPH J. TRAFICANTI, JR.**  
Deputy Chief Administrative Judge  
Courts Outside New York City

**JUDITH F. O'SHEA**  
District Administrative Judge  
Sixth Judicial District

**G. RUSSELL OECHSLE**  
Executive Assistant

**DONNA J. SRNKA**  
Administrative Assistant

**MEMORANDUM**

Date: December 6, 2002  
To: Hon. Betty Weinberg Ellerin  
From: Hon. Mary Anne Lehmann *MAJ*  
Re: Domestic Violence Awareness Month

The courts in the Sixth District continue to work in close cooperation with the local agencies that support victims of domestic violence. Court employees continue to make them aware of their legal rights and proper procedures and also direct them to other resources that will assist them with personal matters.

Binghamton City Court received notification on June 11, 2002 that we had been selected to plan and operate a domestic Violence Court. We met with the Office of Court Innovation on July 11, 2002 with a tentative planning team from the community.

On September 25, 2002, we had another planning meeting with the Office of Court Innovations and a group of community leaders to discuss the overall planning strategy, upcoming travel and training that we need to participate in.

On October 6-9, 2002, six members of the planning team traveled to Deluth, Minnesota for an intensive three-day educational seminar on Domestic Violence and the operation of a Domestic Violence Court. After our trip to Deluth our group met to discuss various ways to initially review Domestic Violence Incident reports filed with the police department and changes to our Request for Order of Protection form to include other identifiers the Domestic Violence team may need to keep the victim safe.

Binghamton City Court is conducting a study of Domestic Violence Incident reports to determine how many actually result in arrest and how many are filed in City Court as well as Family Court.

I am scheduled to attend Judicial Training for Domestic Violence Courts in New Mexico from December 8 - 11, 2002.

We have a further planning meeting scheduled for January 16, 2003 to update the community group and forge ahead with further plans to open our Domestic Violence Court.

It was also reported that the New Hope Center in Tioga County held a candlelight vigil on the Tioga County Courthouse lawn in observance of domestic violence month.



**BINGHAMTON CITY COURT**  
GOVERNMENTAL PLAZA, 38 HAWLEY STREET  
BINGHAMTON, NEW YORK 13901  
TELEPHONE 607-772-7006  
FAX 607-772-7041

JOHN T. HILLIS  
CITY COURT JUDGE

MARY ANNE LEHMANN  
CITY COURT JUDGE

KAREN A. AMBROZIK  
CHIEF CLERK

SHERRY L. BAKER  
DEPUTY CHIEF CLERK

Your Honor;

Enclosed please find a list of referral information compiled by Binghamton City Court to assist us in providing services to the victims of violent crime. Since it covers all of Broome County's services I felt it would be helpful to you and your court. It will eventually appear as part of a Bench Book being prepared by a subcommittee of the Inter-Agency Planning Committee of the Family Violence Prevention Council. If you have any numbers or services that you think should be added to this list please let me know at the above number. Also, if you would like to serve on the subcommittee and assist in the preparation of the Broome County Domestic Violence Bench Manual please contact Heather Gow, Coordinator at 778-2153, fax# 778-3788.

I hope this information proves helpful and that all is well in your court.

All the best,

A handwritten signature in cursive script that reads "Mary Anne Lehmann".

Mary Anne Lehmann  
Binghamton City Court Judge

cc: Hon. Judith F. O'Shea, Admin Judge  
Heather Gow  
Joann R. Parry Co-Chair



## REFERRAL INFORMATION

### EMERGENCY ASSISTANCE HOTLINE NUMBERS (24 HOURS/7 DAYS A WEEK)

Child Abuse Hotline (Registry).....1-800-342-3720  
Domestic Violence Hotline.....1-800-942-6906  
En Español (9-5)...1-800-942-6908  
Family Violence Prevention Council.....778-2153  
National Domestic Violence Hotline.....1-800-799-SAFE  
(7233)  
National Organization for Victim Assistance.....1-800-TRY-NOVA  
(879-6682)  
NYS Crime Victims Board.....1-800-247-8035  
NYS Elder Abuse Hotline.....1-800-342-3009  
NYS Office for the Prevention of Domestic Violence.....1-518-486-6262  
Runaway Hotline (Switchboard).....1-800-231-6946  
1-800-621-4000

### CRIME VICTIMS ASSISTANCE PROGRAMS

Attorney General Crime Victim Bureau.....1-800-771-7755  
Broome County Dept. of Social Services  
Central Intake.....778-2620  
Child Protective Services.....778-2649  
778-2647  
Adult Protective Services.....778-2635  
Crime Victims Assistance Center.....723-3200  
722-4256  
FAX 773-8370  
Crime Victims Assistance Center Crisis Line.....722-4256  
First Call for Help (Clearing House for Assistance Organizations).729-9100  
729-9121  
1-800-227-5353  
Rape and Abuse Crisis Line.....722-4256  
S.O.S. Shelter for Battered Women (Hotline).....754-4340

**RELATED WEBSITES**

- www.opdv.state.ny.us
- www.abanet.org/domviol/
- www.fvpf.org
- www.breakingthecycleinc.com

**EMERGENCY SHELTER, FOOD, and SERVICES**

- Broome County Council of Churches.....724-9130
- Broome County Office for Aging.....778-2411
- Broome County Red Cross.....785-7207
- Broome County Y.M.C.A.....772-0572  
772-0560
- Broome County Y.W.C.A.....772-0340
- Catholic Charities of Broome.....723-9991  
729-9166
- CHOW.....723-8960
- HEAP/PROBE, Inc.....(Binghamton)..772-8912  
(Endicott)...786-8727
- Lend-A-Hand.....798-1340
- S.O.S. Shelter for Battered Women.....754-4340
- The Salvation Army.....722-2987
- Volunteers of America (Emergency Shelter).....772-1156
- WIC/Supplemental Food.....1-800-688-7777  
778-2881

**LEGAL ASSISTANCE**

- ACCORD..... 724-5153
- Attorney General Consumer Affairs.....721-8771  
1-800-771-7755
- Broome Lawyer Reference Service.....723-6331
- Legal Aid for Broome & Chenango, Inc.....723-7966

LOCAL HOSPITALS and CLINICS

Binghamton Psychiatric Center.....	724-1391
Broome County Mental Health Clinic.....	778-1152
Broome Volunteer Emergency Squad.....	772-6565
Lourdes Hospital.....	798-5111
Emergency Services.....	798-5231
United Health Services.....	762-2200
Binghamton General Hospital	
Emergency Services.....	762-2231
Emergency Mental Health Services.....	762-2458
Family Care Centers.....	762-2660
	762-3281
	762-2468
Wilson Memorial Hospital.....	773-6000
Emergency Services.....	763-6611

MISCELLANEOUS

Citizen Action.....	Binghamton..723-0110
	1-800-559-4645
Family and Children's Society, 257 Main Street, Binghamton.....	729-6206
VESID.....	721-8400
Veterans Affairs/NYS and Federal.....	724-1299
	1-800-827-1000
Veterans Services/Broome County.....	778-2147



## Alcohol & Other Drug Treatment Providers

### Addictions Crisis Center (ACC) \*\* - a division of Fairview Recovery services

247 Court Street

Binghamton, NY

772-4080

Medically Monitored detox, Room & board in a structured environment, 24 hour crisis hotline. Referrals to appropriate treatment.

### Addictions Center of Broome County (ACBC)

30 West State Street

Colonial Plaza, Binghamton, NY

723-7308

Outpatient & Intensive Outpatient (IOP) Treatment for Substance abusers, MICA services and Co-Dependency services also available

### Fairview Halfway House \*\* Both are part of Fairview Recovery Services

&

### Merrick Halfway House

5 Merrick Street

Binghamton, NY

607-722-8987

Male & Female facilities - Halfway House services 3-6 month length of stay includes case management, relapse prevention/intervention, group & individual services, & referral to vocational/educational services in community.

### Supportive Living -\*\* A division of Fairview Recovery Services

Offices- 5 Merrick Street

Binghamton, NY

607-722-8987

Independent, Apartment based living arrangements with case management services, support groups, & recreational activities. 2 programs- 1 for men, 1 for women w/ children.

**Addictions Case Management**- \*\*A Division of Fairview Recovery Services

247 Court Street  
Binghamton, NY 13901  
607-722-4080

Intensive Case Management Services for persons with a history of non-compliance with treatment or over using crisis services. (9/02- waiting list for services).

**Salvation Army Adult Rehabilitation Center**

5-9 Griswold Street  
Binghamton, NY  
607-723-5381

60 Bed facility - work therapy oriented, 12 step focused, Christian based rehabilitation program. 6 month minimum stay.

**Van Dyke Addiction Treatment Center** (Van Dyke -ATC)

Mailing address:  
1330 County Road 132  
Ovid, NY 14521  
607-869-9500

Facility Address: Van Dyke ATC  
Willard, NY 14588

One of 13 inpatient Addiction Treatment Centers run by NYS- Office of Alcoholism & Substance abuse services. Different programs for Men and Women. No self-referrals - all referrals must come from treatment providers.  
People cannot be turned away because they do not have insurance or funding to pay for inpatient treatment.

**United Health Services-New Horizons**

42 Mitchell Avenue  
Binghamton, NY  
762-3232

Inpatient, Outpatient & Intensive Outpatient (IOP) Treatment for Substance abusers, MICA services and Co-Dependency services also available.

**United Health Services -Binghamton General Hospital**

20-42 Mitchell Ave.

Binghamton, NY 13903

Main Switchboard- 607- 762-2200

Detoxification - 607-762- 2255

Crisis Line - 607-762- 2257

Medically Managed Detoxification, Crisis Services, hospital setting.

**United Health Services- Southern Tier Drug Abuse Treatment Center**

40 Arch Street

Johnson City, NY 13790

607-763-5300

Outpatient treatment- Medical Maintenance (Methadone & other chemotherapy as needed).

**YWCA - Supported Living Program**

80 Hawley Street

Binghamton, NY 13901

607-772-0340 Ext. 236

Community Residence or apartment based housing options for Alcohol or Drug Dependent women with past experience at Residential Treatment.

Women cannot be in need of on-site medical or psychiatric care and cannot be a threat to themselves or others.

**Conifer Park**

79 Glenville Road

Schenetady, NY 12302

518-399-6446

Inpatient Treatment Center - Adults and Adolescents

**Cornerstone Recovery Services (Formerly Alpha House)**

**Outpatient Services**

334 West State Street  
PO Box 789  
Ithaca, NY 14851  
607-273-5500

**Residential Rehabilitation**

Route 227 RD#1  
Trumansburg, NY 14886  
607-387-6118

**Informational Resources:**

**Mental Health Association-**

**Chemical Dependency Prevention-**  
607-771-1380

**AA- 607-722-5983**

Local Phone Number to obtain current days/times of Alcoholics Anonymous Meetings in Greater Binghamton Area.

[www.alcoholics-anonymous.org](http://www.alcoholics-anonymous.org)

**AL-ANON/AL-ATEEN- 607- 722-0889**

Local Phone Number to obtain current days/times of support meetings for spouses, friends, & family members of alcoholics/addicts.

[www.al-anon.org](http://www.al-anon.org)

**NA- 607-774-4907**

Local Phone Number to obtain current days/times of Narcotics Anonymous Meeting.

[www.na.org](http://www.na.org)

**Double Trouble-**

[www.doubletroubleinrecovery.com](http://www.doubletroubleinrecovery.com)

Self-Help Group for persons with addiction and mental illness issues

**National Institute on Alcohol & Alcoholism**

1-800-487-4889

[www.niaaa.nih.gov](http://www.niaaa.nih.gov)

**National Institute on Drug Abuse**

301-443-1124

[www.drugabuse.gov](http://www.drugabuse.gov)



JOHN T. HILLIS  
MARY ANNE LEHMANN  
ROBERT C. MURPHY

CITY COURT JUDGES

BINGHAMTON CITY COURT  
GOVERNMENTAL PLAZA  
38 HAWLEY STREET  
BINGHAMTON, NEW YORK, 13901  
TELEPHONE (607)772-7006  
FAX (607)772-7041

KAREN A. AMBROZIK  
CHIEF CLERK

SHERRY L. BAKER  
DEPUTY CHIEF CLERK

To: Violence Prevention Council  
From: Hon. Mary Anne Lehmann and  
Karen Ambrozik, Chief Clerk  
Date: February 20, 2003  
Re: Domestic Violence Court

#### CHRONOLOGY

June 11, 2002 Received notification from Judge Lippman's office that Binghamton City Court was one of three courts in New York State selected to pilot a Domestic Violence Court.

July 11, 2002 Initial meeting with Office of Court Innovation and interested agencies.

July 17, 2002 Letter sent to community representatives inviting participation.

July 26, 2002 Meeting with SOS Shelter and YWCA regarding grant for Domestic Violence.

September 25, 2002 Large meeting with Office of Court Innovation and community leaders to discuss outline.

October 6-9, 2002 Trip to Duluth, Minnesota to learn about their co-ordinated community response to Domestic Violence cases.

October 25, 2002 Meeting of the team from Duluth trip to plan strategy.

December 8-11, 2002 Judge Lehmann attended Domestic Violence Seminar, "Enhancing Judicial Skills in Domestic Violence Cases."

January 16, 2003 Meeting to update large community group and report to Task Force.

January 28, 2003 Judge Lehmann attended Domestic Violence Judicial Round-table in New York City; gathering of all Judges presently working in or planning Domestic Violence Courts in New York State.

Have co-ordinated meeting with Family Violence Prevention Council. - Developing Bench Book on Domestic Violence for Broome County Magistrates.

cc: Hon. Judith O'Shea, District Administrative Judge



*Seventh Judicial District*

**Hon. Ann Marie Taddeo**  
Supervising Judge  
Monroe Family Court  
300 Hall of Justice  
Rochester, NY 14614-2187

716-428-5488



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ANN MARIE TADDEO  
Supervising Judge

STATE OF NEW YORK  
**MONROE COUNTY FAMILY COURT**

HALL OF JUSTICE  
CIVIC CENTER PLAZA  
ROCHESTER, NY 14614-2187  
585-428-5429  
Fax Number: 585-428-2597

RONALD W. PAWELCZAK  
Chief Clerk IV

LOREEN NASH  
Deputy Chief Clerk IV

April 1, 2003

Hon. Betty Weinberg Ellerin  
NYS Judicial Committee on Women  
in the Courts  
25 Beaver St., Room 878  
New York NY 10004

**RE: Annual Report of the Seventh Judicial District Gender Fairness Committee**

Dear Judge Weinberg Ellerin:

I am writing to provide you with the Seventh Judicial District Gender Fairness Committee annual report for 2002.

"Domestic violence education" continues to be a regular activity of our Committee. As you know, Monroe County Family Court has the Domestic Violence Intensive Intervention Court, which is a collaborative effort with a number of community agencies. In October, a number of our court staff attended the Rochester/Monroe Domestic Violence Consortium's 1<sup>st</sup> Annual Domestic Violence Conference. Other training sponsored by the Court included "Family Court's Response to Domestic Violence Situations & Promoting Safety and Stability of Families and Children (ABA)", and "Coordinated Community Response". These training programs have been of the highest caliber with national presenters. Continuing this tradition, later this month we are co-sponsoring "Advanced Issues in Enforcement & Issuance of Orders of Protection".

In recognition of the fact that March is Women's Month, the Committee held district wide Gender Fairness Forums in both Rochester and Waterloo. These forums were attended by over 80 employees, members of the local Bar Associations and other court related agencies. The programs and ensuing conversations were informative, educational and enthusiastically received by all attendees. We also took the opportunity, during these meetings, to review the NYS Judicial Committee on Women in the Courts 2002 Report "Women In The Courts: A Work In Progress". The report was extremely useful in demonstrating how gender bias can be reduced or eliminated operationally within our system, an important connection people often fail to make.

In closing, I want to thank you for your leadership in this area and for the work done in preparing your "Women in the Courts" report which I found to be extremely useful in our mission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ann Marie Taddeo".

Ann Marie Taddeo  
Acting Supreme Court Justice  
Supervising Judge of the Family Courts  
in the Seventh Judicial District

## LOCAL COMMITTEES 2002-2003

Name of Committee: **Seventh Judicial District Gender Fairness Committee**

Name, Address, Telephone Numbers and E-mail Address of the Chair:

**Hon. Ann Marie Taddeo  
Monroe County Family Court  
Hall of Justice  
Rochester NY 14614**

**Phone: (585) 428-5488  
Fax: (585) 428-4068  
E-mail: ataddeo@courts.state.ny.us**

Meeting Dates in the Past Year: **March 12, 2003, March 13, 2003**

Activities for Domestic Violence Awareness Month 2002:

- **Domestic Violence displays in all courthouses through the Seventh Judicial District**
- **Domestic Violence Court staff attended the Rochester/Monroe Domestic Violence Consortium Domestic Violence Conference and other training**

Activities for Women's History Month 2003:

**Conducted 2 "Gender Fairness in the Courthouse Programs"**

- **Rochester, NY**
- **Waterloo, NY**

**Both Sessions attended by over 80 employees, representatives from local Bar Associations, Probation Departments.**

Other Activities in the Past Year:

**Co-sponsored Advanced Issues in Enforcement and Issuance of Orders of Protection Conference.**

Plans for Next Year:

- **Public Displays in Every Courthouse District Wide**
- **Educational Forums on Domestic Violence in Every Courthouse**
- **Women's Month Website**
- **2 District Wide Gender Fairness Forums**

Please return this form by **March 24, 2003** to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in Courts  
25 Beaver Street, Room 878  
New York, NY 10004

**ADVANCED ISSUES IN  
ENFORCEMENT & ISSUANCE OF  
ORDERS OF PROTECTION:**

**FIREARMS, FULL FAITH & CREDIT, NCIC,  
ETC**

APRIL 9, 2003  
RIT INN & CONFERENCE CENTER  
ROCHESTER, NY

\$25.00 PER PERSON

SPONSORED BY:

UNITED STATES ATTORNEY'S OFFICE  
MONROE COUNTY FAMILY COURT

This conference is specifically designed for judges; law enforcement, including probation; prosecutors, and attorneys representing battered women. It is designed to give the participant an in-depth understanding of the complex issues surrounding the enforcement and issuance of orders of protection.

## **BRIEF COURSE DESCRIPTIONS**

### **POETIC JUSTICE**

Judge Poe is a renowned national speaker on the courts response to victims and known for his innovative sentencing techniques. Judge Poe will provide his own unique analogy of how judges can respond to domestic violence cases in the courtroom.

### **FIREARMS AND ORDERS OF PROTECTION**

Do hunting rifles count as firearms? What if the defendant is a police officer? Is the "I didn't know" a valid defense to possession? How does federal firearm laws affect New York State firearm laws? What happens when State law is in conflict with federal law? Bret Puscheck will discuss these and other issues relating to federal firearm laws. Kate Cerulli will provide an overview of how New York State law compliments and differs from federal laws relating to firearms. Bret and Kate will also take the audience through some case scenarios.

### **VIOLENCE AGAINST WOMEN ACT (VAWA)**

Margaret Groban is the national expert on VAWA. She will provide an overview of the law, including the 2000 amendments and case examples. She will also discuss current issues with VAWA.

### **CASE STUDY: WNY FIRST VAWA CASE PROSECUTED BY FEDERAL & STATE**

Prosecutors from the Erie County District Attorney's Office and the United States Attorneys Office will discuss how they successfully prosecuted Western New York's first VAWA case and achieved federal and state favorable decisions. West Seneca Police and the FBI will discuss how they responded to the scene and processed the evidence. Erie County Court Judge Pietruszka will give his view as presiding judge. This case was also noteworthy because the defendant was a federal agent.

### **CERTIFICATION AND FULL FAITH & CREDIT**

Did you know that criminal justice agencies can no longer charge victims a filing fee for orders of protection or they will lose federal funding? Are Tribal Court orders of protection treated like state issued orders? How should police respond on the scene to a foreign order? These and other issues will be discussed by Lisa Beran, a national expert on Full Faith and Credit.

### **NCIC AND NEW YORK STATE FAMILY PROTECTION REGISTRY**

What is that Brady indicator anyway? Who gets entered in NCIC and what information is entered? Who registers Orders of Protection with the State Registry? What if the order is not in the State Registry or NCIC? These and other questions will be addressed by Fanny Hasenboehler and Elaine Best.

**THERE WILL BE AN ASK-IT-BASKET AT REGISTRATION TO HAND IN ANY QUESTIONS YOU HAVE ABOUT ENFORCING OR ISSUING ORDERS OF PROTECTION OR YOU CAN FAX YOUR QUESTIONS AHEAD OF TIME TO:  
716-551-3052**

*Eighth Judicial District Gender and Racial Fairness Committee*

**Hon. Sheila Di Tullio**  
Judge, Erie County Court  
92 Franklin Street, Part 3  
Buffalo, New York 14202

716- 858-2143 or 21242

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THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

5720 S. UNIVERSITY AVE.

CHICAGO, ILL. 60637

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# County Court

ERIE COUNTY  
BUFFALO, NEW YORK 14202

SHEILA A. DI TULLIO  
COUNTY JUDGE

716-858-2143  
Fax 851-3334  
E-Mail: [sditulli@courts.state.ny.us](mailto:sditulli@courts.state.ny.us)

April 3, 2003

Hon. Betty Weinberg Ellerin  
New York State Judicial Committee on Women in Courts  
25 Beaver Street, Room 878  
New York, New York 10004

Re: Eighth Judicial District Gender and Racial Fairness Committee Report, 2002

Dear Justice Ellerin:

Please find enclosed my local Committee report for the year 2002. As I believe you will agree, our Committee has been extremely busy. I am pleased to report that through the leadership of our former Administrative Judge Vincent E. Doyle and a dedicated committee, we have achieved a great deal. Our hard work in 2002 recently culminated in the March, 2003 Committee Luncheon recognizing outstanding women in the law. The award recipients included a cross-section of women within the court system: Judges, court clerks, attorneys, commissioners of jurors, court reporters and judicial secretaries were all represented. Well over 200 people attended this luncheon, which was widely regarded as a smashing success.

Our Committee has now sponsored this luncheon on three occasions: in the spring of 2000, 2001, and 2003. As was noted in the 2002 report, The Women in the Courts Committee plaque which displays the names of all award recipients (we add to it every two years) was presented to the Honorable Eugene F. Pigott, Jr., Presiding Justice, and dedicated in a ceremony at the Fourth Department on May 20, 2002.

The Committee also sponsored various domestic violence programs in October and November, 2002, and conducted informational breakfasts and luncheons in Buffalo and Batavia during the summer months to remind OCA employees that the Committee exists, what we do and stand for, and what is expected of us as OCA employees with respect to gender and racial fairness.

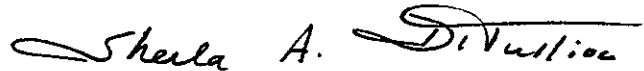


Hon. Betty Weinberg Ellerin  
Re: 2002 Report  
April 3, 2003  
page 2

As I have mentioned to you in the past, Judge Ellerin, I have enjoyed chairing this Committee and strongly feel that its work is worthwhile and extremely important to the New York State Court system as well as those it serves: The Committee and I look forward to working with the Honorable Sharon S. Townsend, our newly-appointed Administrative Judge and expect her strong leadership and support to enhance our work even further.

Wishing you all the best, I remain

Most sincerely,

A handwritten signature in black ink that reads "Sheila A. DiTullio". The signature is written in a cursive style with a long horizontal flourish extending from the end of the name.

SHEILA A. DiTULLIO  
Erie County Court Judge

SAD/kmp  
Encl.

C: Jill Laurie Goodman  
Hon. Eugene F. Pigott, Jr.  
Hon. Sharon S. Townsend

## LOCAL COMMITTEE REPORT 2002-2003

### Name of the Committee:

**Eighth Judicial District Gender and Racial Fairness Committee**

### Name, Address, and Telephone and Fax Numbers of Chair:

**Hon. Sheila A. DiTullio, J.C.C.  
County Court Part 3  
92 Franklin Street  
Buffalo, New York 14202  
Telephone: (716) 858-2143  
Fax: (716) 851-3334  
E-Mail: [sditulli@courts.state.ny.us](mailto:sditulli@courts.state.ny.us)**

### Meeting Dates in the Past Year:

**Please see attached summary report (2002 Report)**

### Activities for Domestic Violence Awareness Month 2002:

**“Haven House” posters were displayed in each county courthouse in the Eighth Judicial District for the months of October and November. The collages were created by house residents and their children illustrating their feelings as victims of domestic violence.**

### Activities for Women’s History Month 2003:

**Committee meetings as well as informal breakfast and luncheon presentations throughout the Eighth Judicial District**

### Other Activities in the Past Year:

**Please see attached summary report (2002 Report)**

**Plans for Next Year:**

**Regular Committee meetings throughout the year to continue discussions related to gender and racial discrimination, and explore avenues to ensure gender and racial fairness throughout the Eighth Judicial District.**

**Please attach copies of flyers or programs from events or written materials about your committee:**

**Please see attached materials. Dimensions of "Haven House" posters preclude inclusion.**

**Please return this form by March 25, 2003, to:**

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

**EIGHTH JUDICIAL DISTRICT GENDER AND RACIAL FAIRNESS COMMITTEE**  
**2002 REPORT**  
**Committee Meetings:**

**April 30, 2002 (Buffalo, New York) Agenda:**

- Discussion of various local committee activities;
- Continuation of efforts to promote equal treatment of women and minorities in the Unified Court system;
- Discussion of assigned counsel fees for attorneys

**May 20, 2002 (Rochester, New York) Agenda:**

**Dedication Ceremony held at Fourth Department, Rochester, New York:**

- Historical Perspective on Committee's Annual Awards Luncheon presented by Harold J. Brand, Jr., Executive Assistant, Eighth Judicial District;
- Introduction of Committee Members to Justice Pigott, Presiding Justice;
- Comments by the Honorable Eugene F. Pigott, Jr., Presiding Justice, Appellate Division, Fourth Department;
- Presentation of "Hon. M. Dolores Denman Woman Leadership Award" plaque to Justice Pigott for display at Fourth Department courthouse

**June 27, 2002 (Buffalo, New York) Agenda:**

- Discussion of summer programs (August: Batavia; September: Buffalo)
- Update on May 20, 2002 meeting in Rochester;
- Discussion of domestic violence programs for Domestic Violence Awareness Month;
- Sexual harassment training presentation by Harold J. Brand, Jr.;
- Committee Awards Luncheon for spring, 2003

**August 20, 2002 (Batavia, New York) Agenda:**

- Luncheon/Meeting held in Batavia, New York; introduction of Committee and its purpose to outlying counties;
- Discussion of issues related to gender and racial bias;
- Discussion of mission and goals of committee

September 23, 2002 (Buffalo, New York) Agenda:

- Meeting with subcommittee members to discuss plans for Domestic Violence Awareness Month (October)

September 30, 2002 (Buffalo, New York) Agenda:

- Discussion of domestic violence programs to be presented during the months of October and November;
- Discussion of Committee Awards Luncheon in spring, 2003

October 16, 2002 (Buffalo, New York) Agenda:

- Breakfast/Meeting held at Buffalo City Court introducing Committee and discussing its purpose;
- Introduction of Eighth Judicial District Gender and Racial Fairness Committee to Unified Court employees;
- Discussion of issues related to gender and racial discrimination;
- Discussion of mission and goals of Committee;
- Display of "Haven House" posters throughout the Eighth Judicial District ("Haven House" is a shelter for victims of domestic violence.)

December 4, 2002 (Buffalo, New York) Agenda:

- Discussion of nominees for Award Luncheon, spring 2003

March 26, 2003 (Buffalo, New York) Agenda:

- Eighth Judicial District Women in the Courts Committee Awards Luncheon

**EIGHTH JUDICIAL DISTRICT GENDER AND RACIAL FAIRNESS COMMITTEE**

**AWARD RECIPIENTS (2000)**

- Charlotte Smallwood Cook, Esq.
- Hon. M. Dolores Denman (Posthumous)
- Ann E. Evanko, Esq.
- Constance Eve
- Lucinda Finley, Esq.
- Maryann Saccomando Freedman, Esq.
- Marjorie L. Girth, Esq.
- Hon. Jacqueline M. Koshian, J.S.C.
- U.S. Attorney Denise E. O'Donnell
- Hon. Rose H. Sconiers, J.S.C.

**AWARD RECIPIENTS (2001)**

- Grace Marie Ange, Esq.
- Lillian E. G. Cowan, Esq.
- Donna L. Emo
- Patricia K. Fogarty, Esq.
- Jeannine A. Lee
- Hon. Ann T. Mikoll J.S.C. (Retired)
- Sharon Thomas
- Hon. Shirley Troutman

**AWARD RECIPIENTS (2003)**

- Susan Biller
- Martha J. Farbo-Lincoln
- Hon. Mary Pat Hancock
- Barbra A. Kavanaugh, Esq.
- Hon. Crystal D. Peoples
- Barbara Simon
- Hon. Sharon S. Townsend
- Commissioner Rosemary A. Ward



# County Court

ERIE COUNTY  
BUFFALO, NEW YORK 14202

SHEILA A. DI TULLIO  
COUNTY JUDGE

716-858-2143  
Fax 851-3334  
E-Mail: sditullio@courts.state.ny.us

April 9, 2002

TO: MEMBERS OF THE 8<sup>TH</sup> JUDICIAL DISTRICT GENDER AND RACIAL  
FAIRNESS COMMITTEE

FROM: HON. SHEILA A. DI TULLIO *SAD*

RE: Gender & Racial Fairness Meeting/Luncheon - Rochester

I am pleased to advise that Presiding Justice Eugene F. Pigott has approved the Committee's request to provide space in the Appellate Division's Building in Rochester for the plaque memorializing those women honored at the Women in the Courts Awards Luncheons held in 2000 and 2001.

A luncheon will be held in Rochester on Monday, May 20<sup>th</sup> at noon, which will constitute the Committee's first formal meeting for the year 2002. Carl M. Darnall, Clerk of the Court for the Appellate Division, Fourth Department, has graciously arranged for a luncheon which will be reimbursed by the Eighth District Administrative office. There will also be an informal presentation of the "Hon. M. Dolores Denman Women Leadership Awards Plaque" to Justice Pigott at the luncheon.

I am hopeful that all Committee members can attend this special luncheon. If you are interested in attending, please notify my secretary, Karen Piegzik at 858-2143 by May 1<sup>st</sup>. Non-judicial personnel should have supervisor's approval and the usual requirements for pre-approval of travel by the District office for non-judicial employees applies.

Again, I strongly urge you to attend this Committee meeting in Rochester; it promises to be a pleasant afternoon. (A map is enclosed for your convenience.)

c: Hon. Eugene F. Pigott, Jr.  
Hon. Vincent E. Doyle  
Harold J. Brand, Jr., Esq.  
Carl M. Darnall, Esq.



STATE OF NEW YORK  
**UNIFIED COURT SYSTEM**  
**EIGHTH JUDICIAL DISTRICT**  
110 FRANKLIN STREET  
BUFFALO, NEW YORK 14202-9998  
(716) 858-4800  
FAX (716) 858-4828

**JONATHAN LIPPMAN**  
Chief Administrative Judge

**JOSEPH J. TRAFICANTI, JR.**  
Deputy Chief Administrative Judge  
Courts Outside New York City

**VINCENT E. DOYLE**  
District Administrative Judge  
Eighth Judicial District

**HAROLD J. BRAND, JR.**  
Executive Assistant

August 7, 2002

**TO:** CHIEF CLERKS & SUPERVISORS OF COURTS LOCATED IN  
GENESSEE, ORLEANS & WYOMING COUNTIES  
8<sup>th</sup> JUDICIAL DISTRICT

**FROM:** HARRY BRAND

**RE:** Gender and Racial Fairness Committee Luncheon Meeting

Judge Sheila A. DiTullio, Chairperson of the 8<sup>th</sup> District Gender and Racial Fairness Committee has scheduled a lunch meeting for Tuesday, August 20, 2002 in Batavia.

We are encouraging you, as well as your non-judicial staff, to attend this meeting to meet members of the committee, who will be available to discuss issues related to gender and racial discrimination. Committee members welcome an opportunity to discuss the mission and goal of the committee and to meet with staff from the court.

The meeting will be held in County Court at 12:00 noon. Lunch will be included. We would appreciate it if you would advise Sharon Wasielewski of this office as to the number of employees attending from your court.

Please ensure that each member of your staff as well as chambers' staff receives a copy of this memo and has an opportunity to attend subject to your courts' operational needs.

All justices and judges are, of course, welcome to attend.

Should you have any questions, please do not hesitate to contact our office.

HARRY BRAND

HJB/dl  
c: Hon. Vincent E. Doyle  
Hon. Sheila A. DiTullio





STATE OF NEW YORK  
**UNIFIED COURT SYSTEM**  
**EIGHTH JUDICIAL DISTRICT**  
110 FRANKLIN STREET  
BUFFALO, NEW YORK 14202  
(716) 858-4800  
FAX (716) 858-4828

**JONATHAN LIPPMAN**  
Chief Administrative Judge

**JOSEPH J. TRAFICANTI, JR.**  
Deputy Chief Administrative Judge  
Courts Outside New York City

**VINCENT E. DOYLE**  
District Administrative Judge  
Eighth Judicial District

**HAROLD J. BRAND, JR.**  
Executive Assistant

September 25, 2002

**TO:** CHIEF CLERKS & SUPERVISORS OF COURTS LOCATED IN  
ERIE COUNTY  
8<sup>th</sup> JUDICIAL DISTRICT

**FROM:** HARRY BRAND

**RE:** Gender and Racial Fairness Committee Meeting

Judge Sheila A. DiTullio, Chairperson of the 8<sup>th</sup> District Gender and Racial Fairness Committee has scheduled a meeting for Wednesday, October 16, 2002.

We are encouraging you, as well as your non-judicial staff, to attend this meeting to meet members of the committee, who will be available to discuss issues related to gender and racial discrimination. Committee members welcome an opportunity to discuss the mission and goal of the committee and to meet with staff from the court.

The meeting will be held at the 7<sup>th</sup> floor, Buffalo City Court Building, 50 Delaware at 9:00 a.m.. Pastries and coffee will be included. We would appreciate it if you would advise Sharon Wasielewski of this office by October 11, 2002 as to the number of employees attending from your court.

Please ensure that each member of your staff as well as chambers' staff receives a copy of this memo and has an opportunity to attend subject to your courts' operational needs.

All justices and judges are, of course, welcome to attend.

Should you have any questions, please do not hesitate to contact our office.

HARRY BRAND

HJB/dl

c: Hon. Vincent E. Doyle  
Hon. Sheila A. DiTullio  
Justices/Judges situated in Buffalo  
Committee Members situated in Buffalo



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
EIGHTH JUDICIAL DISTRICT  
110 FRANKLIN STREET  
BUFFALO, NEW YORK 14202  
(716) 858-4800  
FAX (716) 858-4828

JONATHAN LIPPMAN  
Chief Administrative Judge

SHARON S. TOWNSEND  
District Administrative Judge  
Eighth Judicial

February 26, 2003

District  
JOSEPH J. TRAFICANTI, JR.  
Deputy Chief Administrative Judge  
Courts Outside New York City

HAROLD J. BRAND, JR.  
Executive Assistant

MEMORANDUM

TO: JUSTICES, JUDGES, CHIEF CLERKS & AGENCY SUPERVISORS ALL NON-JUDICIAL EMPLOYEES

FROM: HON. SHEILA A. DiTULLIO & HARRY BRAND

RE: WOMEN IN THE LAW & NATIONAL WOMEN'S HISTORY MONTH AWARDS LUNCHEON

The Women in the Courts Committee of the Unified Court System, Eighth Judicial District and the local bar associations and specialty bars of the district have planned an awards luncheon to be held on **WEDNESDAY, MARCH 26, 2003** at Adam's Mark, 120 Church Street, Buffalo, New York. Lunch will commence at 12:00 P.M. promptly with a cash bar at 11:30 A.M.

The Honorees are: Susan Biller, Martha Farbo-Lincoln, Hon. Mary Pat Hancock, Barbra A. Kavanaugh, Esq., Hon. Crystal D. Peoples, Barbara Simon, Hon. Sharon S. Townsend and Rosemary A. Ward.

We invite your attendance as well as that of members of your organization and/or office to recognize these outstanding women who have contributed to both the legal community and the community at large.

Reservations for the luncheon with checks made payable to "Women in the Courts Committee" should be forwarded to the Eighth District Administrative Office (858-4800). Tickets are \$25.00 per person and tables of eight or ten persons each can be reserved. Please make your reservations as soon as possible and no later than the close of business on MARCH 14, 2003.

For further information, please contact Chair, Hon. Sheila A. DiTullio (858-2143) or Harry Brand, Executive Assistant, 8<sup>th</sup> Judicial District (858-4800).

We would appreciate your presence at this luncheon. Thank you.

SAD/HB/pa

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# LAW JOURNAL

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366  
ERIE COUNTY HALL  
ERIE COUNTY COURT PART III  
92 FRANKLIN ST  
BUFFALO NY 14202-3902

## District to honor eight with Women in the Law Awards

In connection with Women's History Month, the 8th Judicial District will hold its third Women in the Law Awards Luncheon March 26 at the Adam's Mark Hotel, 120 Church Street, Buffalo, commencing at noon.

The event is sponsored by the 8th Judicial District Committee on Women in the Courts and the bar associations of the 8th Judicial District.

Eight honorees were selected from the judicial and legal community for their outstanding contributions to the bench, bar and community:

- Hon. Sharon Townsend, district administrative judge
- Crystal Peoples, New York State assembly member
- Mary Pat Hancock, chairperson of the Genesee County Legislature
- Martha Farbo-Lincoln, chief clerk of

Niagara Falls City Court

- Rosemary Ward, Niagara County commissioner of jurors
- Barbra Kavanaugh, assistant New York attorney general in charge of the Buffalo office
- Susan Biller, secretary to former district administrative judge and Supreme Court Justice Vincent Doyle
- Barbara Simon, retired senior court reporter with the New York State Unified Court System

Tickets are \$25 per person, and tables of eight or 10 will be accommodated.

Reservations for the luncheon should be forwarded, with checks made payable to Women in the Courts Committee, to the 8th Judicial District Administrative Office, 110 Franklin Street, Buffalo, New York 14202.

Call 858-4800 for further information.

# LAW JOURNAL

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 366  
 ERIE COUNTY HALL  
 ERIE COUNTY COURT PART III  
 92 FRANKLIN ST  
 BUFFALO NY 14202-3902

## 8th District honors eight at Women in the Law Awards

The 8th Judicial District Committee on Women in the Courts and the bar associations of the district honored eight women at the third Women in the Law Awards Luncheon yesterday at the Adam's Mark Hotel.

Eight honorees were cited for their contributions to the bench, bar and community at large.

### Hon. Sharon Townsend



Judge Townsend was supervising judge of Family Court for the district from 1996 until she replaced Hon. Vincent Doyle as district administrative judge in January.

A 1979 graduate of the University of Connecticut School of Law, Townsend began her career as a clerk in Erie County Family Court.

After serving briefly in the Erie County Department of Social Services Office of Counsel, Townsend joined Siegel Kelleher & Kahn as an associate attorney, practicing there until 1987. She practiced in the family law department at Hodgson Russ LLP from 1989-91.

Elected as Williamsville village justice in 1985, Townsend served on that bench until 1991, when she was elected to Erie County Court. She has been an acting justice of state Supreme Court since 1996.

### Crystal Peoples

Peoples is a New York State Assembly

member representing the 141st District. Elected to that post in 2002, she spent the previous nine years as Erie County legislator for the 7th District. For five of those years, Peoples, a democrat, served as majority leader and chairperson of the Finance Committee.

Peoples has been a proponent of initiatives supporting Erie County Medical Center, minority- and women-owned businesses, public education on social ills, housing and economic development, and a project to get a major grocery chain location on Buffalo's East Side.

### Mary Pat Hancock



Hancock is a school counselor who is committed both to education and to Genesee County government.

A Genesee County legislator for nearly 20 years, she has been chair of the Legis-

lature since 2001. After earning a bachelor's degree from Northwestern University in 1984, Hancock went on to get a master's degree in counseling from the University at Buffalo in 1988.

After two years as a mental health therapist at the Genesee County Mental Health Clinic, she joined the staff at Batavia Senior High School as a counselor in 1984. Hancock, who has permanent certification as a school counselor

Please turn to page 16

and art teacher and earned a certificate of advanced study in educational administration from Brockport State College in 1993, continues in that role today, in addition to her duties as chair of the county Legislature. She served as vice chair of the legislature from 1998-2000, and was honored by New York state last year as a Woman of Distinction. She has worked as a volunteer collector for the American Heart Association, March of Dimes and American Cancer Society.

She is a past president of the Batavia Board of Education, Genesee-Wyoming BOCES and St. Jerome Hospital Guild.

### Martha Farbo-Lincoln



Farbo-Lincoln joined the court system in 1975 as a clerk in Niagara Falls City Court. Named a senior office assistant when her office was absorbed by the Office of Court

Administration in 1978, she was promoted to deputy chief clerk in 1984 and chief clerk of Niagara Falls City Court in 1992.

Since replacing the late Angelo DelSignore as chief clerk of Niagara County Supreme and County courts in September 2002, she has supervised the operation of those courts, in addition to her duties in Niagara Falls City Court.

Farbo-Lincoln has been at the forefront of using technology to streamline and improve court operations. She also has responsibilities in evaluating and assisting with the operation and procedures of all 11 city courts in the 8th Judicial District.

Active in the New York State City and District Court Clerks Association, she served as its president from 1988-89 and as board chairman from 1989-91.

### Rosemary Ward



Ward has served as Niagara County Commissioner of Jurors since 1971.

From 1967-69, she was a clerk in Lockport City Court.

Currently president of the New York State Commissioner of Jurors Association, Ward has served on several statewide committees in connection with jury initiatives. She is committed to helping people from all walks of life fulfill their obligation as potential jurors.

Her hobbies include quilting, reading, fishing and boating.

### Barbra Kavanaugh



Kavanaugh was a Buffalo Common Council member-at-large when New York Attorney General Eliot Spitzer named her assistant attorney general in charge of the Buffalo regional office in 1999.

Prior to her 1996 election to Common Council, Kavanaugh spent 12 years as an attorney in the legal-services field, focusing on housing, bankruptcy and public-benefits law.

Born and raised in New Jersey, Kavanaugh came to Buffalo to attend the University at Buffalo Law School, graduating in 1983.

She serves on the board of trustees of New Directions Youth and Family Services Inc., has served since 1999 on the Buffalo Arts Commission and is also vice president of the board for Buffalo Arts Studio.

### Susan Biller



Biller, personal secretary to Hon. Vincent Doyle of state Supreme Court, began her career at a private law firm. She served as personal secretary to two attorneys at Condon & Sedita P.C. from 1971

to 1989, and to three attorneys at Casey Sanchez Jones Amigone & Kelleher for five months in 1989.

Before joining Judge Doyle's staff in 1990, she served as personal secretary to another Supreme Court justice, Hon. Thomas McGowan.

### Barbara Simon



Simon, a retired senior court reporter with the state's Unified Court System, was an active member of the National and State Shorthand Reporters associations.

After graduating from Bryant & Stratton Business Institute in 1965, she joined the firm of Williams Stevens & McCarville as a legal secretary. She later held positions at a small law practice in the Ellicott Square Building and as a court reporter with Jack W. Hunt & Associates.

From 1971-72, she served as Erie County Grand Jury reporter under District Attorney Michael Dillon.

# LAW JOURNAL

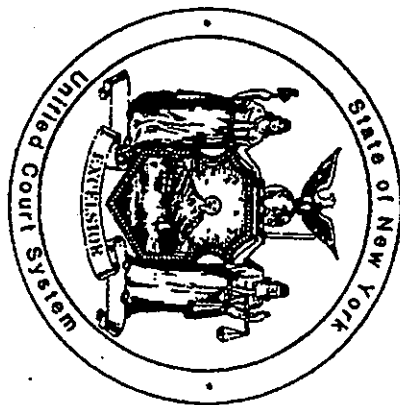
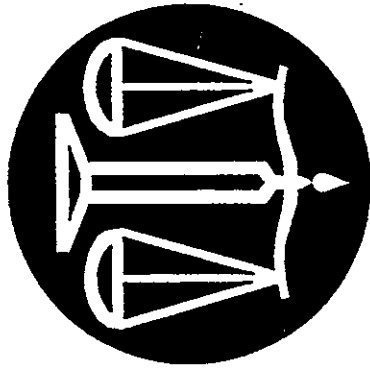
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## Honoring women's achievements



The 8th Judicial District held a luncheon Wednesday honoring eight women who have made significant contributions to the community in their roles as lawyers, judges and court staff. Seated from left in photo above are honorees Martha Farba Lincoln and Mary Pat Hennes. Standing are Rosemary Ward, Barbara Kavanaugh, Hon. Sharron Townsend and Susan Biller. At left is awards presenter Hon. Sheila DiTullio of Erie County Court.

Photos by Jim Courtney



**8th JUDICIAL DISTRICT  
WOMEN IN THE COURTS COMMITTEE  
AWARDS LUNCHEON**

**STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
8TH JUDICIAL DISTRICT**

**Wednesday, March 26, 2003  
Adams's Mark Hotel  
Buffalo, New York**

## PROGRAM

Welcome.....Harry Brand, Esq., Executive Assistant  
Remarks.....Hon. Sheila A. DiTullio  
Presentation of Awards.....Hon. Sheila A. DiTullio  
Hon. E. Jeannette Ogden

## COMMITTEE MEMBERS:

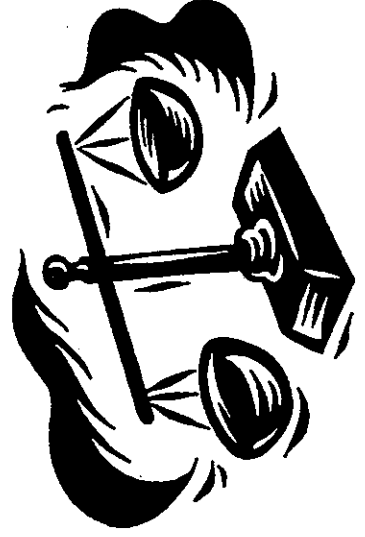
Rosalie S. Bailey, Esq.  
Harry Brand, Esq.  
Hon. Sheila A. DiTullio, Chairperson  
Linda Fogle  
Hon. Amy J. Fricano  
Hon. Jerome C. Gorski  
Mary Lou Hayden, Esq.  
Brenda Heath, Esq.  
Danielle H. Maichle, Esq.  
Colleen Kelly  
Jean Levey  
Hon. E. Jeannette Ogden  
Ruby Olive  
Cathy S. Quattrini, Esq.  
Kim A. Reed  
Lisa Bloch Rodwin  
Hon. Robert J. Russell, Jr.  
Sheila Weir Schwaneckamp, Esq.  
Lori Shurilla  
Michelle Tendorf  
Sharon Thomas  
Marie Villari  
Hon. John Ward  
Oliver Young, Esq.

## NEW YORK STATE UNIFIED COURT SYSTEM 8TH JUDICIAL DISTRICT WOMEN IN THE COURTS/ GENDER & RACIAL FAIRNESS COMMITTEE

The New York State Task Force on Women in the Courts issued its first formal report approximately 16 years ago indicating in unequivocal language that "gender bias against women litigants, attorneys and court employees is pervasive." It was the Task Force's directive to create a "justice system more fully committed to fairness and equality." Much has been achieved and, of course, more needs to be done. The awards today recognize women who have contributed significantly to the judicial system; to its fairness and its sense of equality. Thank you to the honorees, we owe them much.

## HONOREES:

Susan Biller  
Martha Farbo-Lincoln  
Hon. Mary Pat Hancock  
Barbra A. Kavanaugh, Esq.  
Hon. Crystal D. Peoples  
Barbara Simon  
Hon. Sharon S. Townsend  
Rosemary A. Ward



*Ninth Judicial District Committee to  
Promote Gender Fairness in the Courts*

**Hon. Terry Jane Ruderman**  
Judge, Court of Claims  
140 Grand Street, 9th Floor  
White Plains, NY 10601

9-14-428-6888



THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT  
5720 S. UNIVERSITY AVE.  
CHICAGO, ILL. 60637

PH 8000-1

## LOCAL COMMITTEES 2002-2003

### **Name of the Committee:**

Ninth Judicial District Committee to Promote Gender Fairness in the Courts

### **Name, Address and Telephone and Fax Numbers of Chair:**

Hon. Terry Jane Ruderman, New York State Court of Claims, 140 Grand Street, Suite 507, White Plains, NY 10601, [Telephone] (914) 289-2310, [Fax] (914) 289-2313, [truderma@courts.state.ny.us](mailto:truderma@courts.state.ny.us)

### **Meeting Dates in the past year:**

Full committee meetings: May 22, 2002; July 31, 2002; October 23, 2002; January 9, 2003; March 26, 2003

Essay contest

subcommittee meetings: November 14, 2002; March 12, 2003

### **Activities for Domestic Violence Awareness Month:**

The committee organized a seminar in Rockland County entitled, "Women, Ethics, Law and the Movies; What's Wrong with These Pictures?" Several other organizations joined as co-sponsors. Hon. Joan Cooney, Hon. Barbara Leak, Hon. William E. Sherwood, Hon. John W. Sweeny, Jr. and Victoria L. Lutz, Esq., Executive Director of the Pace University School of Law Women's Justice Center, were the speakers. Movie clips were played and the panelists discussed the ethical issues raised. Scenes from "A Civil Action," "Suspect," "Erin Brokovich," and "Jagged Edge" were featured. Attorneys in attendance were able to earn CLE credit through Pace.

### **Activities for Women's History Month:**

The committee sponsored an essay contest open to all high school students in the Ninth Judicial District. The topic was, "What Role Should Women Play in Military Conflict?" Local bar associations contributed to the cash prizes which were awarded at a breakfast in the courthouse on April 25, 2003.

### **Other Activities in the Past Year:**

The committee produced a pamphlet entitled, "How Decisions About Child Custody are Made." The target audience was litigants in the Family Court and Matrimonial Part of the

Supreme Court. The pamphlet is being distributed in the courts and we hope to have the contents available on the Ninth Judicial District website.

On April 19, 2002 we held a breakfast in White Plains to award the student winners of our 2002 Essay Contest in recognition of Women's History Month. At the breakfast, Hon. Terry Jane Ruderman and Hon. Francis Nicolai, Administrative Judge of the Ninth Judicial District, presented the winners with their prizes. The students, their parents, school administrators, teachers, bar leaders, judges, attorneys and committee members joined in the celebration.

On April 2, 2003, we co-sponsored with the Rockland County Bar Association a program entitled, "Ethics, Law and the Movies; What's Wrong with These Pictures?"

During the course of the year we had various speakers at our meetings, including Viola Stroud, Executive Director of Little Angels Supervised Visitation; Ricki Roer, Esq., Partner, Wilson, Elser, Moskowitz, Edelman & Dicker; and Jill Laurie Goodman, Counsel, New York State Judicial Committee on Women in the Courts.

**Plans for Next Year:**

We intend to present a CLE program in recognition of Domestic Violence Awareness Month and will again sponsor a high school essay contest in celebration of Women's History Month. We are also planning to publish a pamphlet on the topic of child support.

money to pay for these services, then the court will decide the amount that each parent will pay to the law guardian and the forensic evaluator. If the court determines that the parties do not have enough money, then the court may order that the government pay these fees.

**Q. Must every custody dispute be determined by the court?**

**A.** No. The parents may resolve the dispute on their own. If they are unable to do so, they may ask that the court refer them to a mediation program if one is in place where they live. Without the involvement of the court, counsel and the parents may negotiate an agreement. They may also seek the aid of the law guardian. Sometimes, the recommendation of the forensic evaluator may form the basis of an agreement. The parents may also attend a parent education program. After completing the program, they may be able to reach an agreement based on the information that they learned. However, if the parties cannot reach an agreement, the court will make the determination after a trial.

**Q. What else may the court do with respect to visitation?**

**A.** The court may order supervised visitation, therapeutic supervised visitation, a neutral place of exchange, or monitored exchanges.

**Q. What is supervised visitation?**

**A.** Supervised visitation means that a parent cannot be alone with the child. The court chooses someone to supervise the parent's visits with the child. The courts

may order supervised visitation when there are serious concerns about a parent's ability to behave properly with a child or where there has been domestic violence.

**Q. What is therapeutic supervised visitation?**

**A.** Therapeutic supervised visitation is when a mental health professional supervises the visits. The mental health professional will intervene during the visitation, when necessary, to improve the parenting skills of the parent and may provide the parent with information about child development and effective parenting strategies and techniques.

**Q. What is a neutral place of exchange?**

**A.** A neutral place of exchange is a safe location where a child goes from one parent to the other for visitation. It may be a public location like a mall, library or police station where both parents are present. It may be the child's school where a parent goes to pick up the child at the end of the school day.

**Q. What is a monitored transition?**

**A.** A monitored transition means that the exchange of the child from one parent to the other will take place with a third party present to maintain safety during the exchange and to maintain a calm environment for the child.



## HOW DECISIONS ABOUT CHILD CUSTODY ARE MADE

**Q. What is custody?**

A. There are two parts to custody. One involves the right and responsibility to make decisions for a child (legal custody). The other involves where the child will live (residential or physical custody). The courts have jurisdiction over custody and visitation until a child is 18 years old.

**Q. What is the difference between joint custody and sole custody?**

A. In joint custody, the parents make major decisions about the child together. In sole custody, one parent makes the major decisions. Even where one parent has sole custody, the other parent often has the right to be informed, consulted, and to offer an opinion about the decision. Major decisions include religion, education, and health issues. Day-to-day decisions, such as the child's daily routine, are made by the parent who is caring for the child at the time.

**Q. If one parent has custody, can the other parent see the child?**

A. In almost all cases, the courts favor a continuing relationship between the child and both parents. The courts generally will permit the other parent to have scheduled visits with the child.

**Q. In awarding custody, do courts favor mothers over fathers or fathers over mothers?**

A. No. The courts do not favor either parent in awarding custody. The misconception that gender is taken into account when deciding custody probably stems from the history of custody decision-making in this country. Historically, children were viewed as the property of

their father and custody was not even an issue. Subsequently, children were viewed as needing primarily their mother's care, and the "tender years" doctrine dictated that young children live with their mother. Today, a custody award is based on the best interests of the child.

**Q. What do courts consider in deciding the best interests of the child?**

A. The courts consider many factors including the following:

- which parent has been the primary care giver/nurturer of the child
- the parenting skills of each parent and their relative strengths and weaknesses including the ability of each parent to provide for any special needs of the child
- the mental and physical health of the parents
- whether there has been domestic violence in the family
- work schedules and child care plans of each parent
- the child's interaction with brothers, sisters and members of the extended family
- the child's wishes, depending on the age of the child
- the ability of each parent to cooperate with the other and to encourage a relationship with the other parent, when it is safe to do so
- if the parents are living separately, how the child is doing emotionally, socially and in school

**Q. How does domestic violence affect a custody decision?**

A. Domestic violence is defined by the New York State Office for the Prevention of Domestic Violence as a "pattern of controlling and coercive behavior which can involve physical, sexual, economic, emotional and psychological abuse."

Domestic violence against either a parent or a child is considered in determining custody. Even where the violence was not committed in the presence of the child, it may still affect the child and its impact will be considered.

**Q. What is a "law guardian" and what is the role of the "law guardian"?**

A law guardian is an attorney chosen by the court to represent the child in custody and visitation disputes. If the child is very young, the law guardian will tell the court what the law guardian thinks is in the best interest of the child. If the child is old enough, the law guardian will tell the court what the child wants.

**Q. What is a "forensic evaluator"?**

A. A forensic evaluator is a psychiatrist, psychologist or social worker chosen by the court. He/she gathers information about the family through interviews with the family members, testing and from people who know the family members or have provided treatment to them. After gathering this information, the evaluator sends a written report to the court. The evaluator may have to come to court to testify if there is a trial.

**Q. Who pays the fees for the law guardian and the forensic evaluator?**

A. If the court determines that the parents have enough

# Westchester

# Women's Bar Association

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INSIDE



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

## Gender Fairness Essay Contest Celebration

The Ninth Judicial District Committee to Promote Gender Fairness in the Courts held a breakfast on April 19, 2002 to recognize the winners of its Annual Essay Contest in celebration of Women's History Month. Students were asked to write on the topic, "Discuss how the events of September 11, 2001 have heightened your awareness of the role of women in the United States and throughout the world." The winners were reported in last month's issue of the newsletter, and we again extend our congratulations to them all. Chief Administrative Judge, Hon. Jonathan Lippman, Administrative Judge of the Ninth Judicial District, Hon. Francis Nicolai and our member, Court of Claims Judge, Hon. Terry Jane Ruderman, presented the awards. Committee Chair, Hon. Terry Jane Ruderman, was pleased to note that this year, the committee received more entries from a greater number of high schools than it had in previous years. The committee anticipates that this contest and awards breakfast will be held again next year and is hoping for even greater participation in the district. ◆



L to R: Ashley Fodor, Hon. Terry Jane Ruderman, Emily R. O'Neill.



L to R: Hon. Francis Nicolai, Hon. Terry Jane Ruderman, Josh Mann, Regina Barry, Hon. Jonathan Lippman

# PHS Student Wins Award in Essay Contest

By Ava Kim

For *The Poughkeepsie Bear*

On April 19, Emily O'Neill, a student at Poughkeepsie High School, was honored as the recipient of the Women Sustaining the American Spirit Award. The award was sponsored by The Ninth Judicial District Committee to Promote Gender Fairness in the Courts and the Bar Association, and was given to those who wrote the best essays for Women's History Month.

"Women's History Month is a time to acknowledge all the women who came before us and to celebrate the trailblazers who fought for equality and changed the world," said O'Neill.

Each essay writer was told to describe how the events of Sept. 11 have heightened his or her awareness of women's issues in the U.S. and abroad. O'Neill chose to write about the history of feminism in America and the plight of women in Afghanistan.

"Because of the sacrifices and struggles of women who came before us, women in the United States can be...anything they want to be," wrote O'Neill in her essay. "But even with all the progress we have made...there is still much to do to achieve gender equality."

"We need to lobby on behalf of the women in Afghanistan and fight to make

sure they can have a sense of identity and are able to earn a living. They also need to be allowed to participate in governmental politics so that they can really stand up and speak out," said O'Neill.

O'Neill's essay was selected by a panel of judges for first prize in the freshman/sophomore category. The pool of 90 essays were submitted by students from 20 different schools in the Dutchess, Rockham, Putnam, and Westchester counties.

At the breakfast honoring the winners, O'Neill and others read their essays in front of members of the Committee to Promote Gender Fairness in the Courts, judges from the Ninth Judicial District, and Bar Association members.

"The essays are very insightful. Emily's was very well-written and thoughtful," said Judge Terry Ruderman, chair of the committee. "We hope that we've encouraged the students to think about some issues they might not always think about."

"The Committee to Promote Gender Fairness is really important," said O'Neill. "The committee fights for equality, addresses concerns and problems, and raises aspirations and opportunities for women."

Last summer, O'Neill attended the Girls' Leadership Workshop at Val-Kill, where for nine days she participated in a series of work-

shops, many of which were focused on women's issues and history.

"The program enhanced my self-awareness and I learned a lot about oppression against women," said O'Neill. "It was really the place where I learned who I was. Eleanor Roosevelt is a true inspiration to young women and the program is wonderful."

O'Neill said she intends to go into journalism and is inspired by Gloria Steinem as a journalist and the founder of Ms. Magazine.

"She has been such a great leader in the late 20th century women's movement."

The New York State Committee to Promote Gender Fairness in the Courts was founded in 1986 as a method of examining how women are treated in all aspects of the judicial system, as judges, attorneys, and clients. The committee was created after a statewide task



*The Honorable Terry Jane Ruderman, left, presents award to Emily O'Neill.*

force revealed a need for improvement in gender equality within the courts. The Judicial District's committee is an official



# Ninthline

News from the Ninth Judicial District

May/June 2002

## Women's History Month Essay Contest

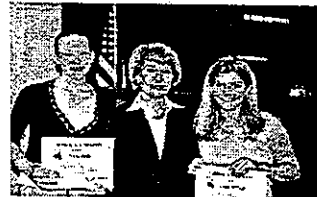
The Ninth Judicial District to Promote Gender Fairness in the Courts held a breakfast on April 19, 2002 to recognize the winners of its Annual Essay Contest in celebration of Women's History Month. Chief Administrative Judge, Hon. Jonathan Lippman, Administrative Judge of the Ninth Judicial District, Hon. Francis A. Nicolai and Court of Claims Judge, Hon. Terry Jane Ruderman, presented the awards.

Students were asked to write on the topic, "Discuss how the events of September 11, 2001 have heightened your awareness of women in the United States and throughout the world." In the Freshman/Sophomore category, Emily R. O'Neill, from Poughkeepsie High School, won first prize and Roger Lee, from Clarkstown High School North, was the runner-up. Honorable mention went to Josh Mann, Clarkstown High School North. In the Junior/Senior category, Ashley Fodor, from Warwick Valley High School won first prize and Michael Sockin, Clarkstown High School North, was the runner-up. Honorable mention went to Regina Barry from John S. Burke Catholic High School. The generosity of various bar associations and the Women's Research and Education Fund enabled the committee to award cash

prizes. Committee Chair, Hon. Terry Jane Ruderman, was pleased to note that this year, the committee received more entries from a greater number of high schools than it had in previous years. The committee anticipates that this contest and awards breakfast will be held again next year and is hoping for even greater participation in the district. We have included Ms. O'Neill's and Ms. Fodor's essays in this edition of *Ninthline*. See pages 6 & 7.



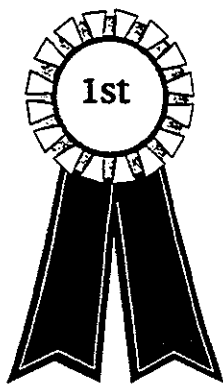
Left to right: Hon. Francis A. Nicolai, Hon. Terry Jane Ruderman, Josh Mann, Regina Barry, Hon. Jonathan Lippman.



Left to Right: Ashley Fodor, Hon. Terry Jane Ruderman, Emily R. O'Neill.



**Women's History Month Essay Contest  
Freshman/Sophomore Category First Prize Essay by:  
Emily R. O'Neill, Poughkeepsie High School**



**You gain strength, courage, and confidence by every experience in which you really stop to look fear in the face. You are able to say to yourself, "I lived through this horror. I can take the next thing that comes along." ...You must do the thing you think you cannot do. — Eleanor Roosevelt**

September 11th is a day that will forever be forged in our minds, our hearts, and our souls. It is a day that destroyed our sense of security and threatened the freedom and ideals our nation was built upon. As the dust from the Twin Towers began to settle, and as the truths from the terrorist acts began to unfold, a new and frightening story came to light on the plight of women in Afghanistan.

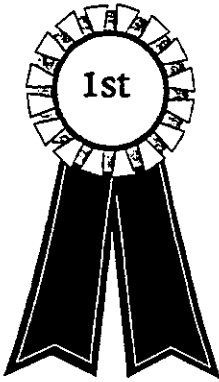
Saira Shah's chilling documentary, "Beneath the Veil," shows shocking footage of the atrocities suffered by women under the Taliban rule. Women in Afghanistan are denied the basic rights of freedom to work, freedom to seek medical care, freedom to be educated, and the freedom to go out in public. These stories of oppression have heightened our awareness of gender apartheid and reminded us of the courageous women pioneers who overcame significant obstacles to fight for women's rights.

We are reminded of a struggle that began in Seneca Falls, New York, where the first women's rights convention was held over 150 years ago. After two days of discussion and debate, a set of twelve resolutions was adopted calling for the equal treatment of women and men. In 1923, Alice Paul drafted the Equal Rights Amendment which reads, "equality of rights under the law shall not be denied or abridged by the United States or any state account of sex." As women activists struggled for democracy and equality, the women's movement of the sixties raised aspirations and opportunities for women. In 1964, Margaret Chase Smith became the first female nominated for President of the United States by a major political party. The National Organization for Women (NOW) was founded in 1966 by Betty Friedan to end sexual discrimination in the workplace by means of legislative lobbying, litigation and public demonstrations.

Because of the sacrifices and struggles of the women who came before us, women in the United States can be judges, ambassadors, congresswomen, scientists, astronauts, or anything they want to be. But even with all the progress we have made, there is still more work to do to make sure that women are treated with respect and dignity. Whether it is fighting for a woman's right to earn a living in Afghanistan, or teaching the millions of illiterate women to read, there is still much to do to achieve gender equality.

After the events of September 11th, our nation gained strength, courage and confidence. We looked fear in the face. We lived through horror. Let us make Eleanor Roosevelt proud by doing the thing we think we cannot do: let us put an end to the injustices of the world. As we celebrate Women's History Month, let us celebrate a new era in which women's rights are treated as human rights in every town, every city, every state, and every country.

Women's History Month Essay Contest  
 Junior/Senior Category First Prize Essay by:  
 Ashley Fodor, Warwick Valley High School



The vivid details of the horror of September 11th, 2001 will be forever etched into the stone of my mind. I remember the smell of the soft breeze and the position of the glistening sun. I can recall my jeans and shirt, and just how my hair was not falling right that day. Looking back, it was a ridiculous and petty irritant that seems now so meaningless after attempting to overcome the sickening aftermath of the attacks. I can still hear the echo of the announcement during 4th period. My first thought was the fact that my father and his fire department were on the scene. It only grew more frightening as my mother came to pick me up in tears, and how we went home to wait for a phone call from my father that would never arrive. Under the rubble and debris lies the man that seemed to hold my family together, and has not yet been recovered. Even still, on some days, it feels as though the building crashed down on my life and my happiness for years to come.

September 11th, 2001 has left many aspects of my life in turmoil. More obviously, my classic, prototypical family of the traditional mother and father roles has twisted into a complete knot. It is a knot of responsibilities that has fallen completely onto my mother's shoulders. It was such an odd feeling to watch the change of roles. But what truly fascinated me was how my mother adjusted with such success. In so many ways my mother and I stand alone without the male figure of security and domination. Yet not until this pathetic and sad situation had I realized the true strength and competence two females could have, and what we can ultimately achieve. It could have been easy to break down, but you do what needs to be done. Hundred upon hundreds of widows are an example of strong women to follow. The strength and dignity of these women, in manners never thought possible, overpower me.

September 11, 2001 changed society's view and understanding of women as a whole. I was appalled by the hideous lives the women in Afghanistan were forced to lead. In many aspects they were imprisoned, with restrictions on whom they could talk to and what they could wear. They never were able to experience the independence, pride, and enjoyment women possess simply because they are female. The inhumane restraints of the male dominated society dated back to long ago, yet the methods and ideas were practically prehistoric. The negative effects that hurt so many people like myself brought even more mass awareness to the mistreatment of women on the other side of the world. Women in Afghanistan and women here in America, like my mother and I, have a common bond. We were both wounded in our hearts by the same underlying cause, a hurt that will linger forever.

There are many times when I am in school and I feel cheated. My father, my inspiration, and my stronghold, was taken from me simply because he ran in to save others unselfishly while everyone else was running out. A simple word or conversation with a friend about their father brings back the pain.

The events of September 11th, 2001 made me realize how my mother and I can reside and move on in society as two women. Two women that can live on, learn new things, and remember the *man* that brings a smile to both of our faces with a simple memory.



# OFF THE RECORD



NEWSLETTER OF THE NEW YORK STATE COURT OF CLAIMS  
P.O. BOX 7344, ALBANY, NY 12224  
www.nyscourtofclaims.state.ny.us  
May 2002 - Vol. 10, No. 3

## GENDER FAIRNESS COMMITTEE CELEBRATES WOMEN'S HISTORY MONTH

The Ninth Judicial District Committee to Promote Gender Fairness in the Courts held a breakfast on April 19, 2002, to recognize the winners of its Annual Essay Contest in celebration of Women's History Month. Hon. Jonathan Lippman, Chief Administrative Judge; Hon. Francis Nicolai, Administrative Judge of the Ninth Judicial District; and Hon. Terry Jane Ruderman, Court of Claims Judge, presented the awards.

Students were asked to write on the topic, "Discuss how the events of September 11, 2001, have heightened

your awareness of the role of women in the United States and throughout the world." In the freshman/sophomore category, Emily R. O'Neill from Poughkeepsie High School won first prize, and Roger Lee from Clarkstown High School North was the runner-up. Honorable Mention went to Josh Mann, also of Clarkstown High School North. In the junior/senior category, Ashley Fodor from Warwick Valley High School won first prize and Michael Sockin, also from Clarkstown High School North, was the runner-up. Honorable Mention went to Regina Barry from John S. Burke Catholic High School. The generosity of various bar

associations and the Women's Research and Education Fund enabled the Committee to award cash prizes. Committee Chair, Hon. Terry Jane Ruderman, was pleased to note that this year the Committee received more entries from a greater number of high schools than it had in previous years. The Committee anticipates that this contest and awards breakfast will be held again next year and is hoping for even greater participation in the District. The students read their essays to the 40 assembled guests. The Committee members, as well as the White Plains Court staff, joined in the celebration.



L-R: Ashley Fodor, Hon. Terry Jane Ruderman, Emily R. O'Neill



L-R: Hon. Francis Nicolai, Administrative Judge of the Ninth Judicial District; Hon. Terry Jane Ruderman; Josh Mann; Regina Barry; Hon. Jonathan Lippman, Chief Administrative Judge



**The Ninth Judicial District  
Committee to Promote Gender Fairness in the Courts  
The Pace Women's Justice Center  
The Rockland County Women's Bar Association  
The Westchester Women's Bar Association  
The Women's Bar Association of Orange & Sullivan Counties  
The Rockland Family Shelter, and  
The STOP FEAR Coalition**

**Present**

**WOMEN, ETHICS, LAW, AND THE MOVIES:  
What's Wrong With These Pictures?**

**Monday, October 21, 2002**

**5:30 p.m. - 8:30 p.m.**

**Suffern Library  
210 Lafayette Avenue  
Suffern, NY 10901**

**The Hon. Joan Cooney  
The Hon. Barbara Leak  
The Hon. William E. Sherwood  
The Hon. John W. Sweeny, Jr.  
Victoria L. Lutz, Esq.**

*Two hours of CLE ethics credit will be offered and dinner will be provided. The cost is \$25.00.\**

*\*This program has been approved in accordance with the requirements of the New York State Continuing Legal Education Board for a maximum of 2 credit hours, which credit hours can be applied toward the ethics requirement. The course is sponsored for CLE accreditation by the Rockland chapter of WBASNY. Full and partial scholarships for this program based on financial need are available. For information on the guidelines, and to apply, please contact Maureen A. Moran at (845) 634-6126. All requests are confidential. This program is suitable for transitional (i.e., newly admitted) and non-transitional attorneys.*

## WOMEN, ETHICS, LAW, AND THE MOVIES:

### What's Wrong With These Pictures?

Materials prepared by Victoria L. Lutz, Linda Lin and Jennifer Brown-Cranstoun\*

#### **Introduction**

How many times do we watch a movie that has a legal theme and wonder at the ethical dilemmas facing (or created by) the characters on the screen? Frequently the story line resolves these ethical issues in creative, and sometimes peculiar, ways. More often than not, when women become part of the Hollywood ethical mix, screenwriters seem to be given *carte blanche* to "invent" appropriate resolutions to thorny ethical questions or to ignore those ethical questions completely.

However, unlike Glenn Close, who cavalierly slept with her client as she represented him in a murder trial in *The Jagged Edge*, practicing attorneys like you and me *do* care about whether our professional conduct complies with the Code of Professional Responsibility *and* whether we are able to enhance our reputations and that of our profession by avoiding even the appearance of impropriety. Thus, as we analyze real world issues based on "reel" world footage, we will use each clip as a jumping-off point for discussion of the continuum of behavior between that which the code derides as unethical and that which we can applaud as praiseworthy.

This course is not designed as an exhaustive ethics overview, but rather as a presentation of selected ethical issues involving women and the law that can be highlighted via film clips. The disciplinary rules ("DR") and case law noted present starting points for analysis rather than a complete listing of relevant sources. In fact, frequently, the film clips present only starting points, from which spin-off questions ...spin off.

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\* We would like to thank Deborah A. Scalise for the inspiration to do this type of ethics program, for permission to use her excellent written materials (such that by and large it is only fair to say that she has done most of the research), and for her kindness in guiding us in this format. All errors are unequivocally the instant authors' original work.

## **I. Solicitation and Advertising**

*During the past two decades, ethical prohibitions against attorneys soliciting or advertising have been relaxed. The bar has taken into consideration the fact that, while the practice of law is a professional endeavor, it is also a business.*

### **CLIP 1: ADAM'S RIB**

Defense Attorney Katherine Hepburn, who is married to District Attorney Spencer Tracy, has just found out that her husband is going to be prosecuting a young wife (Judy Holliday) who shot her cheating husband in a fit of jealous rage. Ms. Hepburn's character attempts to help this young woman.

### **DISCUSSION QUESTIONS:**

1. Assuming *arguendo* that this defense attorney (Ms. Hepburn) were NOT married to the prosecutor (see §III. and §VI. *infra*, concerning relationship issues), under what circumstances would Ms. Hepburn's conduct be ethical?
2. When is individual solicitation of clients permissible and when impermissible?
3. What are the theoretical underpinnings of the limitations on attorney solicitation?

**A. Solicitation.** In-person solicitation, under certain circumstances involving "close friends, relatives, former clients or current clients" [DR 2-103(a)(1)], is now permissible. Use of third parties to sign up clients is still inappropriate.

#### **1. Disciplinary Rules**

##### **Personal Solicitation:**

- 22 NYCRR § 1200.8 [DR 2-103](a) provides that a lawyer shall not solicit professional employment from a prospective client unless the prospective client has very close ties to the attorney, as set forth in (a)(1), and as limited by (2) ((i) – (v)).

NOTE: Under (2)(i), the solicitation may not violate DR 2-101(a), which means, like attorney advertisement, solicitations must not contain "statements or claims that are false, deceptive or misleading".

##### **Payments to third parties:**

- DR 2-103 (b) does not allow compensation for attorney referrals except in narrowly defined contexts.



NOTE: The New York Judiciary Law Sections 485 and 479 classify as a misdemeanor the action of an attorney or representative who solicits clients for fees. See also Section 481 (includes hospital, police, prison, court, and bail bond workers as inappropriate employed referral sources for legal employment) and Section 482 (makes it unlawful to hire a person to solicit legal business).

## 2. Case Law

- Matter of Setareh, 264 A.D.2d 146 (First Dept 2000). Attorney publicly censured for payment of fees to a “runner” on two occasions for referral of cases.
- Matter of Rapport and Whitbeck, 186 A.D.2d 344 (3<sup>rd</sup> Dept. 1992). Attorney publicly censured for hiring consultant who referred 14 clients to the firm.

### **CLIP 2: A CIVIL ACTION**

John Travolta plays Boston personal injury attorney Jan Schlichtman. (The movie is based on an actual case that Schlichtman described in the book A Civil Action.) You see in the clip Schlichtman walking by a car accident and handing out his card.

### **DISCUSSION QUESTIONS:**

1. From whom CAN an attorney, either in person or on the phone, ethically solicit business? What about cocktail party guests?
2. Can an attorney solicit by mail? What about to disaster victims?
3. Can an attorney ask friends to give his or her card out? Can an attorney ever pay someone to solicit business (for example, from strangers, or, alternatively, from the firm’s friends, families, clients, or past clients?)

**B. Advertising.** The 1<sup>st</sup> Amendment and a long line of cases starting with Bates v. State Bar of Arizona, 433 U.S. 350 (1977), protect truthful and non-deceptive “advertisements” via print and broadcast media. A lawyer may hold himself or herself out as a “specialist” only if he or she has received certification in that area by an American Bar Association-approved organization and issues a disclaimer in the advertisement that the certifying organization is not affiliated with any governmental authority and does not indicate greater competence than other attorneys in the field. The Code provides specific guidance on other types of acceptable and unacceptable advertising phrases.

### **CLIP 3: I AM SAM**

Sean Penn plays a mentally challenged father who is trying to regain custody of his daughter and is considering legal action.

## ***DISCUSSION QUESTIONS:***

1. Is it ethical for an attorney's advertisement to read: "Get the best!" and then name the attorney or firm?
2. Is it permissible puffery for an attorney to advertise by claiming to be the "leading" or "most successful" lawyer in a given practice area? What about claiming to have achieved "outstanding settlements" or "impressive victories" in an ad? May a lawyer properly advertise "fast service", "insightful advice", or "a friendly atmosphere"?
3. *Where* may a lawyer advertise?

### ***1. Disciplinary Rules***

#### ***Publicity and Advertising:***

- 22 NYCRR § 1200.6 [DR 2-101](a) provides that lawyers or partners or associates shall not use or disseminate or participate in the preparation or dissemination of any public communication or communication to a prospective client containing statements or claims that are *false, deceptive or misleading*.

#### ***Identification of Practice and Specialty:***

- 22 NYCRR § 1200.10 [DR 2-105](a) provides that a lawyer or law firm may publicly identify one or more areas of law in which the lawyer or the law firm practices, or may state that the practice of the lawyer or law firm is limited to one or more areas of law, provided that the lawyer or law firm shall not state that the lawyer or law firm is a specialist or specializes in a particular field of law, except as provided in section 1200.10(b), (c), or (d) of the Part.

A lawyer may state that the lawyer has been recognized or certified as a specialist in a particular area of law by (1) a private organization approved for that purpose by the American Bar Association; (2) by the authority having jurisdiction over specialization, provided that it is prominently stated that certification granted by the state is not recognized within the State of New York.

### ***2. Case Law***

- Matter of Zimmerman, 79 A.D.2d 263 (4<sup>th</sup> Dept. 1981), appeal dismissed, 53 N.Y.2d 937 (1981), appeal denied, 54 N.Y.2d 606 (1981). Attorney censured for Yellow Pages advertisements in which he claimed to have practiced in 25 separate areas of law, when, in fact, he had no experience at all in any of the categories he listed under and thereby violated DR 2-101(A).
- Matter of Peperone, 201 A.D.2d 75 (4<sup>th</sup> Dept. 1994). Attorney censured for Yellow Pages advertisement stating "Over 20 years in private practice

specializing in matrimonial law” without being certified as such; violated DR’s 2-101(A) and 2-105(B).

### 3. Ethics Opinions

- NYSBA Opinion 740 – 4/23/01. A lawyer may not place an advertisement in the Yellow Pages in which the lawyer uses the firm name “A,” or inserts the letter “A” before the firm name, in order to insure favorable placement.
- NYSBA Opinion 756 – 3/13/02. Legal services advertisement may not list Web site or email address as the *sole* address. It is also necessary to include the street address of the lawyer’s office.

*See also EC 210.*

## II. Conflicts

*The threat of conflicts during a proceeding may be designed to distract the adversary; throw a red herring at the court; preserve a matter for appeal; and/or it be based on fact. The attorney/client relationship, questions of immunity, and ethical obligations concerning attorney confidences and secrets all intertwine to make this area unresolved and very fact-specific. As Deborah Scalise notes on page 8 of her outline: “[C]urrent case law can be somewhat confusing and each case seems to be decided on its facts.”*

### **CLIP 4: ADAM'S RIB (redux)**

In this segment Tracy and Hepburn decide how to handle the ethical dilemma of whether spouses can represent opposing sides in a criminal case.

### ***DISCUSSION QUESTIONS:***

1. How can Katherine Hepburn best serve Judy Holliday’s interests?
2. If Katherine Hepburn were a tax attorney in a large firm, could one of the criminal law attorneys in the firm represent Judy Holliday?
3. If Spencer Tracy were an assistant district attorney in the drug unit of a large urban district attorney’s office and his office (via a different ADA) was prosecuting this matter, could Katherine take the case?

## 1. Disciplinary Rules

### *Preservation of client confidences and secrets:*

- 22 NYCRR § 1200.19 [DR 4-101] (a) provides that a lawyer shall preserve client confidences and secrets, as defined in (a), except when permitted under (c)((1)-(5)). DR 4-101(d) provides that a lawyer shall exercise reasonable care to prevent his employees, associates and others from disclosing confidences or secrets of a client, except when permitted under (c)((1)-(5)).

### *Conflict of Interests; Lawyers Own Interests:*

- 22 NYCRR § 1200.20 [DR 5-101] (a) provides that a lawyer shall not accept or continue in employment if the exercise of professional judgment on behalf of the client reasonably may be affected by the lawyer's own financial, business, property, or personal interests, unless a disinterested lawyer would not believe the client's interests to be adversely affected and there is full disclosure whereby the client consents to the representation.

### *Conflict of Interest: Simultaneous Representation:*

- 22 NYCRR § 1200.24 [DR 5-105(d)] provides that disqualification of the district attorney's spouse in a particular case does not result in automatic disqualification of other lawyers in the spouse's firm. Thus, whether others in the firm are disqualified will turn on the particular facts and circumstances, including the basis for the primary disqualification and the underlying policies and interests to be served.

### *Avoiding Even the Appearance of Impropriety:*

- 22 NYCRR § 1200.46 [DR 9-101(d)] provides that lawyers related to each other as parent, child, sibling or spouse cannot represent opposing party without disclosure to and consent of client.

## 2. Ethics Opinions

- NYSBA Opinion 654 (9-93) provides that a District Attorney's spouse or sibling may not represent a defendant in a case prosecuted by the District Attorney; whether the District Attorney may prosecute a case in which the defendant is represented by another lawyer in the law firm of the DA's spouse or sibling or by the DA's former unofficial advisor depends upon circumstances; which lawyer is disqualified depends on who was employed by the client first.
- NYSBA Opinion 660 (39a-93) provides that the lawyer associate of a defense counsel firm may not defend cases prosecuted by an assistant district attorney whom the associate is dating; the associate's firm is not necessarily disqualified.

*See also* Canon 6; Canon 9; 8-101(A)(2), EC 7-13; EC 5-15; 7-13.

**SPIN OFF SCENARIO:**

**What are the ethical issues when an attorney from a law school clinic or nonprofit center, like the Pace Women's Justice Center, represents a client in a family offense proceeding and then a tenured professor is retained by a Pace employee to represent him as respondent in the same family offense proceeding?**

**1. Disciplinary Rules**

- 22 NYCRR § 1200.19 [DR 4-101] (a) provides that a lawyer shall preserve client confidences and secrets, as defined in (a), except when permitted under (c)((1)-(5)). DR 4-101(d) provides that a lawyer shall exercise reasonable care to prevent his employees, associates and others from disclosing confidences or secrets of a client, except when permitted under (c)((1)-(5)).
- 22 NYCRR § 1200.20 [DR 5-101] (a) provides that a lawyer shall not accept or continue the employment if the exercise of professional judgment on behalf of the client reasonably may be affected by the lawyer's own financial, business, property, or personal interests, unless a disinterested lawyer would not believe the client's interests to be adversely affected and there is full disclosure whereby the client consents to the representation.

**2. Ethics Opinions**

- NYSBA Opinion 688 (5-97). A supervising attorney at a law school legal clinic may properly represent a clinic client when the opposing counsel is a member of the law school's Board of Trustees as long as the clinic attorney reasonably believes that his or her professional judgment will not be adversely affected by the relationship of the board member to the clinic, and the clinic attorney discloses to the client the relationship of the board member and the clinic as soon as practicable and obtains the client's consent to continue the representation.

A similar analysis may apply if the opposing attorney is a law school faculty member rather than a member of the Board of Trustees. If the clinic attorney depends on a faculty vote for tenure or contract renewal, or if faculty members can influence the dean on such matters, or if the clinic attorney needs the support of the faculty member in other ways, then the clinic attorney might feel constrained in zealously opposing the faculty member. As with the Board of Trustees, the pertinent factors will vary with each situation.

*See also* DR 2-103(D); 5-107 (A), (B); 5-110; EC 2-25.

### III. Duty to Report Fraud

*The disciplinary rules and case law provide guidance to lawyers who learn of fraud or perjury by a lawyer, client or witness. Tension exists between the lawyer's obligation to preserve client confidences and the lawyer's obligation as an officer of the court to preserve the integrity of the legal system.*

#### **CLIP 5: BORN YESTERDAY**

Corrupt millionaire junk dealer Broderick Crawford gets advice from his attorney concerning Crawford's relationship with his girlfriend, Judy Holliday, and how that relationship may affect his future.

#### ***DISCUSSION QUESTIONS:***

1. Under what circumstances could this advice be ethical?
2. What must this attorney's relationship be with Judy Holliday?
3. What are the ethical mandates for this attorney at this time?

#### ***1. Disciplinary Rules***

##### *Disclosure of Information to Authorities:*

- 22 NYCRR § 1200.4 [DR 1-103](a) provides that a lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2), not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program committee, of a violation of section 1200.3 of this Part, that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

(b) A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

##### *Misconduct:*

- 22 NYCRR § 1200.3 [DR 1-102] provides that (a) a lawyer shall not:
  - (1) violate a disciplinary rule
  - (2) circumvent a disciplinary rule through actions of another
  - (3) engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer
  - (4) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation
  - (5) engage in conduct that is prejudicial to the administration of justice.

## 2. Case Law

- Matter of Jochnowitz, 189 A.D.2d 27 342 (1<sup>st</sup> Dept. 1993). Attorney involved in parking violations scandal disbarred for participation in and failure to report other attorneys' involvement in illegal kickback scheme.
- Matter of Geoghan, 253 A.D.2d 205 (2<sup>nd</sup> Dept. 1999). Attorney disbarred for, *inter alia*, filing criminal charges to gain leverage to resolve a civil lawsuit, misrepresenting the extent of his client's injuries to his adversary in an effort to obtain a settlement and indicating that once the settlement was paid he would instruct his client to give false and misleading testimony before the grand jury.
- Matter of Friedman, 196 A.D.2d 280 (1<sup>st</sup> Dept. 1994), appeal dismissed, mot. Dismissed, 83 N.Y.2d 888 (1994), and cert. denied, 513 U.S. 820 (1994). Attorney disbarred for pattern of misconduct constituting intentional acts of dishonesty over a ten-year period, including, knowingly filing a false affidavit, giving false testimony at a hearing before a federal judge, soliciting false testimony from a witness, failing to supervise his investigator, failing to disclose information that he was required to reveal by law, and failing to disclose to the court that a witness gave false testimony.

## 3. Ethics Opinions

- NYSBA Opinion 742 -- 5/25/01. A lawyer who learns in the course of representing a client that a third party non-lawyer has violated applicable law may not report same if the information would be protected as a confidence or secret of the client.

## V. Dealing With an Ethical Dilemma

*When a lawyer is faced with an ethical dilemma, what should an attorney do?*

*Several options include: obtaining advice from a trusted colleague or a bar association hotline and/or requesting an adjournment, if appropriate, to thoroughly research the issue.*

### **CLIP 6: SUSPECT**

Murder case juror Dennis Quaid speaks with defense attorney Cher, who believes he may have just called her "anonymously" and given her a tip about the case.

***DISCUSSION QUESTIONS:***

1. Are *all* jurors' communications subject to reporting requirements?

1. *Disciplinary Rules*

*Communication with or investigation of jurors:*

- 22 NYCRR Section 1200.39 [DR 7-108(a)-(b)] provides that before and during the trial of a case a lawyer is connected therewith, a lawyer shall not communicate with or cause another to communicate with anyone the lawyer knows to be a member of the venire from which the jury will be selected for the trial of the case, except as allowed by (c) and extended in (f) to family members of the juror or venire.

(d) Following the discharge of the jury, a lawyer may communicate with the jury regarding the verdict and the case as long as the attorney does not intend to embarrass or harass the juror.

(e) A lawyer shall not conduct or cause, by financial support or otherwise, another to conduct a vexatious or harassing investigation of either a member of the venire or a juror.

(g) A lawyer shall reveal promptly to the court improper conduct by a member of the venire or a juror, or by another toward a member of the venire or a juror or a member of his or her family of which the lawyer has knowledge.

3. *Ethics Opinions*

- ABA Formal Opinion 109. Canon 23 speaks of the lawyer relationships during trial. It lays down the principle that the lawyer must remain aloof from the jury.

**CLIP 7: ADAM'S RIB**

Katherine Hepburn interviews her client for the first time.

***DISCUSSION QUESTIONS:***

1. Is the attorney suborning perjury?
2. What would a competent attorney do concerning the domestic violence information revealed by the client?



**CLIP 8: ERIN BROKOVICH**  
**Office employee Julia Roberts increases her responsibilities at the firm.**

***DISCUSSION QUESTIONS:***

1. What are her ethical boundaries?
2. Does it matter what her title is or what her education has been?
3. How much oversight by her supervising attorney is necessary?

***1. Disciplinary Rules***

*Responsibilities of a Partner or Supervisory Lawyer:*

- 22 NYCRR § 1200.5 [DR 1-104(c)] provides that a law firm shall adequately supervise, as appropriate, the work of partners, associates and non-lawyers working at the firm.

*Aiding Unauthorized Practice of Law:*

- 22 NYCRR § 1299.16 [DR 3-101(a)] provides that a lawyer shall not aid a non-lawyer in the unauthorized practice of law.

*Dividing Legal Fees with a Non-lawyer:*

- 22 NYCRR § 1200.17 [DR 3-102(a)] provides that a lawyer or law firm shall not share legal fees with a non-lawyer, except as provided in ((1)-(3)) after the lawyer's death.

*Forming a Partnership with a Non-lawyer:*

- 22 NYCRR § 1200.18 [DR 3-103(a)] provides that a lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

*Preservation of Confidences and Secrets of a Client:*

- 22 NYCRR § 1200.19 [DR 4-101(a)-(b)] provides that, except when permitted under (c), a lawyer shall not knowingly: reveal a confidence or secret of a client, as defined under (a); use a confidence or secret of a client to the disadvantage of the client; and use a confidence or secret of a client for the advantage of the lawyer or of a third person, unless after full disclosure, the client consents.

*(d) A lawyer shall exercise reasonable care to prevent his or her employees, associates, and others employed or utilized by the lawyer from disclosing or using confidences or secrets of a client, except as allowed under (c).*

## 2. Ethics Opinions

- NYC Bar Association, Committee on Professional and Judicial Ethics, Op. 1995 -11. The degree of supervision should be greater for those employees who are privy to client confidences, such as **paralegals and secretaries**. These employees should be periodically informed of the law firm's duty of confidentiality and the manner in which confidentiality is maintained.
- NYSBA Opinion 677. Lawyer may delegate attendance at real estate closing to **paralegal** under certain circumstance, where the delegating attorney is available only by phone as necessary, provided the particular closing is "ministerial," and the conditions of EC 3-6 are met.
- NYSBA Opinion 693 - 8/22/97 (68-96). Attorney may allow **paralegal** to use attorney's signature stamp to execute escrow checks under certain circumstances
- N.Y. State 74-343. **Paralegals** may not supervise the execution of a will.
- NY County 641 (1975). A lawyer may not permit his or her **paralegal** employee to practice law or perform services involving the exercise of professional legal judgment.

Even where the services rendered by the paralegal do not per se constitute the practice of law, they must nevertheless be performed under the general supervision of a lawyer, who will remain totally responsible for his or her employee's work.

- NY County Opinion 666 (1985). A lawyer may not assign a **legal assistant** to perform any services that may only be performed by a lawyer or which involve the exercise of professional legal judgment.
- NY City Bar Association Opinion 884 (1974). When a **legal assistant** is dealing with clients, the public generally, or other lawyers, steps must be taken to avoid the representation that the legal assistant is a member of the Bar and the lawyer-employer will be responsible as a matter of professional ethics, for avoiding such confusion
- ABA Opinion 85 (1932). A lawyer cannot delegate his professional responsibility to a **law student** employed in his office; the student in all his work must act as agent for the lawyer employing him, who must supervise his work and be responsible for his good conduct.
- ABA Opinion 316 (1967). A lawyer may employ **non-lawyers** to do any task except counsel clients about law matters, engage directly in the practice of law, appear in court or appear in formal proceedings as part of the judicial

process, so long as the attorney takes the work and vouches for it to the client and becomes responsible to the client.

- EC 3-6 A lawyer often delegates tasks to **clerks, secretaries, and other lay persons**. Such delegation is proper if the lawyer maintains a direct relationship with the client, supervises the delegated work and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently.

## ***VI. Current Topics of Interest***

### **CLIP 9: JAGGED EDGE**

Defense attorney Glenn Close must decide what to do about her personal relationship with her client, whom she is representing in a murder case.

### ***DISCUSSION QUESTIONS:***

1. At what point should Glenn Close have asked to be replaced by substituted counsel?

#### ***1. Disciplinary Rules***

##### ***Sexual Relations with Clients:***

- 22 NYCRR §1200.29-a (b)((1)-(3)) provides that a lawyer shall not require or demand sexual relations with a client or third party incident to or as a condition of any professional representation; employ coercion, intimidation, or undue influence in entering into sexual relations with a client; and in domestic relations matters, enter into sexual relations with a client during the course of the lawyer's representation of the client.

(c) Section 1200.29-a (b) shall not apply to sexual relations between lawyers and their spouses or to ongoing consensual sexual relationships that predate the initiation of the lawyer-client relationship.

(d) Where a lawyer in a firm has sexual relations with a client but does not participate in the representation of that client, the lawyers in the firm shall not be subject to discipline under this rule solely because of the occurrence of such sexual relations.

##### ***Conflicts of Interest; Lawyers Own Interests:***

- 22 NYCRR § 1200.20 [DR 5-101(a)] provides that a lawyer shall not accept or continue employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's own financial,

business, property, or personal interests, unless a disinterested lawyer would believe that the representation of the client will not be adversely affected thereby and the client consents to the representation after full disclosure of the implications of the lawyer's interest.

*Misconduct:*

- 22 NYCRR § 1200.3 [DR 1-102(a)(7)] provides that a lawyer or law firm shall not engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

*Fiduciary Responsibility:*

- 22 NYCRR § 1200.46 [DR 9-102] provides that a lawyer is bound to conduct himself as a fiduciary or trustee occupying the highest position of trust and confidence, so that, in all his relations with his client, it is his duty to exercise and maintain the utmost good faith, honesty, integrity, fairness and fidelity. This fiduciary or trust relationship precludes the attorney from personal interests antagonistic to those of the client or from obtaining personal advantage or profit out of the relationship.

*Avoiding Even the Appearance of Impropriety:*

- 22 NYCRR § 1200.45 [DR 9-101(b)(1)(ii)] provides that a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee and there are no other circumstances in the particular representation that create an appearance of impropriety.

(3)(d) A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent in any matter a client whose interests differ from those of another party to the matter who the lawyer knows is represented by the other lawyer unless the client consents to the representation after full disclosure and the lawyer concludes that the lawyer can adequately represent the interests of the client.

*See also Canon 6; Canon 9*

## 2. Case Law

- In the Matter of Jeffrey Weinstock, an Attorney, 669 N.Y.S.2d 368 (2<sup>nd</sup> Dept. 1998). Respondent attorney had two sexual encounters with a client in a Family Court conference room, is guilty of professional misconduct, and, upon consideration of evidence offered in mitigation, he is suspended from the practice of law for two years.



## PART 1200. DISCIPLINARY RULES OF THE CODE OF PROFESSIONAL RESPONSIBILITY

*The Disciplinary Rules of the Code of Professional Responsibility, promulgated as joint rules of the Appellate Divisions of the Supreme Court effective September 1, 1990, are now Part 1200 of Title 22 of New York Codes, Rules and Regulations (NYCRR).*

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### § 1200.1 Definitions\*

(a) "Differing interests" include every interest that will adversely affect either the judgment or the loyalty of a lawyer to a client, whether it be a conflicting, inconsistent, diverse, or other interest.

(b) "Law firm" includes, but is not limited to, a professional legal corporation, a limited liability company or partnership engaged in the practice of law, the legal department of a corporation or other organization and a qualified legal assistance organization.

(c) "Person" includes a corporation, an association, a trust, a partnership, and any other organization or legal entity.

(d) "Professional legal corporation" means a corporation, or an association treated as a corporation, authorized by law to practice law for profit.

(e) "State" includes the District of Columbia, Puerto Rico, and other federal territories and possessions.

(f) "Tribunal" includes all courts, arbitrators and other adjudicatory bodies.

(g) (Repealed.)

(h) "Qualified legal assistance organization" means an office or organization of one of the four types listed in section 1200.8(d)(1) through (4) inclusive, that meets all the requirements thereof.

(i) "Fraud" does not include conduct, although characterized as fraudulent by statute or administrative rule, which lacks an element of scienter, deceit, intent to mislead, or knowing failure to correct misrepresentations which can be reasonably expected to induce detrimental reliance by another.

(j) "Domestic relations matters" means representation of a client in a claim, action or proceeding, or preliminary to the filing of a claim, action or proceeding, in either Supreme Court or Family Court, or in any court of appellate jurisdiction, for divorce, separation, annulment, custody, visitation, maintenance, child support, or alimony, or to enforce or modify a judgment or order in connection with any such claims, actions or proceedings.

\*"Confidence" and "Secret" are defined in section 1200.19(a) of this Part. "Sexual relations" is defined in section 1200.29-(a) of this Part. "Copy" is defined in section 1200.41(d)(10) of this Part.

### § 1200.2 [DR 1-101] Maintaining Integrity and Competence of the Legal Profession

(a) A lawyer is subject to discipline if the lawyer has made a materially false statement in, or has deliberately failed to disclose a material fact requested in connection with, the lawyer's application for admission to the bar.

(b) A lawyer shall not further the application for admission to the bar of another person that the lawyer knows to be unqualified in respect to character, education, or other relevant attribute.

### § 1200.3 [DR 1-102] Misconduct

(a)<sup>1</sup> A lawyer or law firm shall not:

(1) Violate a disciplinary rule.

(2) Circumvent a disciplinary rule through actions of another.

(3) Engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment, on the basis of age, race, creed, color, national origin, sex, disability, marital status, or sexual orientation. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable, and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute *prima facie* evidence of professional misconduct in a disciplinary proceeding.

(7) Engage in any other conduct that adversely reflects on the lawyer's fitness as a lawyer.

1. So in original. No par. (b) has been enacted.

### § 1200.4 [DR 1-103] Disclosure of Information to Authorities

(a) A lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2), not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program or committee, of a violation of section 1200.3 of this Part that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

(b) A lawyer possessing knowledge or evidence, not protected as a confidence or secret, concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

### § 1200.5 [DR 1-104] Responsibilities of a Partner or Supervisory Lawyer and Subordinate Lawyers

(a) A law firm shall make reasonable efforts to ensure that all lawyers in the firm conform to the disciplinary rules.

(b) A lawyer with management responsibility in the law firm or direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the disciplinary rules.

(c) A law firm shall adequately supervise, as appropriate, the work of partners, associates and nonlawyers who work at the firm. The degree of supervision

required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person whose work is being supervised, the amount of work involved in a particular matter, and the likelihood that ethical problems might arise in the course of working on the matter.

(d) A lawyer shall be responsible for a violation of the disciplinary rules by another lawyer or for the conduct of a nonlawyer employed or retained by or associated with the lawyer that would be a violation of the disciplinary rules if engaged in by a lawyer if:

(1) The lawyer orders, or directs the specific conduct, or, with knowledge of the specific conduct, ratifies it; or

(2) The lawyer is a partner in the law firm in which the other lawyer practices or the nonlawyer is employed, or has supervisory authority over the other lawyer or the nonlawyer, and knows of such conduct, or in the exercise or reasonable management or supervisory authority should have known of the conduct so that reasonable remedial action could be or could have been taken at a time when its consequences could be or could have been avoided or mitigated.

(e) A lawyer shall comply with these Disciplinary Rules notwithstanding that the lawyer acted at the direction of another person.

(f) A subordinate lawyer does not violate these Disciplinary Rules if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

#### § 1200.5-a [DR 1-105] Disciplinary Authority and Choice of Law

(a) A lawyer admitted to practice in this state is subject to the disciplinary authority of this state, regardless of where the lawyer's conduct occurs. A lawyer may be subject to the disciplinary authority of both this state and another jurisdiction where the lawyer is admitted for the same conduct.

(b) In any exercise of the disciplinary authority of this state, the rules of professional conduct to be applied shall be as follows:

(1) For conduct in connection with a proceeding in a court before which a lawyer has been admitted to practice (either generally or for purposes of that proceeding), the rules to be applied shall be the rules of the jurisdiction in which the court sits, unless the rules of the court provide otherwise; and

(2) For any other conduct:

(i) If the lawyer is licensed to practice only in this state, the rules to be applied shall be the rules of this state, and

(ii) If the lawyer is licensed to practice in this state and another jurisdiction, the rules to be applied shall be the rules of the admitting jurisdiction

in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.

#### § 1200.6 [DR 2-101] Publicity and Advertising

(a) A lawyer on behalf of himself or herself or partners or associates, shall not use or disseminate or participate in the preparation or dissemination of any public communication or communication to a prospective client containing statements or claims that are false, deceptive or misleading.

(b) (Repealed).

(c) It is proper to include information, provided its dissemination does not violate the provisions of section 1200.6(a), as to:

(1) education, degrees and other scholastic distinctions, dates of admission to any bar; areas of the law in which the lawyer or law firm practices, as authorized by the code of professional responsibility; public offices and teaching positions held; memberships in bar associations or other professional societies or organizations, including offices and committee assignments therein; foreign language fluency;

(2) names of clients regularly represented, provided that the client has given prior written consent;

(3) bank references; credit arrangements accepted; prepaid or group legal services programs in which the attorney or firm participates; and

(4) legal fees for initial consultation; contingent fee rates in civil matters when accompanied by a statement disclosing the information required by section 1200.6(l); range of fees for services, provided that there be available to the public free of charge a written statement clearly describing the scope of each advertised service; hourly rates; and fixed fees for specified legal services.

(d) Advertising and publicity shall be designed to educate the public to an awareness of legal needs and to provide information relevant to the selection of the most appropriate counsel. Information other than that specifically authorized in section 1200.6(c) that is consistent with these purposes may be disseminated providing that it does not violate any other provisions of this Rule.

(e) A lawyer or law firm advertising any fixed fee for specified legal services shall, at the time of fee publication, have available to the public a written statement clearly describing the scope of each advertised service, which statement shall be delivered to the client at the time of retainer for any such service. Such legal services shall include all those services which are recognized as reasonable and necessary



under local custom in the area of practice in the community where the services are performed.

(f) If the advertisement is broadcast, it shall be prerecorded or taped and approved for broadcast by the lawyer, and a recording or videotape of the actual transmission shall be retained by the lawyer for a period of not less than one year following such transmission. All advertisements of legal services that are mailed, or are distributed other than by radio, television, directory, newspaper, magazine or other periodical, by a lawyer or law firm that practices law in this state, shall also be subject to the following provisions:

(1) A copy of each advertisement shall at the time of its initial mailing or distribution be filed with the Departmental Disciplinary Committee of the appropriate-judicial department.

(2) Such advertisement shall contain no reference to the fact of filing.

(3) If such advertisement is directed to a predetermined addressee, a list, containing the names and addresses of all persons to whom the advertisement is being or will thereafter be mailed or distributed, shall be retained by the lawyer or law firm for a period of not less than one year following the last date of mailing or distribution.

(4) The advertisements filed pursuant to this subdivision shall be open to public inspection.

(5) The requirements of this subdivision shall not apply to such professional cards or other announcements the distribution of which is authorized by section 1200.7 of this Part.

(g) If a lawyer or law firm advertises a range of fees or an hourly rate for services, the lawyer or law firm may not charge more than the fee advertised for such services. If a lawyer or law firm advertises a fixed fee for specified legal services, or performs services described in a fee schedule, the lawyer or law firm may not charge more than the fixed fee for such stated legal service as set forth in the advertisement or fee schedule, unless the client agrees in writing that the services performed or to be performed were not legal services referred to or implied in the advertisement or in the fee schedule and, further, that a different fee arrangement shall apply to the transaction.

(h) Unless otherwise specified in the advertisement, if a lawyer publishes any fee information authorized under this Disciplinary Rule in a publication which is published more frequently than once per month, the lawyer shall be bound by any representation made therein for a period of not less than 30 days after such publication. If a lawyer publishes any fee information authorized under this Rule in a publication which is published once per month or less frequently, the lawyer shall be bound by any representation made therein until the publication of the succeeding issue. If a lawyer publishes any fee infor-

mation authorized under this Rule in a publication which has no fixed date for publication of a succeeding issue, the lawyer shall be bound by any representation made therein for a reasonable period of time after publication, but in no event less than 90 days.

(i) Unless otherwise specified, if a lawyer broadcasts any fee information authorized under this Rule, the lawyer shall be bound by any representation made therein for a period of not less than 30 days after such broadcast.

(j) A lawyer shall not compensate or give any thing of value to representatives of the press, radio, television or other communication medium in anticipation of or in return for professional publicity in a news item.

(k) All advertisements of legal services shall include the name, office address and telephone number of the attorney or law firm whose services are being offered.

(l) A lawyer or law firm advertising any contingent fee rates shall, at the time of the fee publication, disclose;

1. Whether percentages are computed before or after deduction of costs, disbursements and other expenses of litigation;

2. That, in the event there is no recovery, the client shall remain liable for the expenses of litigation, including court costs and disbursements.

#### § 1200.7 [DR 2-102] Professional Notices, Letterheads, and Signs

(a) A lawyer or law firm may use professional cards, professional announcement cards, office signs, letterheads or similar professional notices or devices, provided the same do not violate any statute or court rule, and are in accordance with DR 2-101, including the following:

(1) A professional card of a lawyer identifying the lawyer by name and as a lawyer, and giving addresses, telephone numbers, the name of the law firm, and any information permitted under section 1200.10 of this Part. A professional card of a law firm may also give the names of members and associates.

(2) A professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters pertaining to the professional offices of a lawyer or law firm. It may state biographical data, the names of members of the firm and associates and the names and dates of predecessor firms in a continuing line of succession. It may state the nature of the practice if permitted under section 1200.10 of this Part.

(3) A sign in or near the office and in the building directory identifying the law office. The sign may state the nature of the practice if permitted under section 1200.10 of this Part.

(4) A letterhead identifying the lawyer by name and as a lawyer, and giving addresses, telephone numbers, the name of the law firm, associates and any information permitted under section 1200.10 of this Part. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer or law firm may be designated "Of Counsel" on a letterhead if there is a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if the lawyer or the firm devotes a substantial amount of professional time in the representation of that client. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

(b) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation shall contain "P.C." or such symbols permitted by law, the name of a limited liability company or partnership shall contain "L.L.C.," "L.L.P." or such symbols permitted by law, and, if otherwise lawful, a firm may use as, or continue to include in its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. Such terms as "legal clinic", "legal aid", "legal service office", "legal assistance office", "defender office" and the like, may be used only by qualified legal assistance organizations, except that the term "legal clinic" may be used by any lawyer or law firm provided the name of a participating lawyer or firm is incorporated therein. A lawyer who assumes a judicial, legislative or public executive or administrative post or office shall not permit his or her name to remain in the name of a law firm or be used in professional notices of the firm during any significant period in which the lawyer is not actively and regularly practicing law as a member of the firm and, during such period, other members of the firm shall not use the lawyer's name in the firm name or in professional notices of the firm.

(c) A lawyer shall not hold himself or herself out as having a partnership with one or more other lawyers unless they are in fact partners.

(d) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.

#### § 1200.8 [DR 2-103] Solicitation and Recommendation of Professional Employment

(a) A lawyer shall not solicit professional employment from a prospective client:

(1) By in-person or telephone contact, except that a lawyer may solicit professional employment from a close friend, relative, former client or current client;

(2) By written or recorded communication if;

(i) The communication or contact violates section 1200.6(a);

(ii) The prospective client has made known to the lawyer a desire not to be solicited by the lawyer;

(iii) The solicitation involves coercion, duress or harassment;

(iv) The lawyer knows or reasonably should know that the age or the physical, emotional or mental state of the recipient make it unlikely that the recipient will be able to exercise reasonable judgment in retaining an attorney; or

(v) The lawyer intends or expects, but does not disclose, that the legal services necessary to handle the matter competently will be performed primarily by another lawyer who is not affiliated with the soliciting lawyer as a partner, associate or of counsel.

(b) A lawyer shall not compensate or give anything of value to a person or organization to recommend or obtain employment by a client, or as a reward for having made a recommendation resulting in employment by a client, except that a lawyer may pay the usual and reasonable fees or dues charged by a qualified legal assistance organization or referral fees to another lawyer as permitted by section 1200.12 of this Part.

(c) No written solicitation shall be sent by a method that requires the recipient to travel to a location other than that at which the recipient ordinarily receives business or personal mail.

(d) A lawyer or the lawyer's partner or associate or any other affiliated lawyer may be recommended, employed or paid by, or may cooperate with one of the following offices or organizations which promote the use of the lawyer's services or those of a partner or associate or any other affiliated lawyer, or request one of the following offices or organizations to recommend or promote the use of the lawyer's services or those of the lawyer's partner or associate, or any other affiliated lawyer as a private practitioner, if there is no interference with the exercise of independent professional judgment on behalf of the client:

(1) a legal aid office or public defender office:

(i) operated or sponsored by a duly accredited law school;

(ii) operated or sponsored by a bona fide, non-profit community organization;

(iii) operated or sponsored by a governmental agency; or

(iv) operated, sponsored, or approved by a bar association;

(2) a military legal assistance office;

(3) a lawyer referral service operated, sponsored or approved by a bar association or authorized by law or court rule;

(4) any bona fide organization which recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:

(i) Neither the lawyer, nor the lawyer's partner, nor associate, nor any other affiliated lawyer nor any nonlawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.

(ii) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(iii) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(iv) The legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved by the organization for the particular matter involved would be unethical, improper or inadequate under the circumstances of the matter involved; and the plan provides an appropriate procedure for seeking such relief.

(v) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court or other legal requirements that govern its legal service operations.

(vi) Such organization has filed with the appropriate disciplinary authority, to the extent required by such authority, at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure.

(e) A lawyer shall not accept employment when the lawyer knows or it is obvious that the person who seeks services does so as a result of conduct prohibited under this Disciplinary Rule.

(f) Advertising not proscribed under section 1200.6 of this part shall not be deemed in violation of any provision of this Disciplinary Rule.

### § 1200.9 [DR 2-104] Suggestion of Need of Legal Services

(a) (Repealed)

(b) (Repealed)

(c) A lawyer may accept employment which results from participation in activities designed to educate the public to recognize legal problems, to make intelligent selection of counsel or to utilize available legal services.

(d) A lawyer who is recommended, furnished or paid by a qualified legal assistance organization may represent a member or beneficiary thereof, to the extent and under the conditions prescribed therein.

(e) Without affecting the right to accept employment, a lawyer may speak publicly or write for publication on legal topics so long as the lawyer does not undertake to give individual advice.

(f) If success in asserting rights or defenses of a client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept employment from those contacted for the purpose of obtaining their joinder, provided such acceptance does not violate any statute or court rule in the judicial department in which the lawyer practices.

### § 1200.10 [DR 2-105] Identification of Practice and Specialty

(a) A lawyer or law firm may publicly identify one or more areas of law in which the lawyer or the law firm practices, or may state that the practice of the lawyer or law firm is limited to one or more areas of law, provided that the lawyer or law firm shall not state that the lawyer or law firm is a specialist or specializes in a particular field of law, except as provided in section 1200.10(b), (c) or (d) of this Part.

(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.

(c) A lawyer may state that the lawyer has been recognized or certified as a specialist only as follows:

(1) A lawyer who is certified as a specialist in a particular area of law or law practice by a private organization approved for that purpose by the American Bar Association may state the fact of certification if, in conjunction therewith, the certifying organization is identified and the following statement is prominently made: "The [name of the private certifying organization] is not affiliated with any governmental authority. Certification is not a requirement for the practice of law in the State of New York and does not necessarily indicate greater competence than other attorneys experienced in this field of law."

(2) A lawyer who is certified as a specialist in a particular area of law or law practice by the authority

having jurisdiction over specialization under the laws of another state or territory may state the fact of certification if, in conjunction therewith, the certifying state or territory is identified and the following statement is prominently made: "Certification granted by the [identify state or territory] is not recognized by any governmental authority within the State of New York. Certification is not a requirement for the practice of law in the State of New York and does not necessarily indicate greater competence than other attorneys experienced in this field of law."

### § 1200.11 [DR 2-106] Fee for Legal Services

(a) A lawyer shall not enter into an agreement for, charge or collect an illegal or excessive fee.

(b) A fee is excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee may include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent or made known to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation and ability of the lawyer or lawyers performing the services.

(8) Whether the fee is fixed or contingent.

(c) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) A contingent fee for representing a defendant in a criminal case.

(2) Any fee in a domestic relations matter:

(i) The payment or amount of which is contingent upon the securing of a divorce or in any way determined by reference to the amount of maintenance, support, equitable distribution, or property settlement;

(ii) Unless a written retainer agreement is signed by the lawyer and client setting forth in plain language the nature of the relationship and the details of the fee arrangement. A lawyer shall not include in the written retainer agreement a nonrefundable fee clause; or

(iii) Based upon a security interest, confession of judgment or other lien, without prior notice to the client in a signed retainer agreement and approval from a tribunal after notice to the adversary. A lawyer shall not foreclose on a mortgage placed on the marital residence while the spouse who consents to the mortgage remains the titleholder and the residence remains the spouse's primary residence.

(3) A fee proscribed by law or rule of court.

(d) Promptly after a lawyer has been employed in a contingent fee matter, the lawyer shall provide the client with a writing stating the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery and whether such expenses are to be deducted before or, if not prohibited by statute or court rule, after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter, and if there is a recovery, showing the remittance to the client and the method of its determination.

(e) In domestic relations matters, a lawyer shall resolve fee disputes by arbitration at the election of the client.

(f) In domestic relations matters, a lawyer shall provide a prospective client with a statement of client's rights and responsibilities at the initial conference and prior to the signing of a written retainer agreement.

### § 1200.12 [DR 2-107] Division of Fees Among Lawyers

(a) A lawyer shall not divide a fee for legal services with another lawyer who is not a partner in or associate of the lawyer's law firm, unless:

(1) The client consents to employment of the other lawyer after a full disclosure that a division of fees will be made.

(2) The division is in proportion to the services performed by each lawyer or, by a writing given to the client, each lawyer assumes joint responsibility for the representation.

(3) The total fee of the lawyers does not exceed reasonable compensation for all legal services they rendered the client.

(b) This Disciplinary Rule does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

### § 1200.13 [DR 2-108] Agreements Restricting the Practice of a Lawyer

(a) A lawyer shall not be a party to or participate in a partnership or employment agreement with an-

other lawyer that restricts the right of a lawyer to practice law after the termination of a relationship created by the agreement, except as a condition to payment of retirement benefits.

(b) In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts the right of a lawyer to practice law.

### § 1200.14 [DR 2-109] Obligation to Decline Employment

(a)<sup>1</sup> A lawyer shall not accept employment on behalf of a person if the lawyer knows or it is obvious that such person wishes to:

(1) Bring a legal action, conduct a defense, or assert a position in litigation, or otherwise have steps taken for such person merely for the purpose of harassing or maliciously injuring any person.

(2) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification, or reversal of existing law.

1. So in original. No par. (b) has been enacted.

### § 1200.15 [DR 2-110] Withdrawal From Employment

#### (a) In General.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) Even when withdrawal is otherwise permitted or required under section 1200.15(a)(1), (b) or (c) of this Part, a lawyer shall not withdraw from employment until the lawyer has taken steps to the extent reasonably practicable to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled and complying with applicable laws and rules.

(3) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

(b) **Mandatory Withdrawal.** A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

(1) The lawyer knows or it is obvious that the client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken, merely for the purpose of harassing or maliciously injuring any person.

(2) The lawyer knows or it is obvious that continued employment will result in violation of a disciplinary rule.

(3) The lawyer's mental or physical condition renders it unreasonably difficult to carry out the employment effectively.

(4) The lawyer is discharged by his or her client.

(c) **Permissive Withdrawal.** Except as stated in DR 2-110(A), a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(1) The client:

(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law.

(ii) Persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent.

(iii) Insists that the lawyer pursue a course of conduct which is illegal or prohibited under the disciplinary rules.

(iv) By other conduct renders it unreasonably difficult for the lawyer to carry out employment effectively.

(v) Insists, in a matter not pending before a tribunal, that the lawyer engage in conduct which is contrary to the judgment and advice of the lawyer but not prohibited under the disciplinary rules.

(vi) Deliberately disregards an agreement or obligation to the lawyer as to expenses or fees.

(vii) Has used the lawyer's services to perpetrate a crime or fraud.

(2) The lawyer's continued employment is likely to result in a violation of a disciplinary rule.

(3) The lawyer's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal.

(4) The lawyer's mental or physical condition renders it difficult for the lawyer to carry out the employment effectively.

(5) The lawyer's client knowingly and freely assents to termination of the employment.

(6) The lawyer believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

### § 1200.15-a [DR 2-111] Sale of Law Practice

(a) A lawyer retiring from a private practice of law, a law firm one or more members of which are retiring from the private practice of law with the firm, or the personal representative of a deceased, disabled or missing lawyer, may sell a law practice, including good

will, to one or more lawyers or law firms, who may purchase the practice. The seller and the buyer may agree on reasonable restrictions on the seller's private practice of law, notwithstanding any other provision of this Code. Retirement shall include the cessation of the private practice of law in the geographic area, that is, the county and city and any county or city contiguous thereto, in which the practice to be sold has been conducted.

**(b) Confidences and Secrets.**

(1) With respect to each matter subject to the contemplated sale, the seller may provide prospective buyers with any information not protected as a confidence or secret under section 1200.19 of this Part.

(2) Notwithstanding section 1200.19, the seller may provide the prospective buyer with information as to individual clients:

(i) concerning the identity of the client, except as provided in section 1200.15-a(b)(6) of this Part;

(ii) concerning the status and general nature of the matter;

(iii) available in public court files; and

(iv) concerning the financial terms of the attorney-client relationship and the payment status of the client's account.

(3) Prior to making any disclosure of confidences or secrets that may be permitted under section 1200.15-a(b)(2) of this Part, the seller shall provide the prospective buyer with information regarding the matters involved in the proposed sale sufficient to enable the prospective buyer to determine whether any conflicts of interest exist. Where sufficient information cannot be disclosed without revealing client confidences or secrets, the seller may make the disclosures necessary for the prospective buyer to determine whether any conflict of interest exists, subject to section 1200.15-a(b)(6) of this Part. If the prospective buyer determines that conflicts of interest exist prior to reviewing the information, or determines during the course of review that a conflict of interest exists, the prospective buyer shall not review or continue to review the information unless seller shall have obtained the consent of the client in accordance with section 1200.19(c)(1) of this Part.

(4) Prospective buyers shall maintain the confidentiality of and shall not use any client information received in connection with the proposed sale in the same manner and to the same extent as if the prospective buyers represented the client.

(5) Absent the consent of the client after full disclosure, a seller shall not provide a prospective buyer with information if doing so would cause a violation of the attorney-client privilege.

(6) If the seller has reason to believe that the identity of the client or the fact of the representation itself constitutes a confidence or secret in the circum-

stances, the seller may not provide such information to a prospective buyer without first advising the client of the identity of the prospective buyer and obtaining the client's consent to the proposed disclosure.

(c) Written notice of the sale shall be given jointly by the seller and the buyer to each of the seller's clients and shall include information regarding:

(1) The client's right to retain other counsel or to take possession of the file;

(2) The fact that the client's consent to the transfer of the client's file or matter to the buyer will be presumed if the client does not take any action or otherwise object within 90 days of the sending of the notice, subject to any court rule or statute requiring express approval by the client or a court;

(3) The fact that agreements between the seller and the seller's clients as to fees will be honored by the buyer;

(4) Proposed fee increases, if any, permitted under section 1200.15-a(e) of this Part; and

(5) The identity and background of the buyer or buyers, including principal office address, bar admissions, number of years in practice in the state, whether the buyer has ever been disciplined for professional misconduct or convicted of a crime, and whether the buyer currently intends to re-sell the practice.

(d) When the buyer's representation of a client of the seller would give rise to a waivable conflict of interest, the buyer shall not undertake such representation unless the necessary waiver or waivers have been obtained in writing.

(e) The fee charged a client by the buyer shall not be increased by reason of the sale, unless permitted by a retainer agreement with the client or otherwise specifically agreed to by the client.

**§ 1200.16 [DR 3-101] Aiding Unauthorized Practice of Law**

(a) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

(b) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

**§ 1200.17 [DR 3-102] Dividing Legal Fees With a Non-lawyer**

(a)<sup>1</sup> A lawyer or law firm shall not share legal fees with a non-lawyer, except that:

(1) An agreement by a lawyer with his or her firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons.



(2) A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer.

(3) A lawyer or law firm may compensate a non-lawyer employee, or include a non-lawyer employee in a retirement plan, based in whole or in part on a profit-sharing arrangement.

I. So in original. No par. (b) has been enacted.

**§ 1200.18 [DR 3-103] Forming a Partnership With a Non-lawyer**

(a)<sup>1</sup> A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice law.

I. So in original. No par. (b) has been enacted.

**§ 1200.19 [DR 4-101] Preservation of Confidences and Secrets of a Client**

(a) *Confidence* refers to information protected by the attorney-client privilege under applicable law, and *secret* refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(b) Except when permitted under DR 4-101(C), a lawyer shall not knowingly:

- (1) reveal a confidence or secret of a client;
- (2) use a confidence or secret of a client to the disadvantage of the client; and
- (3) use a confidence or secret of a client for the advantage of the lawyer or of a third person, unless the client consents after full disclosure.

(c) A lawyer may reveal:

- (1) Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.
- (2) Confidences or secrets when permitted under disciplinary rules or required by law or court order.
- (3) The intention of a client to commit a crime and the information necessary to prevent the crime.
- (4) Confidences or secrets necessary to establish or collect the lawyer's fee or to defend the lawyer or his or her employees or associates against an accusation of wrongful conduct.
- (5) Confidences or secrets to the extent implicit in withdrawing a written or oral opinion or representation previously given by the lawyer and believed by the lawyer still to be relied upon by a third person where the lawyer has discovered that the opinion or representation was based on materially inaccurate

information or is being used to further a crime or fraud.

(d) A lawyer shall exercise reasonable care to prevent his or her employees, associates, and others whose services are utilized by the lawyer from disclosing or using confidences or secrets of a client, except that a lawyer may reveal the information allowed by subdivision (c) of this section through an employee.

**§ 1200.20[DR 5-101] Conflicts of Interest; Lawyers Own Interests**

(a) A lawyer shall not accept or continue employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's own financial, business, property, or personal interests, unless a disinterested lawyer would believe that the representation of the client will not be adversely affected thereby and the client consents to the representation after full disclosure of the implications of the lawyer's interest.

**§ 1200.21 [DR 5-102] Lawyers as Witnesses**

(a) A lawyer shall not act, or accept employment that contemplates the lawyer's acting, as an advocate on issues of fact before any tribunal if the lawyer knows or it is obvious that the lawyer ought to be called as a witness on a significant issue on behalf of the client, except that the lawyer may act as an advocate and also testify:

- (1) If the testimony will relate solely to an uncontested issue.
- (2) If the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony.
- (3) If the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or the lawyer's firm to the client.

(4) As to any matter, if disqualification as an advocate would work a substantial hardship on the client because of the distinctive value of the lawyer as counsel in the particular case.

(b) Neither a lawyer nor the lawyer's firm shall accept employment in contemplated or pending litigation if the lawyer knows or it is obvious that the lawyer or another lawyer in the lawyer's firm may be called as a witness on a significant issue other than on behalf of the client, and it is apparent that the testimony would or might be prejudicial to the client.

(c) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer ought to be called as a witness on a significant issue on behalf of the client, the lawyer shall not serve as an advocate on issues of fact before the tribunal, except that the lawyer may continue as an advocate on issues of fact and may testify

in the circumstances enumerated in paragraphs (a)(1) through (4) of this section.

(d) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that the lawyer or a lawyer in his or her firm may be called as a witness on a significant issue other than on behalf of the client, the lawyer may continue the representation until it is apparent that the testimony is or may be prejudicial to the client at which point the lawyer and the firm must withdraw from acting as an advocate before the tribunal.

#### § 1200.22 [DR 5-103] Avoiding Acquisition of Interest in Litigation

(a) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation he or she is conducting for a client, except that the lawyer may:

(1) Acquire a lien granted by law to secure the lawyer's fee or expenses.

(2) Except as provided in section 1200.11(c)(2) or (3) of this Part, contract with a client for a reasonable contingent fee in a civil case.

(b) While representing a client in connection with contemplated or pending litigation, a lawyer shall not advance or guarantee financial assistance to the client, except that:

(1) A lawyer may advance or guarantee the expenses of litigation, including court costs, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses.

(2) Unless prohibited by law or rule of court, a lawyer representing an indigent client on a pro bono basis may pay court costs and reasonable expenses of litigation on behalf of the client.

#### § 1200.23 [DR 5-104] Transactions Between Lawyer and Client

(a) A lawyer shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the lawyer to exercise professional judgment therein for the protection of the client, unless:

(1) The transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;

(2) The lawyer advises the client to seek the advice of independent counsel in the transaction; and

(3) The client consents in writing, after full disclosure, to the terms of the transaction and to the lawyer's inherent conflict of interest in the transaction.

(b) Prior to conclusion of all aspects of the matter giving rise to employment, a lawyer shall not negotiate or enter into any arrangement or understanding:

(1) With a client or a prospective client by which the lawyer acquires an interest in literary or media rights with respect to the subject matter of the employment or proposed employment.

(2) With any person by which the lawyer transfers or assigns any interest in literary or media rights with respect to the subject matter of employment by a client or prospective client.

#### § 1200.24 [DR 5-105] Conflict of Interest: Simultaneous Representation

(a) A lawyer shall decline proffered employment if the exercise of independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, or if it would be likely to involve the lawyer in representing differing interests, except to the extent permitted under subdivision (c) of this section.

(b) A lawyer shall not continue multiple employment if the exercise of independent professional judgment in behalf of a client will be or is likely to be adversely affected by the lawyer's representation of another client, or if it would be likely to involve the lawyer in representing differing interests, except to the extent permitted under subdivision (c) of this section.

(c) In the situations covered by subdivisions (a) and (b) of this section, a lawyer may represent multiple clients if a disinterested lawyer would believe that the lawyer can competently represent the interest of each and if each consents to the representation after full disclosure of the implications of the simultaneous representation and the advantages and risks involved.

(d) While lawyers are associated in a law firm, none of them shall knowingly accept or continue employment when any one of them practicing alone would be prohibited from doing so under section 1200.20(a), 1200.24(a) or (b), 1200.27(a) or (b), or 1200.45(b) of this Part except as otherwise provided therein.

(e) A law firm shall keep records of prior engagements, which records shall be made at or near the time of such engagements and shall have a policy implementing a system by which proposed engagements are checked against current and previous engagements, so as to render effective assistance to lawyers within the firm in complying with section 1200.24(d) of this Part. Failure to keep records or to have a policy which complies with this subdivision, whether or not a violation of section 1200.24(d) of this Part occurs, shall be a violation by the firm. In cases in which a violation of this subdivision by the firm is a substantial factor in causing a violation of section 1200.24(d) of this Part by a lawyer, the firm, as well as



the individual lawyer, shall also be responsible for the violation of section 1200.24(d) of this Part.

### § 1200.25 [DR 5-106] Settling Similar Claims of Clients

A lawyer who represents two or more clients shall not make or participate in the making of an aggregate settlement of the claims of or against the clients, unless each client has consented after full disclosure of the implications of the aggregate settlement and the advantages and risks involved, including the existence and nature of all the claims involved and the participation of each person in the settlement.

### § 1200.26 [DR 5-107] Avoiding Influence by Others Than the Client

(a) Except with the consent of the client after full disclosure a lawyer shall not:

(1) Accept compensation for legal services from one other than the client.

(2) Accept from one other than the client any thing of value related to his or her representation of or employment by the client.

(b) Unless authorized by law, a lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal service for another to direct or regulate his or her professional judgment in rendering such legal services, or to cause the lawyer to compromise the lawyer's duty to maintain the confidences and secrets of the client under section 1200.19(b) of this Part.

(c) A lawyer shall not practice with or in the form of a limited liability company, limited liability partnership or professional corporation authorized to practice law for a profit, if:

(1) A non-lawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) A non-lawyer is a member, corporate director or officer thereof; or

(3) A nonlawyer has the right to direct or control the professional judgment of a lawyer.

### § 1200.27 [DR 5-108] Conflict of Interest—Former Client

(a) Except as provided in section 1200.45(b) with respect to current or former government lawyers, a lawyer who has represented a client in a matter shall not, without the consent of the former client after full disclosure:

(1) Thereafter represent another person in the same or a substantially related matter in which that

person's interests are materially adverse to the interests of the former client.

(2) Use any confidences or secrets of the former client except as permitted by section 1200.19(c) of this Part or when the confidence or secret has become generally known.

(b) Except with the consent of the affected client after full disclosure, a lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client:

(1) Whose interests are materially adverse to that person; and

(2) About whom the lawyer had acquired information protected by section 1200.19(b) of this Part that is material to the matter.

(c) Notwithstanding the provisions of section 1200.24(d) of this Part, when a lawyer has terminated an association with a firm, the firm is prohibited from thereafter representing a person with interests that are materially adverse to those of a client represented by the formerly associated lawyer and not currently represented by the firm only if the law firm or any lawyer remaining in the firm has information protected by section 1200.19(b) of this Part that is material to the matter, unless the affected client consents after full disclosure.

### § 1200.28 [DR 5-109] Organization as Client

(a) When a lawyer employed or retained by an organization is dealing with the organization's directors, officers, employees, members, shareholders or other constituents, and it appears that the organization's interests may differ from those of the constituents with whom the lawyer is dealing, the lawyer shall explain that the lawyer is the lawyer for the organization and not for any of the constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and is likely to result in substantial injury to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization. In determining how to proceed, the lawyer shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters and any other relevant considerations. Any measures taken shall be designed to minimize disruption of the organization and the risk of revealing information relating to the repre-

sentation to persons outside the organization. Such measures may include, among others:

- (1) Asking reconsideration of the matter;
- (2) Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and
- (3) Referring the matter to higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest authority that can act in behalf of the organization as determined by applicable law.

(c) If, despite the lawyer's efforts in accordance with section 1200.28(b) of this Part, the highest authority that can act on behalf of the organization insists upon action, or a refusal to act, that is clearly a violation of law and is likely to result in a substantial injury to the organization, the lawyer may resign in accordance with section 1200.15 of this Part.

#### § 1200.29 [DR 5-110] Membership in Legal Services Organization

(a)<sup>1</sup> A lawyer may serve as a director, officer or member of a not-for-profit legal services organization, apart from the law firm in which the lawyer practices, notwithstanding that the organization serves persons having interests that differ from those of a client of the lawyer or the lawyer's firm, provided that the lawyer shall not knowingly participate in a decision or action of the organization.

(1) If participating in the decision or action would be incompatible with the lawyer's duty of loyalty to a client under section 1200.20 through 1200.29 of this Part; or

(2) where the decision or action could have a material adverse effect on the representation of a client of the organization whose interests differ from those of a client of the lawyer or the lawyer's firm.

1. So in original. No par. (b) has been enacted.

#### § 1200.29-a Sexual Relations With Clients

(a) "Sexual relations" means sexual intercourse or the touching of an intimate part of another person for the purpose of sexual arousal, sexual gratification, or sexual abuse.

(b) A lawyer shall not:

(1) Require or demand sexual relations with a client or third party incident to or as a condition of any professional representation.

(2) Employ coercion, intimidation, or undue influence in entering into sexual relations with a client.

(3) In domestic relations matters, enter into sexual relations with a client during the course of the lawyer's representation of the client.

(c) Section 1200.29-a(b) shall not apply to sexual relations between lawyers and their spouses or to ongoing consensual sexual relationships that predate the initiation of the lawyer-client relationship.

(d) Where a lawyer in a firm has sexual relations with a client but does not participate in the representation of that client, the lawyers in the firm shall not be subject to discipline under this rule solely because of the occurrence of such sexual relations.

#### § 1200.30 [DR 6-101] Failing to Act Competently

(a)<sup>1</sup> A lawyer shall not:

(1) Handle a legal matter which the lawyer knows or should know that he or she is not competent to handle, without associating with a lawyer who is competent to handle it.

(2) Handle a legal matter without preparation adequate in the circumstances.

(3) Neglect a legal matter entrusted to the lawyer.

1. So in original. No par. (b) has been enacted.

#### § 1200.31 [DR 6-102] Limiting Liability to Client

(a)<sup>1</sup> A lawyer shall not seek, by contract or other means, to limit prospectively the lawyer's individual liability to a client for malpractice, or, without first advising that person that independent representation is appropriate in connection therewith, to settle a claim for such liability with an unrepresented client or former client.

1. So in original. No par. (b) has been enacted.

#### § 1200.32 [DR 7-101] Representing a Client Zealously

(a) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of the client through reasonably available means permitted by law and the disciplinary rules, except as provided by subdivision (b) of this section. A lawyer does not violate this disciplinary rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of the client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but the lawyer may withdraw as permitted under sections 1200.15, 1200.21 and 1200.24 of this Part.

(3) Prejudice or damage the client during the course of the professional relationship, except as required under section 1200.33(b) or as authorized by section 1200.15 of this Part.

(b) In the representation of a client, a lawyer may:

(1) Where permissible, exercise professional judgment to waive or fail to assert a right or position of the client.

(2) Refuse to aid or participate in conduct that the lawyer believes to be unlawful, even though there is some support for an argument that the conduct is legal.

### § 1200.33 [DR 7-102] Representing a Client Within the Bounds of the Law

(a) In the representation of a client, a lawyer shall not:

(1) File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which the lawyer is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when the lawyer knows or it is obvious that the evidence is false.

(7) Counsel or assist the client in conduct that the lawyer knows to be illegal or fraudulent.

(8) Knowingly engage in other illegal conduct or conduct contrary to a disciplinary rule.

(b) A lawyer who receives information clearly establishing that:

(1) The client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon the client to rectify the same, and if the client refuses or is unable to do so, the lawyer shall reveal the fraud to the affected person or tribunal, except when the information is protected as a confidence or secret.

(2) A person other than the client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

### § 1200.34 [DR 7-103] Performing the Duty of Public Prosecutor or Other Government Lawyer

(a) A public prosecutor or other government lawyer shall not institute or cause to be instituted crimi-

nal charges when he or she knows or it is obvious that the charges are not supported by probable cause.

(b) A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for the defendant, or to a defendant who has no counsel, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accused, mitigate the degree of the offense or reduce the punishment.

### § 1200.35 [DR 7-104] Communicating With Represented and Unrepresented Parties

(a) During the course of the representation of a client a lawyer shall not:

(1) Communicate or cause another to communicate on the subject of the representation with a party the lawyer knows to be represented by a lawyer in that matter unless the lawyer has the prior consent of the lawyer representing such other party or is authorized by law to do so.

(2) Give advice to a party who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such party are or have a reasonable possibility of being in conflict with the interests of the lawyer's client.

(b) Notwithstanding the prohibitions of section 1200.35(a) of this Part, and unless prohibited by law, a lawyer may cause a client to communicate with a represented party, if that party is legally competent, and counsel the client with respect to those communications, provided the lawyer gives reasonable advance notice to the represented party's counsel that such communications will be taking place.

### § 1200.36 [DR 7-105] Threatening Criminal Prosecution

(a)<sup>1</sup> A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

1. So in original. No par. (b) has been enacted.

### § 1200.37 [DR 7-106] Trial Conduct

(a) A lawyer shall not disregard or advise the client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take appropriate steps in good faith to test the validity of such rule or ruling.

(b) In presenting a matter to a tribunal, a lawyer shall disclose:

(1) Controlling legal authority known to the lawyer to be directly adverse to the position of the client and which is not disclosed by opposing counsel.

(2) Unless privileged or irrelevant, the identities of the clients the lawyer represents and of the persons who employed the lawyer.

(c) In appearing as a lawyer before a tribunal, a lawyer shall not:

(1) State or allude to any matter that he or she has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

(2) Ask any question that he or she has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person.

(3) Assert personal knowledge of the facts in issue, except when testifying as a witness.

(4) Assert a personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but the lawyer may argue, upon analysis of the evidence, for any position or conclusion with respect to the matters stated herein.

(5) Fail to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving to opposing counsel timely notice of the intent not to comply.

(6) Engage in undignified or discourteous conduct which is degrading to a tribunal.

(7) Intentionally or habitually violate any established rule of procedure or of evidence.

### § 1200.38 [DR 7-107] Trial Publicity

(a) A lawyer participating in or associated with a criminal or civil matter, or associated in a law firm or government agency with a lawyer participating in or associated with a criminal or civil matter, shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in that matter. Notwithstanding the foregoing, a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement so made shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(b) A statement ordinarily is likely to prejudice materially an adjudicative proceeding when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:

(1) The character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness.

(2) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement.

(3) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented.

(4) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration.

(5) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial.

(6) The fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

(c) Provided that the statement complies with section 1200.39(a) of this Part, a lawyer involved with the investigation or litigation of a matter may state the following without elaboration:

(1) The general nature of the claim or defense.

(2) The information contained in a public record.

(3) That an investigation of the matter is in progress.

(4) The scheduling or result of any step in litigation.

(5) A request for assistance in obtaining evidence and information necessary thereto.

(6) A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest.

(7) In a criminal case:

(i) The identity, age, residence, occupation and family status of the accused.

(ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person.

(iii) The fact, time and place of arrest, resistance, pursuit, use of weapons, and a description of physical evidence seized, other than as contained only in a confession, admission, or statement.

(iv) The identity of investigating and arresting officers or agencies and the length of the investigation.

### § 1200.39 [DR 7-108] Communication With or Investigation of Jurors

(a) Before the trial of a case a lawyer connected therewith shall not communicate with or cause another to communicate with anyone the lawyer knows to be a member of the venire from which the jury will be selected for the trial of the case.

(b) During the trial of a case:

(1) A lawyer connected therewith shall not communicate with or cause another to communicate with any member of the jury.

(2) A lawyer who is not connected therewith shall not communicate with or cause another to communicate with a juror concerning the case.

(c) DR 7-108(A) and (B) do not prohibit a lawyer from communicating with members of the venire or jurors in the course of official proceedings.

(d) After discharge of the jury from further consideration of a case with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence the juror's actions in future jury service.

(e) A lawyer shall not conduct or cause, by financial support or otherwise, another to conduct a vexatious or harassing investigation of either a member of the venire or a juror.

(f) All restrictions imposed by DR 7-108 upon a lawyer also apply to communications with or investigations of members of a family of a member of the venire or a juror.

(g) A lawyer shall reveal promptly to the court improper conduct by a member of the venire or a juror, or by another toward a member of the venire or a juror or a member of his or her family of which the lawyer has knowledge.

### § 1200.40 [DR 7-109] Contact With Witnesses

(a) A lawyer shall not suppress any evidence that the lawyer or the client has a legal obligation to reveal or produce.

(b) A lawyer shall not advise or cause a person to hide or to leave the jurisdiction of a tribunal for the purpose of making the person unavailable as a witness therein.

(c) A lawyer shall not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his or her testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:

(1) Expenses reasonably incurred by a witness in attending or testifying.

(2) Reasonable compensation to a witness for the loss of time in attending, testifying, preparing to testify or otherwise assisting counsel.

(3) A reasonable fee for the professional services of an expert witness.

### § 1200.41 [DR 7-110] Contact With Officials

(a) A lawyer shall not give or lend anything of value to a judge, official, or employee of a tribunal except as permitted by the Code of Judicial Conduct, but a lawyer may make a contribution to the campaign fund of a candidate for judicial office in conformity with the Code of Judicial Conduct.

(b) In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:

(1) in the course of official proceedings in the cause;

(2) in writing if the lawyer promptly delivers a copy of the writing to opposing counsel or to an adverse party who is not represented by a lawyer;

(3) orally upon adequate notice to opposing counsel or to an adverse party who is not represented by a lawyer; or

(4) as otherwise authorized by law, or by the Code of Judicial Conduct.

### § 1200.42 [DR 8-101] Action as a Public Official

(a)<sup>1</sup> A lawyer who holds public office shall not:

(1) use the public position to obtain, or attempt to obtain, a special advantage in legislative matters for the lawyer or for a client under circumstances where the lawyer knows or it is obvious that such action is not in the public interest;

(2) use the public position to influence, or attempt to influence, a tribunal to act in favor of the lawyer or of a client; or

(3) accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing the lawyer's action as a public official.

1. So in original. No par. (b) has been enacted.

### § 1200.43 [DR 8-102] Statements Concerning Judges and Other Adjudicatory Officers

(a) A lawyer shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office.

(b) A lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer.

**§ 1200.44 [DR 8-103] Lawyer Candidate for Judicial Office**

(a)<sup>1</sup> A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

1. So in original. No par. (b) has been enacted.

**§ 1200.45 [DR 9-101] Avoiding Even the Appearance of Impropriety**

(a) A lawyer shall not accept private employment in a matter upon the merits of which the lawyer has acted in a judicial capacity.

(b) Except as law may otherwise expressly permit:

(1) A lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, and no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(i) the disqualified lawyer is effectively screened from any participation, direct or indirect, including discussion, in the matter and is apportioned no part of the fee therefrom; and

(ii) there are no other circumstances in the particular representation that create an appearance of impropriety.

(2) A lawyer having information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. A firm with which that lawyer is associated may knowingly undertake or continue representation in the matter only if the disqualified lawyer is effectively screened from any participation, direct or indirect, including discussion, in the matter and is apportioned no part of the fee therefrom.

(3) A lawyer serving as a public officer or employee shall not:

(i) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter; or

(ii) negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially.

(c) A lawyer shall not state or imply that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

(d) A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent in any matter a client whose interests differ from those of another party to the matter who the lawyer knows is represented by the other lawyer unless the client consents to the representation after full disclosure and the lawyer concludes that the lawyer can adequately represent the interests of the client.

**§ 1200.46 [DR 9-102] Preserving Identity of Funds and Property of Others; Fiduciary Responsibility; Commingling and Misappropriation of Client Funds or Property; Maintenance of Bank Accounts; Record-keeping; Examination of Records**

(a) **Prohibition Against Commingling and Misappropriation of Client Funds or Property.** A lawyer in possession of any funds or other property belonging to another person, where such possession is incident to his or her practice of law, is a fiduciary, and must not misappropriate such funds or property or commingle such funds or property with his or her own.

(b) **Separate Accounts.**

(1) A lawyer who is in possession of funds belonging to another person incident to the lawyer's practice of law, shall maintain such funds in a banking institution within the State of New York which agrees to provide dishonored check reports in accordance with the provisions of Part 1300 of the joint rules of the Appellate Divisions. *Banking institution* means a state or national bank, trust company, savings bank, savings and loan association or credit union. Such funds shall be maintained, in the lawyer's own name, or in the name of a firm of lawyers of which he or she is a member, or in the name of the lawyer or firm of lawyers by whom he or she is employed, in a special account or accounts, separate from any business or personal accounts of the lawyer or lawyer's firm, and separate from any accounts which the lawyer may maintain as executor, guardian, trustee or receiver, or in any other fiduciary capacity, into which special account or accounts all funds held in escrow or otherwise entrusted to the lawyer or firm shall be deposited; provided, however, that such funds may be maintained in a banking institution located outside the State of New York if such banking institution complies with such Part 1300, and the lawyer has obtained the prior written approval of the person to whom such funds belong which specifies the name and address of the office or branch of the banking institution where such funds are to be maintained.

(2) A lawyer or the lawyer's firm shall identify the special bank account or accounts required by section 1200.46(b)(1) of this Part as an "Attorney Special Account," or "Attorney Trust Account," or "Attorney Escrow Account," and shall obtain checks and deposit



slips that bear such title. Such title may be accompanied by such other descriptive language as the lawyer may deem appropriate, provided that such additional language distinguishes such special account or accounts from other bank accounts that are maintained by the lawyer or the lawyer's firm.

(3) Funds reasonably sufficient to maintain the account or to pay account charges may be deposited therein.

(4) Funds belonging in part to a client or third person and in part presently or potentially to the lawyer or law firm shall be kept in such special account or accounts, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client or third person, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

**(c) Notification of Receipt of Property; Safekeeping; Rendering Accounts; Payment or Delivery of Property.** A lawyer shall:

(1) promptly notify a client or third person of the receipt of funds, securities, or other properties in which the client or third person has an interest;

(2) identify and label securities and properties of a client or third person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;

(3) maintain complete records of all funds, securities, and other properties of a client or third person coming into the possession of the lawyer and render appropriate accounts to the client or third person regarding them; and

(4) promptly pay or deliver to the client or third person as requested by the client or third person the funds, securities, or other properties in the possession of the lawyer which the client or third person is entitled to receive.

**(d) Required Bookkeeping Records.** A lawyer shall maintain for seven years after the events which they record:

(1) The records of all deposits in and withdrawals from the special accounts specified in section 1200.46(b) of this Part and of any other bank account which records the operations of the lawyer's practice of law. These records shall specifically identify the date, source and description of each item deposited, as well as the date, payee and purpose of each withdrawal or disbursement.

(2) A record for special accounts, showing the source of all funds deposited in such accounts, the names of all persons for whom the funds are or were held, the amount of such funds, the description and amounts, and the names of all persons to whom such funds were disbursed;

(3) copies of all retainer and compensation agreements with clients;

(4) copies of all statements to clients or other persons showing the disbursement of funds to them or on their behalf;

(5) copies of all bills rendered to clients;

(6) copies of all records showing payments to lawyers, investigators or other persons, not in the lawyer's regular employ, for services rendered or performed;

(7) copies of all retainer and closing statements filed with the Office of Court Administration; and

(8) All checkbooks and check stubs, bank statements, prenumbered cancelled checks and duplicate deposit slips with respect to the special accounts specified in DR 9-102(B) (subdivision (b) of this section) and any other bank account which records the operations of the lawyer's practice of law.

(9) Lawyers shall make accurate entries of all financial transactions in their records of receipts and disbursements, in their special accounts, in their ledger books or similar records, and in any other books of account kept by them in the regular course of their practice, which entries shall be made at or near the time of the act, condition or event recorded.

(10) For Purposes of section 1200.46(d) of this Part, a lawyer may satisfy the requirements of maintaining copies by maintaining any of the following items; original records, photocopies, microfilm, optical imaging, and any other medium that preserves an image of the document that cannot be altered without detection.

**(e) Authorized Signatories.** All special account withdrawals shall be made only to a named payee and not to cash. Such withdrawals shall be made by check or, with the prior written approval of the party entitled to the proceeds, by bank transfer. Only an attorney admitted to practice law in New York State shall be an authorized signatory of a special account.

**(f) Missing Clients.** Whenever any sum of money is payable to a client and the lawyer is unable to locate the client, the lawyer shall apply to the court in which the action was brought if in the unified court system, or, if no action was commenced in the unified court system, to the Supreme Court in the county in which the lawyer maintains an office for the practice of law, for an order directing payment to the lawyer of any fees and disbursements that are owed by the client and the balance, if any, to the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

**(g) Designation of Successor Signatories.**

(1) Upon the death of a lawyer who was the sole signatory on an attorney trust, escrow or special account, an application may be made to the Supreme Court for an order designating a successor signatory

for such trust, escrow or special account who shall be a member of the bar in good standing and admitted to the practice of law in New York State.

(2) An application to designate a successor signatory shall be made to the Supreme Court in the judicial district in which the deceased lawyer maintained an office for the practice of law. The application may be made by the legal representative of the deceased lawyer's estate; a lawyer who was affiliated with the deceased lawyer in the practice of law; any person who has a beneficial interest in such trust, escrow or special account; an officer of a city or county bar association; or counsel for an attorney disciplinary committee. No lawyer may charge a legal fee for assisting with an application to designate a successor signatory pursuant to this rule.

(3) The Supreme Court may designate a successor signatory and may direct the safeguarding of funds from such trust, escrow or special account, and the disbursement of such funds to persons who are entitled thereto, and may order that funds in such account be deposited with the Lawyers' Fund for Client Protection for safeguarding and disbursement to persons who are entitled thereto.

(h) **Dissolution of a Firm.** Upon the dissolution of any firm of lawyers, the former partners or members shall make appropriate arrangements for the maintenance by one of them or by a successor firm of the records specified in section 1200.46(d) of this part. In the absence of agreement on such arrangements,

any partner or former partner or member of a firm in dissolution may apply to the Appellate Division in which the principal office of the law firm is located or its designee for direction and such direction shall be binding upon all partners, former partners or members.

(i) **Availability of Bookkeeping Records; Records Subject to Production in Disciplinary Investigations and Proceedings.** The financial records required by this Disciplinary Rule shall be located, or made available, at the principal New York State office of the lawyers subject hereto and any such records shall be produced in response to a notice or subpoena duces tecum issued in connection with a complaint before or any investigation by the appropriate grievance or departmental disciplinary committee, or shall be produced at the direction of the appropriate Appellate Division before any person designated by it. All books and records produced pursuant to this subdivision shall be kept confidential, except for the purpose of the particular proceeding, and their contents shall not be disclosed by anyone in violation of the lawyer-client privilege.

(j) **Disciplinary Action.** A lawyer who does not maintain and keep the accounts and records as specified and required by this Disciplinary Rule, or who does not produce any such records pursuant to this Rule, shall be deemed in violation of these Rules and shall be subject to disciplinary proceedings.

## PART 1200, APPENDIX A. STANDARDS OF CIVILITY

### Preamble

The New York State Standards of Civility for the legal profession set forth principles of behavior to which the bar, the bench and court employees should aspire. They are not intended as rules to be enforced by sanction or disciplinary action, nor are they intended to supplement or modify the Rules Governing Judicial Conduct, the Code of Professional Responsibility and its Disciplinary Rules, or any other applicable rule or requirement governing conduct. Instead they are a set of guidelines intended to encourage lawyers, judges and court personnel to observe principles of civility and decorum, and to confirm the legal profession's rightful status as an honorable and respected profession where courtesy and civility are observed as a matter of course. The Standards are divided into four parts: lawyers' duties to other lawyers, litigants and witnesses; lawyers' duties to the court and court personnel; judges' duties to lawyers, parties and witnesses; and court personnel's duties to lawyers and litigants.

As lawyers, judges and court employees, we are all essential participants in the judicial process. That process cannot work effectively to serve the public

unless we first treat each other with courtesy, respect and civility.

### Lawyers' Duties to Other Lawyers, Litigants and Witnesses

I. Lawyers should be courteous and civil in all professional dealings with other persons.

A. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.

B. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.

C. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.

II. When consistent with their clients' interests, lawyers should cooperate with opposing counsel in an effort to avoid litigation and to resolve litigation that has already commenced.



A. Lawyers should avoid unnecessary motion practice or other judicial intervention by negotiating and agreeing with other counsel whenever it is practicable to do so.

B. Lawyers should allow themselves sufficient time to resolve any dispute or disagreement by communicating with one another and imposing reasonable and meaningful deadlines in light of the nature and status of the case.

III. A lawyer should respect the schedule and commitments of opposing counsel, consistent with protection of their clients' interests.

A. In the absence of a court order, a lawyer should agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of the client will not be adversely affected.

B. Upon request coupled with the simple representation by counsel that more time is required, the first request for an extension to respond to pleadings ordinarily should be granted as a matter of courtesy.

C. A lawyer should not attach unfair or extraneous conditions to extensions of time. A lawyer is entitled to impose conditions appropriate to preserve rights that an extension might otherwise jeopardize, and may request, but should not unreasonably insist on, reciprocal scheduling concessions.

D. A lawyer should endeavor to consult with other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts. A lawyer should likewise cooperate with opposing counsel when scheduling changes are requested, provided the interests of his or her client will not be jeopardized.

E. A lawyer should notify other counsel and, if appropriate, the court or other persons at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.

IV. A lawyer should promptly return telephone calls and answer correspondence reasonably requiring a response.

V. The timing and manner of service of papers should not be designed to cause disadvantage to the party receiving the papers.

A. Papers should not be served in a manner designed to take advantage of an opponent's known absence from the office.

B. Papers should not be served at a time or in a manner designed to inconvenience an adversary.

C. Unless specifically authorized by law or rule, a lawyer should not submit papers to the court without serving copies of all such papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the court.

VI. A lawyer should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.

A. A lawyer should avoid discovery that is not necessary to obtain facts or perpetuate testimony or that is designed to place an undue burden or expense on a party.

B. A lawyer should respond to discovery requests reasonably and not strain to interpret the request so as to avoid disclosure of relevant and non-privileged information.

VII. In depositions and other proceedings, and in negotiations, lawyers should conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.

A. Lawyers should not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

B. Lawyers should advise their clients and witnesses of the proper conduct expected of them in court, at depositions and at conferences, and, to the best of their ability, prevent clients and witnesses from causing disorder or disruption.

C. A lawyer should not obstruct questioning during a deposition or object to deposition questions unless necessary.

D. Lawyers should ask only those questions they reasonably believe are necessary for the prosecution or defense of an action. Lawyers should refrain from asking repetitive or argumentative questions and from making self-serving statements.

VIII. A lawyer should adhere to all express promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.

IX. Lawyers should not mislead other persons involved in the litigation process.

A. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.

B. A lawyer should not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

C. In preparing written versions of agreements and court orders, a lawyer should attempt to correctly reflect the agreement of the parties or the direction of the court.

X. Lawyers should be mindful of the need to protect the standing of the legal profession in the eyes of the public. Accordingly, lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate.

### Lawyers' Duties to the Court and Court Personnel

I. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.

A. Lawyers should speak and write civilly and respectfully in all communications with the court and court personnel.

B. Lawyers should use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom.

C. Lawyers should not engage in conduct intended primarily to harass or humiliate witnesses.

D. Lawyers should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible.

II. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

### Judges' Duties to Lawyers, Parties and Witnesses

A judge should be patient, courteous and civil to lawyers, parties and witnesses.

A. A judge should maintain control over the proceedings and insure that they are conducted in a civil manner.

B. Judges should not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses.

C. Judges should, to the extent consistent with the efficient conduct of litigation and other demands on the court, be considerate of the schedules of lawyers, parties and witnesses when scheduling hearings, meetings or conferences.

D. Judges should be punctual in convening all trials, hearings, meetings and conferences; if delayed, they should notify counsel when possible.

E. Judges should make all reasonable efforts to decide promptly all matters presented to them for decision.

F. Judges should use their best efforts to insure that court personnel under their direction act civilly toward lawyers, parties and witnesses.

### Duties of Court Personnel to the Court, Lawyers and Litigants

Court personnel should be courteous, patient and respectful while providing prompt, efficient and helpful service to all persons having business with the courts.

A. Court employees should respond promptly and helpfully to requests for assistance or information.

B. Court employees should respect the judge's directions concerning the procedures and atmosphere that the judge wishes to maintain in his or her courtroom.



*Nassau County Judicial Committee on Women in the Courts*

**Hon. Claire Weinberg**  
County Court Judge  
99 Main Street  
Hempstead, NY 11550

516-572-2111

**Hon. Denise Sher**  
Chair Emeritus  
District Court Judge  
99 Main street  
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**LOCAL COMMITTEES 2002-2003**

Name of the Committee Nassau County Judicial Committee on Women in the Courts

Name, Address and Telephone and Fax Numbers and E-Mail Address of the Chair \_\_\_\_\_

Hon. Claire I. Weinberg, 262 Old Country Road, Mineola, New York 11501

516-571-2628

Fax 516-571-6300

e-mail: cweinber@courts.state.ny.us

Meeting Dates in the Past Year February 7, 2002, July 18, 2002 and March 5, 2003

Activities for Domestic Violence Awareness Month 2002 See Rider

Activities for Women's History Month 2003 As part of our celebration of Women's History Month, the graduation ceremony of the Nassau County Family Treatment Court will be incorporated.

Other Activities in the Past Year \_\_\_\_\_

Plans for Next Year (2003) \_\_\_\_\_

**Please attach copies** of flyers or programs from events or written materials about your committee.

Please return this form by March 24, 2003, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

## RIDER

The Honorable Judith S. Kaye, Chief Judge of the New York State Court of Appeals, was the keynote speaker at Nassau County's Domestic Violence Awareness Month on October 30, 2002. It was fortunate that Chief Judge Kaye was the final speaker because her rendition of B. J. Gibson's poem about one woman's tragic and ultimately fatal inability to break the cycle of domestic abuse left the large audience speechless and teary-eyed.

Judge Kaye was preceded by the welcoming and cogent remarks of Nassau County Administrative Judge Edward G. McCabe who presided over the program. His dedication to the success of the Domestic Violence Court presided over by the Hon. Claire I. Weinberg was apparent to all. Other participants included Hon. Claire I. Weinberg, who along with Justice McCabe, presented a special plaque to Judge Kaye, Presiding Judge of the Family Court, Hon. Kenneth Diamond, President of the Nassau County District Court Board of Judges, Hon. Denise Sher, Kenneth Marten, President of the Nassau County Bar Association and Sandra Oliva, Executive Director of the Nassau Coalition Against Domestic Violence.

Special thanks to Daniel Bagnuola, Community Relations Coordinator for the Nassau County Courts. As always he arranged another successful—one might even say perfect—program.

**The Honorable Edward G. McCabe  
The Nassau County Judicial Committee  
on Women in the Courts**



**NASSAU COUNTY  
COURTS**

*Marking The Cycle*

**Hon. Judith S. Kaye**  
Chief Judge of the State of New York  
Keynote Speaker

**Hon. Edward G. McCabe**  
Administrative Judge of the County of Nassau  
**Hon. Claire I. Weinberg, Chair**  
Nassau County Judicial Committee on Women in the Courts

**Wednesday, October 30, 2002  
1:00 P.M.  
Nassau County Supreme Court**



Welcome  
**Hon. Edward G. McCabe**  
Presiding Justice

Pledge of Allegiance  
**Hon. Denise I. Sher**  
President, Nassau County District Court Board of Judges

Remarks  
**Hon. Edward G. McCabe**  
Administrative Judge of the County of Nassau  
**Hon. Claire I. Weinberg**  
Presiding Judge of the Nassau County Domestic Violence Court  
**Hon. Kenneth S. Diamond**  
Supervising Judge of the Nassau County Family Court  
**Kenneth Marten, Esq.**  
President, Nassau County Bar Association  
**Sandra Oliva, MSW**  
Executive Director, Nassau County Coalition  
Against Domestic Violence

Presentation of Plaque  
**Hon. Edward G. McCabe**  
**Hon. Claire I. Weinberg**  
Keynote Speaker  
**Hon. Judith S. Kaye**  
Chief Judge of the State of New York

Closing Remarks  
**Hon. Edward G. McCabe**

## **The Honorable Judith S. Kaye**

The Honorable Judith S. Kaye was appointed Chief Judge of the State of New York in 1993 by Governor Mario M. Cuomo and is the first woman to occupy that post. Judge Kaye was also the first woman to serve on the State's highest court, the Court of Appeals, which she joined in 1983.

As New York's top judicial officer, Judge Kaye has two titles, two sets of responsibilities. As Chief Judge of the Court of Appeals, she presides over New York's seven-member court of last resort. Sitting in Albany, roughly two weeks out of every five, the Court of Appeals each year typically issues more than 200 decisions on a broad range of significant legal issues.

In her role as Chief Judge of the State of New York, Judge Kaye is the head of the New York State Unified Court System, with more than 1,200 State-paid judges in 363 courthouses across New York State. In this capacity, she has made far-ranging contributions to the field of judicial administration.

Chief Judge Kaye's commitment to achieving results and her openness to new ideas have distinguished her as a leader in court administration. From creating specialized commercial courts for cost-effective resolution of business disputes to creating and implementing innovative reforms to the jury system, she has championed innovative improvements in every corner of New York State's judicial system.

The Nassau County Court System is proud and honored to be host to our Chief Judge, keynote speaker and friend, The Hon. Judith S. Kaye.



# Nassau News

November/December 2002

## Breaking the Cycle

By ANNABEL BAZANTE, Court Assistant



Pictured L to R: Hon. Kenneth S. Diamond, Kenneth Marten, Esq., Sandra Oliva, Hon. Edward G. McCabe, Hon. Judith S. Kaye, Hon. Claire I Weinberg, Hon. Denise L. Sher, Hon. Anthony F. Marano

New York State's eloquent Chief Judge Judith S. Kaye shared very stirring remarks with the large crowd attending the Domestic Violence Awareness Program at 1:00 p.m. on Wednesday, October 30, 2002 in the Calendar Control Part of the Nassau County Supreme Court. Sponsored by Nassau County Administrative Judge Edward G. McCabe, who served as presiding justice, and the Nassau County Judicial Committee on Women in the Courts, this landmark event was meticulously organized by Daniel Bagnuola, Community Relations Coordinator for the Nassau County Courts.

The program served as a very welcome catalyst to bring together the Honorable Judith S. Kaye, whose pioneering efforts and enthusiasm paved the way for the creation of the new domestic violence part in Nassau County Court approximately one year ago, and many of the individuals who

either work in the new part or are directly affected by its creation. The audience was presented with a variety of knowledgeable views on Nassau County's commitment to disseminating information about, preventing, and aiding victims of domestic violence.

Participation was not limited to representatives of the criminal justice system. For example, the courtroom was colorfully decorated with bright red geraniums donated by Doreen Banks, Commissioner of the Nassau County Department of Parks, Recreation and Museums. In addition, information tables in the main lobby were staffed by the Nassau County Coalition Against Domestic Violence and Nassau County Men Against Violence Against Women.

After the Pledge of Allegiance was delivered by the Honorable Denise L. Sher, President of the Nassau County District Court Board of Judges, Judge McCabe set the serious yet emotional tone for the afternoon with his opening remarks, reminding us that the new domestic violence part was established at a time when our world is raging with terrorist and other brands of violence.

The Honorable Claire I. Weinberg, Presiding Judge of the Nassau County Domestic Violence Court, and the Honorable Kenneth S. Diamond, Supervising Judge of the Nassau County Family Court, both reflected in their speeches upon the many accomplishments the judicial system in Nassau County has made in the field of domestic violence, most notably the establishment of the new part. The major goals of the domestic violence court are to facilitate the social re-education of perpetrators of domestic violence and to make known Nassau County's zero tolerance for criminally abusive behavior among family members.

Kenneth Marten, Esq., President of the Nassau County Bar Association, delivered an appropriately brief speech in which he welcomed Chief Judge Kaye to Nassau County, home of "the largest suburban bar association in this country," and thanked her for having selected Judge Weinberg to oversee the domestic violence part.

The final speaker preceding the keynote address was Sandra Oliva, M.S.W., Executive Director of the Nassau County Coalition Against Domestic Violence. Ms. Oliva shared with those present the inciteful slogan "Peace at home, then the world." Her words were followed by Judge McCabe presenting Chief Judge Kaye with a plaque noting her dedication to easing the pain of domestic violence victims.

The highlight of this reflective ceremony was Chief Judge Kaye's moving recitation of a poem by B.J. Gibson about one woman's tragic and, ultimately, fatal inability to break the cycle of domestic abuse. Chief Judge Kaye concluded her remarks by acknowledging the effectiveness of Nassau County's efforts and reaffirming her dedication to combating domestic violence.



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## **The PEACE Program**

By **HON. JOSEPH A. DEMARO**

The PEACE program is a parent education program for separating parents, "created" by three educators, all from Hofstra University. Professor Andrew Shepard, teaches at the Law School; Stephen Schlissel is a matrimonial attorney and adjunct professor at the Law School; and Doctor Joan Atwood is a professor in the Mental Health field at the University.

PEACE did not invent parent education; there are a number of programs nationwide that have been around a long time.

PEACE, after a slow start, got off the ground in Nassau County over 10 years ago.

In Nassau County it has always been presented at the Supreme Court in the large jury room.

The PEACE program is given about 6 times per year (in 2003, 7 courses are planned) and usually between 60 - 90 people are in attendance.

Each "course" has three, two hour sessions; each session begins at 6:00 p.m. and ends about 8:00 p.m. Each session has a 45 - 50 minute lecture, a short break, and a group meeting where the participants may raise specific issues.

The first session is on law, and presents issues relating to Court procedures, criteria for decisions, etc., as well as attorney client relationship issues.

The second and third sessions relate to psychological issues. The second session relates to adults and the third to children. The program had a film produced a few years ago which is often used for the lecture. The film shows the issues of concern to children in the separation situation.

In this context the program doesn't treat the participants, it informs them about dynamics not obvious to the people involved and suggests ways that the adults can better care for themselves and their children.

Samuel Ferrara, Esq., a matrimonial attorney is the coordinator in Nassau County. Mr. Ferrara is very bright and hard working and has contributed greatly to the success of this program.

People come to the program by referral from Courts, lawyers, mental health providers and others.

Anyone who needs further information or who wishes to register (**pre-registration is required**) should call 37-PEACE.

**Formal Judicial Induction Ceremonies will be held in the Central Jury Courtroom,  
Supreme Court, January 3, 2003**

**10:00 a.m. - Family and County Courts  
2:00 p.m. - District Court**

*Nassau County  
Family Treatment Court*



*Graduation Ceremony*

*March 25, 2003  
1:00 P.M.  
Nassau County Supreme Court  
100 Supreme Court Drive  
Mineola, New York 11501*

*Hon. Joseph J. Traficanti, Jr.  
Deputy Chief Administrative Judge  
Courts Outside of New York City*

*Hon. Edward G. McCabe  
Administrative Judge  
of Nassau County*

*Hon. Ruth C. Balkin  
Supervising Judge of the  
Nassau County Family Court*

Opening Proclamation:

Rosalie Fitzgerald, Chief Clerk  
Nassau County Family Court

Welcome:

Hon. Edward G. McCabe  
Administrative Judge  
Nassau County Courts

Pledge of Allegiance:

Deborah Mehr  
Associate Court Clerk  
Nassau County Family Court

Introductory Remarks:

Hon. Ruth C. Balkin  
Supervising Judge  
Nassau County Family Court

Remarks:

Hon. Thomas R. Svozzi  
County Executive  
Nassau County

Remarks:

Lance W. Elder  
President & Chief Executive Officer  
Education and Assistance Corporation

Keynote Speaker:

Hon. Joseph J. Traficanti, Jr.  
Deputy Chief Administrative Judge  
Courts Outside New York City

Presentation to Graduates:

Sharon A.  
John C.  
Thomasina M.  
Alexa R.

Participant Recognition

Presentation of Plaque:

Hon. Claire I. Weinberg  
Chair, Nassau County  
Judicial Committee  
on Women in the Courts

Closing Remarks:

Hon. Ruth C. Balkin  
Supervising Judge  
Nassau County Family Court

Closing Proclamation:

Rosalie Fitzgerald, Chief Clerk  
Nassau County Family Court

## THE NASSAU COUNTY FAMILY TREATMENT COURT

The Nassau County Family Treatment Court is based on a statewide model championed by New York's Chief Judge, the Honorable Judith S. Kaye. With the unwavering support of Nassau County Administrative Judge, the Honorable Edward G. McCabe, the Nassau County Family Court is one of the New York State Courts that provide this innovative fusion of substance abuse treatment with legal case processing. Under the leadership of Deputy Chief Administrative Judge Joseph J. Traficanti, Jr., the Office of Court Drug Treatment Programs is responsible for developing and implementing a statewide initiative to provide court-mandated substance abuse treatment for non-violent drug addicted offenders and parents charged in family child neglect cases. The overall progress of each participant is strictly monitored by Family Court Supervising Judge, the Honorable Ruth C. Balkin, who is also the Treatment Court's Presiding Judge.

The success of the Nassau Treatment Court can be credited to a collaborative work environment. The treatment team consists of specialized and dedicated representatives from the Nassau County Family Court, the Education and Assistance Corporation, the Department of Social Services, the Department of Drug and Alcohol, and the Coalition Against Domestic Violence.

Presiding Judge Ruth C. Balkin and her Treatment Court staff are committed to providing their participants with individually designed treatment programs, parenting skills and educational and vocational training.

*Suffolk County Women in the Courts Committee*

**Cheryl Zimmer, Esq.**  
c/o Justice H. Patrick Leis  
400 Carelton Ave.  
Central Islip, NY 11722

631-853-7735

Patrol Company of the County Sheriff's Office

Patrol Company of the County Sheriff's Office  
Patrol Company of the County Sheriff's Office  
Patrol Company of the County Sheriff's Office  
Patrol Company of the County Sheriff's Office

Patrol Company of the County Sheriff's Office



## SUFFOLK COUNTY WOMEN in the COURTS

### 2002-2003 ANNUAL REPORT

Name & Address of Chair:

**Cheryl M. Zimmer, Esq.**

Principal Law Clerk

Supreme Court

PO Box 9070

Central Islip, NY 11722

E-mail: CZIMMER@courts.state.ny.us

Telephone: 631-853-6091 Fax: 631 852-3289

**Meetings in the Past Year:** April 17, 2002; May 22, 2002; October 3, 2002; November 12, 2002; December 6, 2002; January 14, 2003; February 11, 2003;

**Activities for Domestic Violence Awareness Month 2002:**

**Integrated Domestic Violence Court Opening** On October 8, 2003, Suffolk County's new Integrated Domestic Violence Court was formally dedicated at an opening ceremony in the Cohalan Court Complex in Central Islip, New York. The Honorable Jonathan Lippman, Chief Administrative Judge and the Honorable Gail Prudenti, Presiding Justice of the Appellate Division, Second Department were the honored speakers at the ceremony.

**Integrated Domestic Violence Court Matrimonial Practice and Procedures Panel for Domestic Violence Agency Employees** On October 29, 2002, the Suffolk County Women in the Courts Committee partnered with the Suffolk County Women's Bar Association and the Suffolk County Executive's Task Force Against Family Violence to present a seminar to familiarize domestic violence agency employees, who traditionally appear in the District Court and the Family Court, with the elements of matrimonial practice and procedures.

**Activities for Women's History Month 2003:**

**Celebration:** On March 13, 2003, the Honorable Alan D. Oshrin, District Administrative Judge, and the Suffolk County Women in the Courts Committee sponsored a celebration in honor of National Women's History Month. The honorees were Honorable Gail Prudenti, Presiding Justice of the Appellate Division, Second Department and the three highest ranking court officers in Suffolk County, Major Nancy Christensen, Captain Eileen Doyle and Captain Janet Hendrson. The honorees are role models for judicial and nonjudicial employees and an example of the wonderful advancement and career opportunities available to women in the Unified Court System. The Honorable Sandera J. Feuerstein, Associate Justice of the Appellate Division, Second Department and Jewel Williams, First Deputy Chief, Department of Public Safety for the Unified Court System were the honored speakers and made presentations to the honorees.



***Pictorial Exhibit:*** In commemoration of Women's History Month, the Committee also sponsored a Pictorial Display of the honorees and current and former women Judges who have served on the bench in Suffolk County. The exhibit celebrated the accomplishments of the hardworking and dedicated women court officer and judges who currently and in the past have worked in the Suffolk County Courts.

***Pamphlets:*** The committee printed colorful pamphlets honoring Justice Prudenti's landmark accomplishments as a judge in New York State as well as a separate pamphlet honoring the accomplishments of the court officer honorees.

### **Other Activities in the Past Year:**

***Breast Cancer Awareness Month:*** During the month of October of 2002, the committee in cooperation with the Suffolk County Women' Bar Association sponsored a "Court Alert Program". Informational tables were stationed at the Cohalan Court Complex in Central Islip and in Riverhead. Pamphlets and other materials relating to breast and prostate cancer were distributed to people as they entered the courts.

### ***Literacy Project:***

The committee sponsored local Senior Girls Scouts in their efforts to collect books for the children who attend Suffolk County's District Court Children's Center. On Friday February 21, 2003, a "Literacy Luncheon" event took place at the District Court Children's Center. Lunch was provided by Family and Children's Services. Employees were invited to help promote the Court's Literacy Project by donating a new book for a young child to read and to enjoy lunch in the Children's Center. A special presentation of 3,100 new books was made by Juliette Robinson and Kathryn Zimmer, both Senior Girl Scouts. The girls surpassed their goal of collecting enough books so that each child that visits the Children's Center in a year will receive the gift of a new book to take home.

***Teddy Bear Project*** The Committee sponsored local Senior Girl Scouts in their efforts to collect teddy bears for their "Teddy Bears for Tots" project to benefit children who appear in the Suffolk County Family Court. On April 2, 2003, Suffolk County's District Administrative Judge, Alan D. Oshrin was on hand for the presentation by Lauren Sosulski and Chelsea Jones of several hundred teddy bears to Supervising Judge, Honorable David Freundlich, who accepted them on behalf of the Family Court in the Suffolk

According to Judge Freundlich, "[the] soft and adorable teddy bears will be distributed by the Family Court Judges in the days and weeks ahead to some of the many children who come into Family Court. It is hoped that these cuddly teddy bears will bring some comfort to the children during this often tumultuous time in their lives."

### ***Community Collaboration***

For the Girl Scouts, their heart-warming deeds in collecting these teddy bears and books helped them to earn the Girl Scout Gold Award, the highest award that a Senior Girl Scout may earn. This award is earned in five parts and represents to the recipient the culmination of the scouting experience. Justice Oshrin observed, "The desire to work hard to help others in need truly represents the finest trait that we can instill in our children. The experience gained by these young women and others like them, in striving to achieve this award will prove to be invaluable. It will help them develop leadership skills, organizational skills, and a sense of community and commitment that will lay the foundation for a lifetime of active citizenship. I applaud them, one and all."

***Opening of Child Care Center for Court Employees*** Members of our Committee sat on the planning committee for a new child care center, "Imagine at Courtyard Kids" that opened in 2003 on the site of the Federal Court Complex in Central Islip and which provides child care for Federal and State Court employees and the surrounding community. Indeed, a member of the committee has already placed her child in the Center. The center opened in the Winter of 2003.

***Project Assist*** The Committee continued its project in the Cohalan Court Complex in Central Islip and in the Family Court Parts in Riverhead and Central Islip, of "informational display racks" containing pamphlets and brochures on a panoply of community services available in Suffolk County.

**Plans for Next Year:**

***Women Offenders Roundtable*** The Committee is currently partnering with the local Chapter of the New York State Division for Women on the issue of women offenders in Suffolk County who are either incarcerated or living in the community and the services that are available to them in the community and through the courts. An ad hoc committee of professionals in the field is exploring the idea of conducting a symposium on the issue in the fall of 2003.

***Domestic Violence*** The Committee is continuing its ongoing liaison with the Suffolk County Executive's Task Force on Family Violence to reach out to the community to educate and to inform of the services that the courts provide in the area of Domestic Violence.

***Breast Cancer Awareness*** Event will be held in October for Breast Cancer Awareness Month.

***Women's History Month*** Event will be held in March.

***Literacy/ Teddy Bear Projects*** The Committee, in cooperation with the Advisory Council to the Children's Center and the Family Court, will continue to encourage Girl Scout troops to supply new books for children that attend the Courts' Child Care Centers in Suffolk and teddy bears for children who appear in Suffolk County Family Court.

**INTEGRATED DOMESTIC VIOLENCE COURT**  
**Matrimonial Practice and Procedures Panel**  
for  
**Domestic Violence Agency Employees**

**October 29, 2002**

**WELCOMING REMARKS:**

**Alan D. Oshrin**, District Administrative Judge

**H. Patrick Leis, III**, Presiding Justice in the IDV Part,  
Supervising Justice, Dedicated Matrimonial Parts

**INTRODUCTION OF PANEL:**

**Stacey J. Evans, Esq.**, Touro Law School

**Moderator- Patricia Denise Manzo, Esq.** Attorney, Private Practice  
Suffolk County Women's Bar Association  
President of Board of Directors of the Suffolk County  
Coalition Against Domestic Violence  
Retainer Agreements, Billing, "pre-lawyer" issues, safety plan

**Margaret Schaefer, Esq.**- Nassau /Suffolk Law Services; Senior Staff Attorney  
Matrimonial Papers- Summons, Complaint, etc...Child Support Standards Chart, Support  
Collection Unit Pamphlet

**Adam E. Small, Esq.** Staff attorney; Suffolk County Coalition Against Domestic Violence  
Jurisdiction, Grounds, Residence, Statement of Client's Rights

**Lynn Poster Zimmerman, Esq.**- Attorney, Private Practice  
Suffolk County Women's Bar Association, Vice President  
*Pendente Lite* Custody, Exclusive Occupancy; Preliminary Conference Order, Discovery, Expert  
witnesses/forensics

**Chris Ann Kelley, Esq.**- Court Attorney- Referee IDV Part  
Equitable Distribution, Maintenance, Child Support, Contempt

**DISCUSSION**

Sponsored by  
Suffolk County Women's Bar Association  
Suffolk County Women in the Courts Committee  
Suffolk County Executive's Task Force Against Family Violence

*The Honorable Jonathan Lippman*  
*Chief Administrative Judge*

*and*

*The Honorable A. Gail Prudenti*  
*Presiding Justice, Appellate Division, Second Department*

*and*

*The Honorable Alan D. Oshrin*  
*District Administrative Judge, Suffolk County*

*together with*

*The Honorable H. Patrick Leis, III*  
*Supervising Judge Matrimonial Parts*

*Cordially invite you to attend the Grand Opening Ceremony*  
*of Suffolk County's*

***INTEGRATED DOMESTIC VIOLENCE COURT***

*Tuesday, October 8, 2002*

*10:30 a.m.*

*Supreme Court Ceremonial Courtroom, S-24*

*Cohalan Court Complex*

*Central Islip, New York*

*Immediately following ceremony*

*Reception hosted by: Suffolk County Bar Association*  
*Lynne Adair Kramer, President*  
*560 Wheeler Road*  
*Hauppauge, New York*

*RSVP (acceptance only) to: Jane LaCova*  
*(631) 234-5511, ext. 231*  
*email address: [jane@scba.org](mailto:jane@scba.org)*

## WOMEN'S HISTORY MONTH

MARCH 13, 2003

### AGENDA

1. Presentation of the Colors Honor Guard
2. Pledge of Allegiance, lead by **Captain Larry Mitchell**
3. "Star Spangled Banner", **Denise Podlewski**, Supreme Court Calendar Department
4. Welcome, **Cheryl Zimmer, Esq.**, Chair, Women in the Courts Committee
5. Opening remarks - **Hon. Alan D. Oshrin**, District Administrative Judge
6. Presentation by **Hon. Sandra J. Feuerstein**,  
Associate Justice, Appellate Division, Second Department to  
**Hon. Gail Prudenti**,  
Presiding Justice, Appellate Division, Second Department
7. Presentation by **Joan McNichol, Esq.**,  
President of WBSNY Women's Bar Association of the State of NY
8. Presentation by **Hon. Marion McNulty** on behalf of  
**Hon. Betty Elerin**, Chair New York State Judicial Committee on  
Women in the Courts
9. Presentation by **Mary Ellen DeLouise**, President of CSEA Local 830
10. Presentation by **Jewel Williams**, First Deputy Chief, Department of Public Safety, to  
**Major Nancy Christensen**  
**Captain Eileen Doyle**  
**Captain Janet Henderson**
11. Closing remarks, **Hon. Alan D. Oshrin**, District Administrative Judge
12. "If You Believe", **Denise Podlewski**, Supreme Court Calendar Department
13. Adjournment **Cheryl Zimmer**

Refreshments to follow

**SUFFOLK COUNTY WOMEN IN THE COURTS COMMITTEE**

*New York City Civil Court Committee*

**Hon. Sara Lee Evans**  
Civil Court Judge  
111 Centre Street  
New York, New York 10013

212-374-8156

**Hon. Maria Milin**  
Housing Court Judge  
111 Centre Street  
New York, New York 10013

212-374-8469

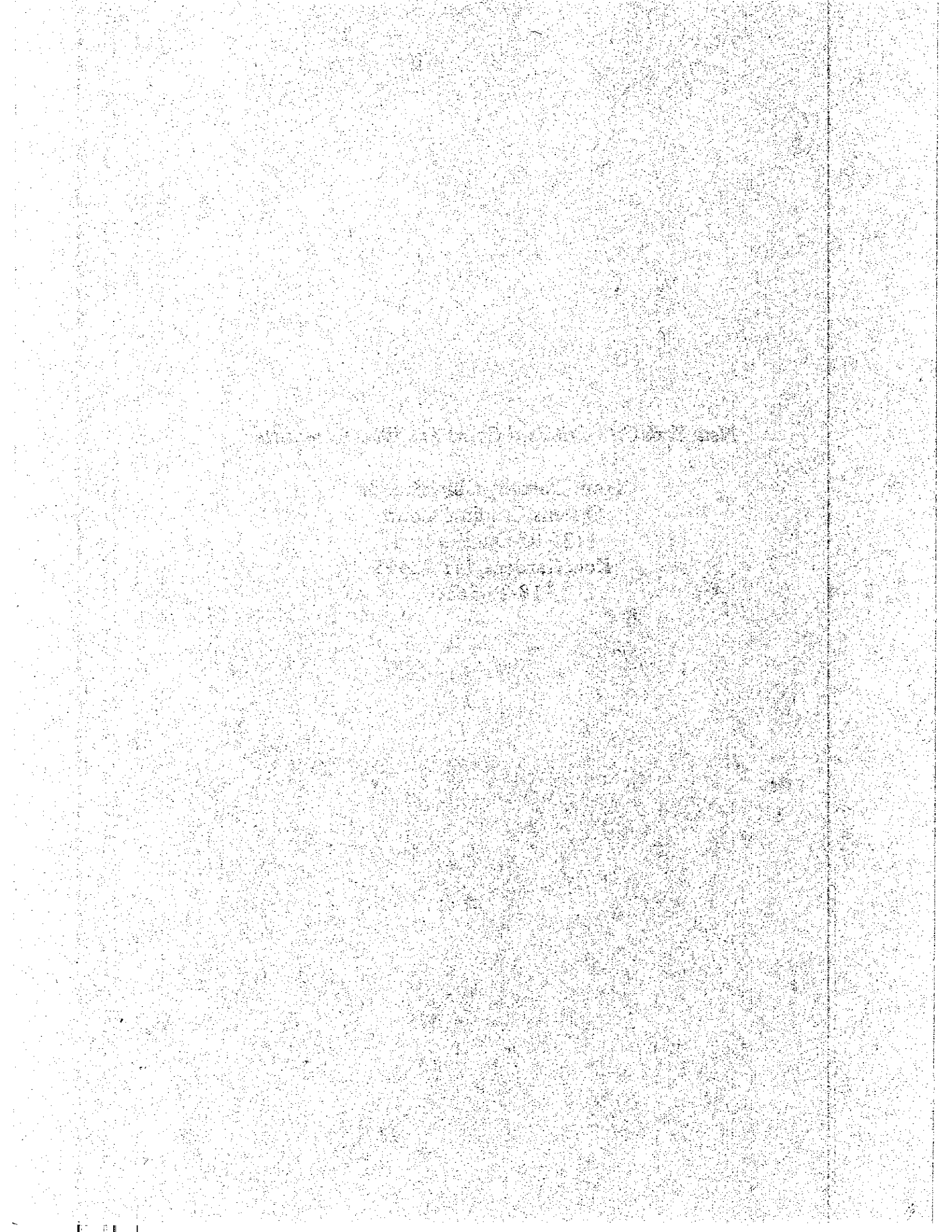
1001 West 10th Street  
New York, N.Y. 10011

1001 West 10th Street

*New York City Criminal Court Anti-Bias Committee*

**Hon. Dorothy Chin-Brandt**  
Queens Criminal Court  
1125-01 Queens Blvd.  
Kew Gardens, NY 11415  
718-20-3616





*Gender Bias Committee of the Family Courts of the City of New York*

**Angela Gammone**  
Senior Court Clerk  
NYC Family Court  
283 Adams Street  
Brooklyn, New York 11201

718-643-5316

THE UNIVERSITY OF CHICAGO PRESS

CHICAGO, ILLINOIS

1960

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1981

1982

1983

LOCAL COMMITTEES REPORTS - 2002-2003

Name of the Committee GENDER FAIRNESS Committee

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

ANGELA GAMMONE 283 ADAMS STREET  
BROOKLYN, NY 11201 (718) 643-5316 (718) 643-5074  
AGAMMONE @ COURTS.STATE.NY.US

Meeting Dates in the Past Year \_\_\_\_\_

Activities for Domestic Violence Awareness Month 2002 \_\_\_\_\_

PRESENTATION. IN CONJUNCTION WITH SAFE HORIZONS  
AND MEDIATION. ROLE PLAYING, FREE RAFFLE. (KINGS COUNTY)

Activities for Women's History Month 2003 NONE

Other Activities in the Past Year \_\_\_\_\_

"BRING OUR CHILDREN TO WORK DAY - INFO ATTACHED.

BAKE SALES TO RAISE FUNDS FOR ACTIVITIES

BROWN BAG LUNCHEONS TO GAIN SUPPORT AND BRAINSTORM  
FOR NEW IDEAS.

Plans for Next Year BASICALLY the same.

Please attach copies of flyers or programs from events or written materials about your committee.

Please return this form by **Monday, March 24, 2003**, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

MEMORANDUM

To: All Judges, Referees, Hearing Examiners, Court Attorneys  
From: Hon. Nora Freeman  
Date: April 19, 2002  
Re: "Bring Your Child To Work" Day - Thursday, April 25th

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This memo is "FYI" to inform you of events and schedules that might cause some delays next Thursday and if any of you want to participate in story-telling, meeting informally with older kids or allowing older kids to observe your courtroom, please let me know by Monday a.m.!!

1. The day begins with breakfast welcome by Judge Grosvenor, Ratanski and two lawyers (ACC and Legal Aid) - in Part 10, 9:30, till around 10:15 - 10:30.
2. At 10:30, youngest kids will leave for story-telling with Judge Staton; older kids for tour of courthouse, with stops at Probation, Adult Detention and any courtrooms where they are welcome for "observation of about 20-30 minutes. (Only two judges have expressed interest; if anyone else is interested, you **must** let me know by Monday April 22th.)
3. Between 11:00 a.m. and 11:45 a.m., children ages 9 -14 will also have some time in Part One's vacant courtroom to meet with lawyers, ask questions, etc. (We're anticipating a "mixed" group of attorneys and any judge who care to drop in.)
4. No one else has auditioned to be the judge, so the part is Judge Grosvenor's. (It's Jack and the Beanstalk; Rosemarie Payton will have script by Monday, April 22<sup>nd</sup>). Our Mock Trial, "Jack in the Beanstalk" will be held in Part 10 from around 11:45 - 1:00 pm. The kids will be picked up from part 10 at 1:00 p.m. and receive their souvenirs - bookmarks, keychains (from Clerks Association) rulers (from the Court Officers) and certificates of participation. (The certificates will have the logos of organizations who supported the program - Family Court, the Clerks Association, Court Officers, Brooklyn Women's Bar, NYS Committee on Women in the Courts).

In the past, many attorneys have brought their children. With our tight security measures, the arrival of forty or more kids may cause delays entering the building. Judges are asked to be understanding if attorneys or staff "bringing their children to work" are a bit delayed.

cc: Members of the 2002 "Bring Our Children to Work" Planning Committee

NF/dj

KINGS COUNTY FAMILY COURT GENDER FAIRNESS COMMITTEE  
PRESENTS

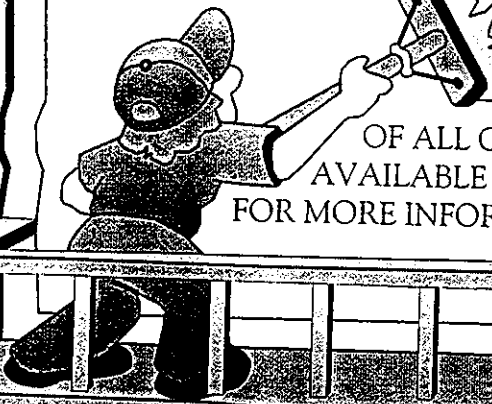
# 2 BAKE SALES

**APRIL 11, 2002  
PART 10 ROOM 275**

**APRIL 17, 2002  
PART 14 ROOM 264  
9 AM-10:30AM**



DONATIONS OF BAKED GOODS GRATEFULLY  
ACCEPTED. ALL FUNDS TO BE USED FOR BRING  
OUR CHILDREN TO WORK DAY APRIL 25, 2002.  
REGISTRATION FORMS FOR BRING OUR  
CHILDREN TO WORK DAY (OPEN TO CHILDREN  
OF ALL COURTHOUSE PERSONNEL AGES 7-14) WILL BE  
AVAILABLE AT THE BAKE SALES AND IN ROOM 414.  
FOR MORE INFORMATION STOP BY ROOM 414 OR CALL 643-2650.



**THE KINGS COUNTY FAMILY COURT  
GENDER FAIRNESS COMMITTEE  
PRESENTS:**



**BRING OUR CHILDREN  
TO WORK DAY  
THURSDAY APRIL 25, 2002  
9AM TO 1PM  
CHILDREN OF ALL COURTHOUSE  
PERSONNEL ARE WELCOME (Ages 7-14)**

**PROGRAM WILL INCLUDE: BREAKFAST, TOURS,  
STORYTELLING, WORK DESCRIPTIONS AND A  
PERFORMANCE BY OUR "FAMILY COURT  
PLAYERS".**

*MUST BE  
WILL BE  
TURNED AWAY*

*SIGN IN*

PLEASE REGISTER IN ADVANCE...BEFORE APRIL 22<sup>ND</sup>  
PICK UP FORMS AT THE BAKE SALES 4/11 PART 10, 4/17 PART 14 (9-10:30 AM)  
OR IN ROOM 414

REGISTRATION FORM (ONE FORM PER CHILD)

**CHILD'S**

NAME \_\_\_\_\_

AGE \_\_\_\_\_

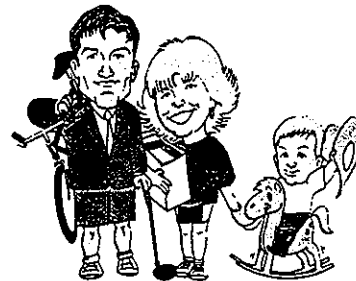
**PARENT'S**

NAME \_\_\_\_\_

COURTHOUSE PHONE NUMBER \_\_\_\_\_

COURTHOUSE DEPARTMENT \_\_\_\_\_

*Return to Room 414*



REGISTRATION DEADLINE ~~~~~APRIL 22<sup>ND</sup> ✓





*Anti-Bias Committee, New York County, Supreme Court, Civil Term*

**Hon. Marilyn Shafer**  
Justice, Supreme Court  
60 Centre Street  
New York, New York 10007

212-374-3254

Autism Center for Research and Treatment

Autism Center for Research and Treatment  
60 South Street  
New York, NY 10038

212-374-3114

LOCAL COMMITTEES 2002-2003

Name of the Committee ANTI-BIAS COMMITTEE, Supreme Court - Civil Branch

N.Y. COUNTY

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

JUDGE Marilyn Shafer chair - (212) 374-4582 - tel

Supreme Court  
80 Centre St  
NY 10013

(212) 374-3907 fax

mshafer@courts.state.ny.us

Meeting Dates in the Past Year Second Wednesday of every month

Activities for Domestic Violence Awareness Month 200<sup>2</sup>

Panel Discussion with guest speaker:

Catherine Douglas, Esq. - Director of Intention

Hedda Nussbaum - domestic violence survivor

(flyer attached)

Activities for Women's History Month 200<sup>3</sup>

Program in Rotunda of 60 Centre St

① Recognition of Women Court Officers - presentation of

an award to each woman court officer:

Photographs of women court officers on display  
in Rotunda

2

② Speaker - A'Leia Bandler - author and  
great-great-granddaughter of former slave  
slave who became successful businesswoman.

(flyer attached)



# *Women's History Month*

## *"Celebrating the Strength and Perseverance of Women"*

*Tuesday, March 18, 2003*

*New York State Supreme Court, Civil Branch  
60 Centre Street, Rotunda*

*Reception at 5:45 p.m. - Program at 6:30 p.m.*

*Keynote Speaker*

### *A'Lelia Bundles*

*Author of "On Her Own Ground - The Life and Times of Madam C.J. Walker" Madam C.J. Walker's great-great granddaughter, spearheaded the national campaign which led to the 1998 United States Postal Services' Black Heritage Series stamp of Madam Walker.*

*Copies of "On Her Own Ground" will be available for book signing.*

### *Recognition of Women Court Officers of Supreme Court, Civil Branch, New York County*

*Presentation of awards at 6:15 p.m. to:*

*Laura Anderson, Veronica Cavallo, Melanie Cornwall, Crystal Daughtry, Rita Dolan, Maureen Dourigan, Margaret Eng, Laura Golub, Robin Gutowski, Brenda Jones, Belinda Moore, Elizabeth Morgan, Lynn Riker, Marta Villarreal Foley, Crystal Walker, Tonia Wharton, Sherry Wright,*

### *and Photography Exhibit*

*Refreshments Will Be Served*

*Sponsored by:*

*The Anti-bias Committee, Supreme Court, Civil Branch, Marilyn Shafer, J.S.C, Chair  
The Association of Black Women Attorneys, and  
The Metropolitan Black Bar Association*

## **Domestic Violence Awareness Month**

# **Supporting Survivors of Domestic Violence**

**Thursday, November 7, 2002  
Supreme Court, Civil Branch  
60 Centre Street - New York  
12:45 p.m. - Courtroom 300**

### ***Guest Speakers:***

**Catherine J. Douglass, Esq.**

**Founder and Executive Director of inMotion, Inc.**

**a not-for-profit corp., which seeks to make a real & lasting difference in the lives of low-income women by offering legal and related services in the area of matrimonial and family law, and works to promote policies that make our society more responsive to the legal issues confronting indigent women**

**Hedda Nussbaum**

**Domestic Violence Survivor, Lecturer**

### ***Sponsored by:***

**The Anti-Bias Committee  
Supreme Court, Civil Branch, New York County  
Marilyn Shafer, J.S.C., Chair**

### ***Co-sponsors:***

**NY County Supreme Court, Criminal Term Gender Bias &  
Anti-Bias Committees  
Rosalyn Richter, J.S.C., Chair**

NY LAW JOURNAL  
Thursday, March 20, 2003  
p. 4, col. 4



## Women's History Month Celebrated

From left, Taa Grays, president of the Association of Black Women Attorneys (ABWA), author and journalist A'Lelia Bundles, and New York County Supreme Court Justice Marilyn Shafer helped celebrate Women's History Month at the 60 Centre Street Courthouse Rotunda on Tuesday. Ms. Bundles, author of "On Her Own Ground: The Life and Times of Madam C.J. Walker" and a great-great granddaughter of Madam Walker, was the keynote speaker at the event, co-sponsored by the Anti-Bias Committee, Supreme Court, Civil Branch; the ABWA, the Metropolitan Black Bar Association and the Association of African-American Harvard Alumni. More than 100 people attended the event.

---





*Gender Bias Committee, New York County,  
Supreme Court, Criminal Term*

**Hon. Carol Berkman**  
Supreme Court  
100 Centre Street, Room 429  
New York, New York 10013

212-374-8555

THE UNIVERSITY OF CHICAGO  
LIBRARY

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*Bronx County Supreme Court Committee*

**Hon. Richard Lee Price**  
Acting Justice, Supreme Court  
851 Grand Concourse  
Bronx, New York 10451

718- 590-3590

INTERNATIONAL TRADE AND COMMERCE

THE UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

WASHINGTON, D. C.

1954

**GENDER FAIRNESS COMMITTEE**  
851 Grand Concourse  
Bronx, New York 10451



HON. RICHARD LEE PRICE  
Chair

HON. JOHN P. COLLINS  
HON. GERALD V. ESPOSITO  
Administrative Judges

COMMITTEE MEMBERS

Anita Antero  
Josephine M. Bastone  
Lucille M. Barbato  
Hon. Peggy Bernheim  
Madeline Garcia Bigelow  
Mark Bodde  
Henry Callwood  
Thyllis Cherebin  
Elen Corporan  
Laria Cortese  
Hon. Tandra Dawson  
Anna Dodds  
Hon. Marian Doherty  
Hon. Laura Douglas  
Arlene Dove  
Ruth Eichmiller  
Teila Feinerman  
Hon. Anita Florio  
Bernestine Glover  
Jane Guiding  
Hon. Wilma Guzman  
Hon. Arlene H. Hahn  
Aren Hamberlin  
Marilyn Israel  
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Katherine Kelly  
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Theresa McDermott  
Hon. Donna M. Mills  
Ilsa Moreno  
John E. Murray  
Ruth Nedow  
Hon. Barbara Newman  
Bernadette O'Rourke  
Jacquelyne Pardo  
Thyllis Pulakos  
Laria Rivero  
Hon. Gayle P. Roberts  
Anthony Robinson  
Hon. Norma Ruiz  
Aren Saab  
Marilyn Sanchez  
Theresa A. Stark  
Linda Wilson

TO: HON. BETTY WEINBERG ELLERIN  
Chair, New York State Judicial Committee  
on Women in the Courts

FROM: HON. RICHARD LEE PRICE *RLP*  
Chair, Gender Fairness Committee  
For the Twelfth Judicial District

SUBJECT: April 30, 2003 Meeting of Local Committee Chairs

DATE: March 20, 2003

-----  
The Gender Fairness Committee for the Twelfth Judicial District has sponsored a number of projects during this past year. The following were particularly wonderful and worthy of note:

1. The 3<sup>rd</sup> annual Women's History Month Celebration program was held on March 15, 2002, and was reported on in last year's (3/31/02) cover memo. The flyer for that program is attached, as is the flyer for our upcoming 4<sup>th</sup> annual program, to be held on April 4, 2003. Our Honorees this year will be the Honorable Anita Florio, Associate Justice of the Appellate Division, Second Department, and the Honorable Minerva Melendez, Principal of Public School 69, here in the Bronx.
2. Our Annual National Domestic Violence Awareness Month "Workplace Education Day" program was held October 17, 2002. Two fascinating and well-received presentations were given by Anne Paulle, the Training Coordinator for the Jewish Board of Family and Children Services, and Dorchen Leidholdt, Esq., the Director of Sanctuary for Families.
3. Two successful Food and Clothing Drives were held during the year. The first, in June 2002, was for the benefit of R.A.I.N., Inc. We collected approximately 55 bags and boxes of predominantly clothing, although food and baby items were also received. The second drive, held in November 2002, for the benefit Theresa's Haven, collected about 70 bags and boxes. Again, the majority of items donated were clothing, with some baby items and food, also.

I am happy to again report that our Committee remains very strong and active, with outstanding participation from the Bench, the Bar, all levels of Court Employees, the District Attorney's Office, The Bronx Defenders, The Legal Aid Society, the Shelters and various other interested groups. I have particular thanks for the Honorable John P. Collins and the Honorable Gerald V. Esposito, our Criminal and Civil Term Administrative Judges. Both have wholeheartedly supported the Committee's efforts and each went out of his way to prepare and deliver eloquent and meaningful remarks at our two public functions.

I do not set forth the contents of our Gender Fairness meetings inasmuch as I always send you a copy of our meeting notices, minutes and attachments. I am providing a copy of the notice for our Gender Fairness meeting on April 1.

My two right arms, Honorable Earnestine Glover, Deputy Chief Clerk of the Bronx Surrogate's Court, and Josephine M. Bastone, Esq., Principal Law Clerk to the Bronx Supreme Court, Civil Term, join me in looking forward to this year's meeting on April 30<sup>th</sup>. These gatherings are always educational and informative.

RLP:bar

Enclosures

**Local Committees For 2002–2003**

**Name of the Committee----- THE BRONX COUNTY GENDER FAIRNESS  
COMMITTEE, TWELFTH JUDICIAL DISTRICT:**

**Name ,Address, Telephone and Fax Numbers and E-mail Address of the Chair:**

Hon. Richard Lee Price  
Bronx Supreme Court  
851 Grand Concourse  
Bronx ,New York 10451

1-718-590-3590  
1-718 590-4824 fax  
[Rprice@courts.state.ny.us](mailto:Rprice@courts.state.ny.us)

**Meeting Dates in the Past Year:**

1/30/02 General Meeting  
2/25/02–General Meeting  
2/25/02 –Women History Month Program committee meeting  
3/5/02----Women History Month Program committee meeting  
3/8/02----Women History Month Program committee meeting  
3/11& 3/14/02–Women History Month Program committee meetings  
5/8/02– General meeting  
6/25/02–General Meeting  
6/25/02–Domestic Violence Program Committee  
9/09/02 General Meeting  
9/19/02 Domestic Violence program committee  
9/23/02,10/08/02,10/14/02,10/16/02–Domestic Violence Program committee meetings  
2/15/03 General Meeting  
2/3/03,2/11/03,2/19/03,3/10/03,3/13/03,3/20/03,Women History Month Program  
Committee meetings

**Activities for Domestic Violence Awareness Month 2002 :**

National Domestic Violence Awareness Month”Work Place Education Day”  
October 17,2002

**Guest:**

Anne Paule, Coordinator, Domestic Violence, Jewish Board of Family & Children Services  
Topic: “Current Trends & Issues of Domestic Violence



Dorchen Leidholdt Esq. , Director, Sanctuary For Families, Center for Battered Women Legal Services

Topic:” Legal Aspects”

**Activities for Women’s History Month 2002:**

Women’s History Month—March 15,2002

Honorees:

---

Councilwoman Maria Baez, of the Bronx Council District 14

Sana Nasser, Principal, Truman High School

Hon. Ann Pfau, Deputy chief Administrative Judge For Management Support,  
Administrative Judge Supreme Court, Second Judicial District

Elinor Tatum, Publisher & Editor in Chief, Amsterdam News

**Other Activities in the Past Year:**

Clothing Drives:

Rain Inc-----Housing and support for the elderly and disabled

June 24th----28th 2002

Clothing, food and toys for clients serviced by this organization

Theresa’s Haven----Transitional Housing for Domestic Abuse / Homeless Woman and Children

November 04th----08th, 2002

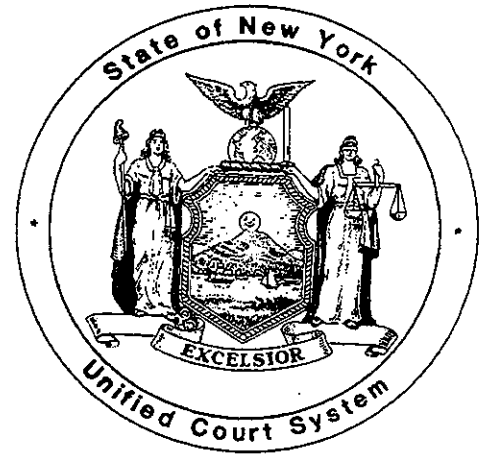
Clothing, food, and toys etc. for the clients of Theresa’s Haven

**Plans for the Next Year:**

Clothing drives, Woman History Programs, and Domestic Violence Programs. We are also looking into having a Program on the men and women who are batters and the treatment that is available to them.

# THE BRONX COUNTY GENDER FAIRNESS COMMITTEE

HONORABLE JOHN P. COLLINS,  
Administrative Judge, Criminal Term  
HONORABLE GERALD V. ESPOSITO,  
Administrative Judge, Civil Term  
HONORABLE RICHARD LEE PRICE,  
Chair



present the fourth annual program for

## Women's History Month

FRIDAY, APRIL 4, 2003  
12:30 to 2:30 p.m.

VETERANS' MEMORIAL HALL, BRONX SUPREME COURT

### *Honorees*

**HON. ANITA R. FLORIO**

Associate Justice, Appellate Division, Second Department

**MINERVA MELENDEZ**

Principal, Public School 69, Bronx, New York

### Program Co-Sponsors

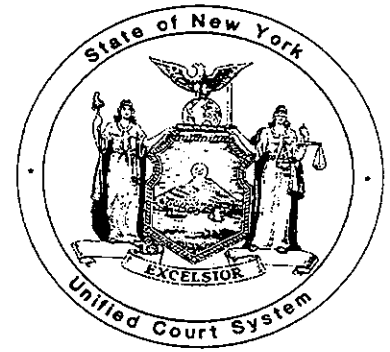
Black Bar Association of Bronx County \* Bronx Borough President \* Bronx County Bar Association  
\* Bronx County Clerk \* Bronx Women's Bar Association \* Hispanic Court Officers Society\*  
Loria Corporation\* Metropolitan Women's Bar Association \* National Hispanic Prosecutors Association  
\*New York State Court Officers Association \* New York State Trial Lawyers Association\*  
Puerto Rican Bar Association \* Tribune Society \* Women's Rights Committee\* Yankee Tavern

### REFRESHMENTS WILL BE SERVED

If you plan to attend please R.S.V.P. to Josephine M. Bastone (718) 590-3758,  
Earnestine Glover (718) 590-3961, or Maria Rivero (718) 590-2258.

**THE BRONX COUNTY  
GENDER FAIRNESS COMMITTEE**

HONORABLE JOHN P. COLLINS,  
Administrative Judge  
HONORABLE GERALD V. ESPOSITO  
Administrative Judge  
HONORABLE RICHARD LEE PRICE, Chair



presents our annual program for  
**National Domestic Violence Awareness Month**  
**“Work Place Education Day”**

**Thursday, October 17, 2002**  
**12:30 to 2:00 p.m.**  
**Courtroom 711**

<u>Prayer</u>	REV. HERMES CARABALLO, Bronx Borough President's Office
<u>Anthem</u>	MR. FRANK PALOMBO, Bronx Borough President's Office
<u>Welcome &amp; Opening Remarks</u>	HON. JOHN P. COLLINS, Administrative Judge HON. GERALD V. ESPOSITO, Administrative Judge
<u>Remarks</u>	HON. ADOLFO CARRION, Bronx Borough President
<u>Moderator</u>	BARBARA A. REMINGTON, Bronx Supreme Court
<u>“Current Trends &amp; Issues of Domestic Violence”</u>	ANNE PAULLE, Training Coordinator, Jewish Board of Family and Children Services
<u>“Legal Aspects”</u>	DORCHEN LEIDHOLDT, Esq., Director, Sanctuary for Families
<u>Closing Remarks</u>	HON. RICHARD LEE PRICE, Chair, Gender Fairness Committee, Twelfth Judicial District

**Program Co-Sponsors**

Association of Black Women Attorneys \* Black Bar Association of Bronx County \* Bronx Borough President \* Bronx County Bar Association \* Bronx County Clerk \* Bronx Women's Bar Association \* Court Deli \* Hispanic Court Office Society \* Law-Related Education Committee, New York County Lawyers' Association \* Metropolitan Women's Bar Association \* Puerto Rican Bar Association \* Women's Rights Committee, New York County Lawyers' Association \* Bronx Civil Court \* Bronx Criminal Court \* Bronx Family Court \* Bronx Surrogate's Court \* Tribune Society

**LUNCH WILL BE SERVED**

If you plan to attend please R.S.V.P. Earnestine Glover (718) 590-3961 or Josephine Bastone (718) 590-3758.



To: Hon. Richard Lee Price  
Chair, Gender Fairness Committee

From: Josephine M. Bastone, Esq. *JMB*  
Chair, Food and Clothing Drive Sub-Committee

Re: June 2002 Drive

Our usual May drive was postponed to June this year, as a storage room was not available to us in the ADA building.

The June 2002 Food and Clothing Drive was for the benefit of R.A.I.N., Inc..

We collected approximately 55 bags and boxes of items, at collection points set up in the Supreme Court, Criminal Court, Family Court, Housing Court, and Bronx District Attorney's Office buildings. The majority of items donated were clothing, although food and baby items were also given.

Donations were slightly down from prior drives. I believe the fact that our drive was pushed back a month may have contributed to this decline.

As always, the members of the Food and Clothing Drive Sub-Committee worked hard to ensure the success of the Drive. The Sub-Committee is composed of: Josephine M. Bastone, Chair; Earnestine Glover, Cheryl Jenkins, Tracy Pardo, and Maria Rivero. Jennifer Stone served as the contact person in Criminal Court. A great deal of help in dealing with the storage and pickup of items in the Supreme Court building, where the majority of the donations are stored, came from SCO Chris Barros, and court aides Mario Malave and Jason Philbert.

The Sub-Committee thanks Hon. John P. Collins and Michael Burke for their assistance in the Supreme Court building.

**THE BRONX COUNTY GENDER FAIRNESS COMMITTEE**

**- ANNOUNCES -**

**A FOOD AND CLOTHING DRIVE  
TO BENEFIT R.A.I.N., INC.**

**DATES: JUNE 24, 25, 26, 27, AND 28 2002**

**DROP OFF SITES: SUPREME COURT - ('A' ELEVATOR) 6M DESK  
CRIMINAL COURT - ROOM 111  
FAMILY COURT - ROOM 8-10  
HOUSING COURT - 7<sup>TH</sup> FLOOR STAFF LOUNGE  
DA'S OFFICE, 198 E. 161 ST., RM 941(RECEPTION AREA)**

**WHAT: CANNED FOOD GOODS, INCLUDING BABY FOOD  
(CLEAN) USED OR NEW ADULT CLOTHING  
(INCLUDING WOMEN'S BUSINESS ATTIRE)  
(CLEAN) USED OR NEW CHILDREN'S CLOTHING  
CHILDREN'S TOYS, BOOKS, DISPOSABLE DIAPERS  
HOUSEHOLD GOODS, LINEN**

**WHO: R.A.I.N., INC. PROVIDES HOME CARE SERVICES TO THE  
ELDERLY AND DISABLED, COUNSELING AND TRAINING  
FOR THE UNEMPLOYED AND THOSE WITH SPECIAL NEEDS,  
HELP TO CRIME VICTIMS, ETC.**

**ALL CONTRIBUTIONS ARE TAX DEDUCTIBLE.  
FOR INFORMATION IN EACH BUILDING, CONTACT:**

<b>SUPREME COURT:</b>	<b>JOSEPHINE M. BASTONE, ESQ.</b>	<b>(718) 590 - 3758</b>
<b>CRIMINAL COURT:</b>	<b>JENNIFER STONE</b>	<b>(718) 590 - 2858</b>
<b>FAMILY COURT:</b>	<b>TRACY PARDO</b>	<b>(718) 590 - 3319</b>
<b>DISTRICT ATTORNEY BLDG.:</b>	<b>MARIA RIVERO, ESQ.</b>	<b>(718) 590 - 2258</b>
<b>HOUSING COURT:</b>	<b>UCO CHERYL JENKINS</b>	<b>(718) 466 - 3102</b>



To: Hon. Richard Lee Price  
Chair, Gender Fairness Committee

From: Josephine M. Bastone, Esq.  
Chair, Food and Clothing Drive Sub-Committee

Re: November 2002 Drive

As we had to postpone our usual May drive to June this year, we pushed back our normal October drive to November.

The November 2002 Food and Clothing Drive, held from November 4<sup>th</sup> through the 8<sup>th</sup>, 2002, was for the benefit of Theresa's Haven. The individual I deal with at Theresa's Haven has told me a number of times that the organization places a great deal of reliance on our donations.

We collected approximately 70 bags and boxes of items, at collection points set up in the Supreme Court, Criminal Court, Family Court, Housing Court, and Bronx District Attorney's Office buildings. The majority of items donated were clothing, although food and baby items were also given.

As always, the members of the Food and Clothing Drive Sub-Committee worked hard to ensure the success of the Drive. The Sub-Committee is composed of: Josephine M. Bastone, Chair; Earnestine Glover, Cheryl Jenkins, Tracy Pardo, and Maria Rivero. Jennifer Stone served as the contact person in Criminal Court. A great deal of help in dealing with the storage and pickup of items in the Supreme Court building, where the majority of the donations are stored, came from SCO Chris Barros, and court aides Mario Malave, Jason Philbert, and Ron Smith.

The Sub-Committee thanks Hon. John P. Collins and John E. Murray for their general assistance in the Supreme Court building, and for arranging for the use of a jury bus to transport the donations to Theresa's Haven.

# THE BRONX COUNTY GENDER BIAS COMMITTEE

- ANNOUNCES -



## A FOOD AND CLOTHING DRIVE TO BENEFIT THERESA'S HAVEN

**DATES:** NOVEMBER 4, 5, 6, 7, AND 8, 2002

**DROP OFF SITES:** SUPREME COURT - ('A' ELEVATOR) 6M DESK  
CRIMINAL COURT - ROOM 111  
FAMILY COURT - ROOM 8-10  
HOUSING COURT - 7<sup>TH</sup> FLOOR STAFF LOUNGE  
DA'S OFFICE, 198 E. 161 ST., RM 941 (RECEPTION AREA)

**WHAT:** CANNED FOOD GOODS, INCLUDING BABY FOOD  
(CLEAN) USED OR NEW ADULT CLOTHING  
(INCLUDING WOMEN'S BUSINESS ATTIRE)  
(CLEAN) USED OR NEW CHILDREN'S CLOTHING  
CHILDREN'S TOYS, BOOKS, DISPOSABLE DIAPERS  
HOUSEHOLD GOODS, LINEN

**WHO:** THERESA'S HAVEN is a transitional housing facility, providing housing, education, and other needed assistance.

FOR INFORMATION IN EACH BUILDING, CONTACT:

SUPREME COURT:	JOSEPHINE M. BASTONE, ESQ.	(718) 590 - 3758
FAMILY COURT:	TRACY PARDO	(718) 590 - 3319
CRIMINAL COURT:	JENNIFER STONE	(718) 590 - 2858
DISTRICT ATTORNEY BLDG.:	MARIA RIVERO, ESQ.	(718) 590 - 2258
HOUSING COURT:	UCO CHERYL JENKINS	(718) 466 - 3102

FOR ACKNOWLEDGMENT OF TAX-DEDUCTIBLE CONTRIBUTION PLACE NAME, ADDRESS, AND BRIEF DESCRIPTION OF CONTRIBUTION IN ENVELOPE AT DROP-OFF SITE.





**GENDER FAIRNESS COMMITTEE**  
851 Grand Concourse  
Bronx, New York 10451

**MEMORANDUM**

HON. RICHARD LEE PRICE  
Chair

TO: GENDER FAIRNESS COMMITTEE  
FROM: JSC RICHARD LEE PRICE, CHAIR *RLP*  
SUBJECT: MEETING NOTICE

HON. JOHN P. COLLINS  
HON. GERALD V. ESPOSITO  
Administrative Judges

**COMMITTEE MEMBERS**

Tania Antero  
Josephine M. Bastone  
Lucille M. Barbato  
Hon. Peggy Bernheim  
Madeline Garcia Bigelow  
J. Mark Bodde  
Sherry Callwood  
Hon. Joan B. Carey  
Phyllis Cherebin  
Helen Corporan  
Maria Cortese  
Hon. Tandra Dawson  
Donna Dodds  
Hon. Marian Doherty  
Hon. Laura Douglas  
Darlene Dove  
Ruth Eichmiller  
Sheila Feinerman  
Hon. Anita Florio  
Earnestine Glover  
Diane Goulding  
Hon. Wilma Guzman  
Hon. Arlene H. Hahn  
Karen Hamberlin  
Marilyn Israel  
Saundra Jefferson  
Esther Kelly  
Ann Lynch  
Hon. Sallie Manzanet  
Hon. La Tia W. Martin  
Theresa McDermott  
Hon. Donna M. Mills  
Nilsa Moreno  
John E. Murray  
Beth Nedow  
Hon. Barbara Newman  
Bernadette O'Rourke  
Tracy Pardo  
Kay Ann D. Porter  
Charlene Pulakos  
Maria Rivero  
Hon. Gayle P. Roberts  
Anthony Robinson  
Hon. Norma Ruiz  
Karen Saab  
Emily Sanchez  
Linda A. Stark  
Ann Wilson

The next Gender Fairness Meeting will be Tuesday, April 1, 2003 at 12:45 P.M., in Courtroom 621 Part 16. Please bring your lunch.

- I. Welcome
- II. Introductions
- III. Complaints
- IV. Subcommittee Reports
  - a) Domestic Violence Programs - Justice Donna Mills
  - b) Food and Clothing Drive - Josephine Bastone, Esq.
  - c) October Workplace Domestic Violence Day - Hon. Earnestine Glover
  - d) Women in the Courts
  - e) Leave, Maternity and Child Care Policies
  - f) Drug Programs for Women
  - g) National Women's History Month - Josephine M. Bastone, Esq. and Hon. Earnestine Glover **April 4, 2003**
  - h) Women of Distinction
- VI. Topic Areas
  - a) Judicial
    - i) Supreme Court
    - ii) Surrogates Court
    - iii) Family Court
    - iv) Criminal Court
    - v) Civil Court
    - vi) Housing Court
  - b) Chief Clerk
  - c) Court Clerks
  - d) Court Attorneys
  - e) Stenographers
  - f) Practicing Bar
    - i) District Attorney
    - ii) Legal Aid
    - iii) Bronx Defenders
    - iv) Bar Associations
  - g) Court Reporters
  - h) Interpreters
  - i) Major's Report
  - j) Court Officers
  - k) Building Services
  - l) Blacks and Jews in Conversation
  - m) Community Outreach
- VII. Other Business

**IF YOU WISH TO ADD ANYTHING TO THE AGENDA, PLEASE NOTIFY THE CHAIR.  
PLEASE R.S.V.P. TO (718) 590-3590**



**SURROGATE'S COURT**  
**BRONX COUNTY-STATE OF NEW YORK**  
851 GRAND CONCOURSE  
BRONX, NEW YORK 10451

LEE L. HOLZMAN  
JUDGE



MICHAEL L. PRISCO  
CHIEF CLERK

EARNESTINE GLOVER  
DEPUTY CHIEF CLERK

TO: Hon. Richard Lee Price  
Chair Gender Fairness Committee  
12<sup>th</sup> Judicial District

FROM: Earnestine Glover  
Chair Domestic Violence Program

**Domestic Violence Program 2002**

The Program this year was educational and fun .We were honored with the presents of our new Administrative judges. The Hon. Gerald Esposito and the Hon. John Collins. They both spoke on their commitment to the Gender Fairness Committee and the work place agenda that the committee has in place.

The speakers were very knowledgeable about their assigned subjects. Ms. Ann Paulle, Coordinator, for Domestic Violence, for the Jewish Board of Family & Children Services, spoke about current trends and new issues of concerns within the domestic violence curriculum, literature was provided for all on these subjects.

Dorchen Leidholdt Esq. The director of legal services at the Sanctuary for Families has been on the forefront when it comes to the legal aspects of domestic violence cases. She brought us up to date with the changes in the law and new changes that were not yet finalized.

This Program ,I believe has added to the overall education of the employees of the Twelfth Judicial District.

**SURROGATE'S COURT**  
**BRONX COUNTY-STATE OF NEW YORK**  
851 GRAND CONCOURSE  
BRONX, NEW YORK 10451

LEE L. HOLZMAN  
JUDGE



MICHAEL L. PRISCO  
CHIEF CLERK

EARNESTINE GLOVER  
DEPUTY CHIEF CLERK

TO: Hon. Richard Lee Price  
Chair Gender Fairness Committee  
12<sup>th</sup> Judicial District

April 4, 2002

FROM: Earnestine Glover  
Chair Domestic Violence/ Women History  
Month Programs

**WOMAN HISTORY MONTH**  
March 2001  
March 2002

The committee now has what we call our annual women history program. We honor women of substance. You may say, well committee what do you mean women of substance?

Our answer is women with great careers, wives, lawyers, judges teachers, leaders of their community, women who are not perfect but are struggling everyday to be better at what they do. Mothers, sisters, grandmothers, friends, culturally diverse women who by their being make this world a better place. We select women of varies back grounds and communities. Our goals are to spotlight the wonderful make up of women in the Bronx and the World.

The program for March 15, 2001 celebrated and honored the Hon. Gloria Davis, Assemblywoman 79<sup>th</sup> Assembly District the Hon. Betty Weinberg Ellerin Associate Justice Appellate Division, First Department., Lenore Kramer Esq. Of Kramer & DeVries LLP and Lorraine Cortes-Vazquez, President, Hispanic Federation. Each of these women received a women history month plaque. We also gave out 15 distinctive women certificate to employees of the court.

The third program was held on March 15, 2002 the Honoree were the Hon. Maria Baez, Council Member 14<sup>th</sup> Council District, Sana Q. Nasser, Principal, Harry S. Truman High School, Hon. Ann T. Pfau, Deputy Chief Administrative Judge for Management Support and the Administrative Judge, Supreme Court, Second Judicial District, Elinor Tatum, Publisher and Editor-in- Chief, of The Amsterdam News. All of these women received the woman history month annual plaque. We again awarded 16 distinctive woman certificate to our most deserving co-workers.

**SURROGATE'S COURT**  
**BRONX COUNTY-STATE OF NEW YORK**  
851 GRAND CONCOURSE  
BRONX, NEW YORK 10451

LEE L. HOLZMAN  
JUDGE



MICHAEL L. PRISCO  
CHIEF CLERK  
EARNESTINE GLOVER  
DEPUTY CHIEF CLERK

**DOMESTIC VIOLENCE MONTH**  
October 2001

The recognition and education of domestic violence in our work environment has become mainstream in the 12<sup>th</sup> Judicial district. We have had several programs on the issues during the month of October, 2001 and many discussions during the regular gender fairness meetings.

The literature that members receive in our meeting packets from the chair of the committee and OCA has made the task of getting this information out to all employees and members of the public proceed with ease. Our first program on domestic violence this past year was held on Oct. 23<sup>rd</sup> 2001 the speaker was the Hon. Ruth Levine Sussman Acting Justice Of The Supreme Court. Justice Sussman spoke on the new initiative within the court system "The Integrated Domestic Violence Court."

Including the changes and the good that would come from having all of the matters pertaining to domestic violence in one central location.

The committee was also very involved in the research of issues surrounding domestic violence its affect on families, children and the courts. We found issues of children being taken from their parents because of drugs and the part that drugs among other things played in domestic violence. We found an advocacy group called "Dream Yard" that worked with these parents. These are groups of parents who travel to different organizations doing short plays about their experience in the courts such as losing custody of their children, orders of protection etc. The role playing included information on how to overcome these obstacles, regain custody and receive your order of protection. This program because of their schedule was held the first week in November. It was well attended and there were tears flowing freely when the program ended.

The past year has been both educational, controversial, rewarding, happy and sad and with all of this we are getting better than we ourselves thought we could ever be. Thanks to all of the committee members for their hard work and dedication and to you for your superb leadership.

*Queens County Supreme Court Gender Fairness Committee*

**Hon. Sheri Roman**  
Justice, Supreme Court  
125-01 Queens Blvd.  
Kew Gardens, NY 11415

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## LOCAL COMMITTEES 2002-2003

Name of the Committee: NYS Supreme Court Queens County Gender Fairness  
Committee

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair:

Hon. Sheri S. Roman

NYS Supreme Court, 125-01 Queens Boulevard, Kew Gardens, NY

11415. Telephone: (718) 520-4416 (office); (718) 520-7732 (fax);

E-Mail address: sroman@courts.state.ny.us

Meeting Dates in the Past Year: August 12, 2002, February 6, 2003

Activities for Domestic Violence Awareness Month 2002: A reference table  
with resource materials was displayed in each of the three Queens  
Supreme Courthouses throughout the month of October. The  
pamphlets contained information and statistical data on domestic  
violence. We tried to collect a variety of pamphlets in  
different languages.

Two complimentary luncheon programs were held in conjunction  
with October's Domestic Violence Awareness Month on October 10,  
2002 and October 30, 2002. One program was scheduled to be held  
at the Jamaica Courthouse, but due to construction at that  
location, both sessions were held at the Kew Gardens  
Courthouse. We provided transportation from the Jamaica facility  
to Kew Gardens. The first session, entitled, "Elder Abuse,"  
offered CLE credit for those who requested, for a nominal fee.  
(See enc.) The guest speakers were Gail Chirnoff Conway, Esq.  
in conjunction with Victoria Lutz, Esq., Executive Director of

the Pace University School of Law Woman's Justice Center.

Ms. Conway is the author off "*There Oughtta Be A Law*"

*Understanding Elder Abuse & Relevant Legal Remedies*. The second session, entitled "Teen Dating Violence, was presented by Robert K. Passonno, Program Administrator for the NYS Office for the Prevention of Domestic Violence, with Lisa Frisch, Program Director.

**Activities for Women's History Month 2003:** We celebrated the occasion with two programs. Program One highlighted the history of Queens County pioneering women in judicial and non-judicial positions, and was held in our Kew Gardens Courthouse on March 13, 2003. This roundtable discussion consisted of five women, from different positions in the legal system- a court officer, a court reporter who spoke on time share in Queens County , a Judge, and two recently retired attorneys admitted to the bar in the 1930's and 1940's . It was an extremely well attended luncheon lecture as nearly 80 courthouse personnel from all strata attended, convening the session in our 8<sup>th</sup> floor boardroom (after a light luncheon approved by Justice Steven Fisher).

Program two will be highlighted by Professor Margaret Turano, Esq. of St. John's University School of Law as a guest speaker.

The topic for discussion, "Women, Law, & Literature" is scheduled to take place at our Jamaica Courthouse on March 21<sup>st</sup> . Part of her discussion references a short story by the writer Alice Munroe, a copy of which was delivered to each program participant upon registration.

The New York State Bar Association Women in the Law






Other Activities in the Past Year: In April we coordinated the 2-day activity for "Take  
Your Daughters to Work /Take Your Sons to Work/ Take Your Children to Work"  
programs.

Plans for Next Year:

- 1) We are starting to plan for our October Programs for Domestic Violence  
Awareness Month.
- 2) We want to formulate new scripts for our mock trial presentation for the  
Take Your Daughters/Sons to Work program.
- 3) We are considering linking a book drive to supply new books to graduates of  
the Queens Treatment Court with our children's day programs in April.
- 4) We are also considering a cellular phone drive for battered women in shelters to  
be distributed via the Queens District Attorney's Office Special Victims Bureau.

Submitted By:

  
\_\_\_\_\_  
Hon. Sheri S. Roman

Please attach copies of flyers or programs from events or written materials about your committee.

Please return this form by March 24, 2003, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

Queens County Supreme Court Gender Fairness Committee  
In Celebration of Women's History Month

Presents: ***Roundtable Discussion with Queens County Trailblazers***

Panel Members

Thelma Blumberg, Esq.

Senior Court Officer Louise Hannibal

Senior Court Reporter Michele Lisby-Smith

Honorable Joan O'Dwyer

Sadie Turak, Esq.

When: **Thursday, March 13, 2003 1:00 - 2:00 PM**

Where: Queens County Courthouse, 125-01 Queens Boulevard 8<sup>th</sup> Floor Conference Room (Room 832)

LUNCH: Available for those who **REGISTER BY TUESDAY, MARCH 11<sup>th</sup>\***

TRANSPORTATION: Available from Jamaica & Long Island City Courthouses\*

*All are welcome!!!*

**\*call (718) 520-4416**

**R.S.V.P.**

(Justice Sheri Roman's Chambers)

Necessary for lunch

**THE NEW YORK STATE SUPREME COURT  
QUEENS COUNTY GENDER FAIRNESS COMMITTEE**

In recognition of  
**WOMEN'S HISTORY MONTH**  
presents:

\* \* \* \* \*

**PROFESSOR MARGARET TURANO**  
OF ST. JOHN'S UNIVERSITY SCHOOL OF LAW

\* \* \* \* \*

**TOPIC: "Women, Law, & Literature"**

**FRIDAY, MARCH 21, 2003**  
**1:00 TO 2:00 P.M.**

**QUEENS COUNTY COURTHOUSE**  
88-11 SUTPHIN BOULEVARD  
JAMAICA, NEW YORK 11434  
**5<sup>TH</sup> FLOOR CONFERENCE ROOM**

**LUNCH:** available for those who REGISTER BY MARCH 18<sup>th</sup>\*

**TRANSPORTATION:** available from Kew Gardens & LIC Courthouses \*

**R.S.V.P. REQUESTED**  
**\* CALL (718) 520-4416**  
**(JUSTICE SHERI ROMAN'S CHAMBERS)**

*all are welcome !!!*

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BARBARA KINGSOLVER

EDITOR

KATRINA KENISON

SEDES EDITOR

*Post and Beam*

FROM THE NEW YORKER

LIONEL WAS TELLING THEM how his mother had died.

She had asked for her makeup. Lionel held the mirror.

"This will take about an hour," she said.

Foundation cream, face powder, eyebrow pencil, eyeshadow, mascara, lip liner, lipstick, blusher. She was slow and shaky, but it wasn't a bad job.

"That didn't take you an hour," Lionel said.

She said, no, she hadn't meant that. She had meant, to die.

Lionel asked her if she wanted him to call his father. His father, her husband, her minister.

She said, "What for?"

She was only about five minutes off in her prediction.

They were sitting behind the house — Lorna and her husband Brendan's house — on a little terrace that looked across at Burrard Inlet and the lights of Point Grey. Lorna had met Lionel's mother just a few months before. She was a pretty little white-haired woman with a valiant charm. She'd come down to Vancouver from a town in the Rocky Mountains to see the touring Comédie Française with her son. Lionel had invited Lorna to go with them. After the performance, while Lionel was holding open his mother's blue velvet cloak, she had said to Lorna, "I am so happy to meet my son's *belle amie*."

"Let us not overdo it with the French," said Lionel.

Lorna was not even sure what that meant. Beautiful friend. Mistress?

Lionel had raised his eyebrows at her, over his mother's head. As if to say, Whatever she's come up with, it's no fault of mine.

Lionel had once been Brendan's student at the university. A raw prodigy, sixteen years old. The brightest mathematical mind Brendan had ever seen. Lorna wondered if Brendan was dramatizing this, in hindsight, because of his own unusual, almost unnatural generosity toward gifted students. Also because of the way things had turned out. Brendan had put the whole Irish package behind him — his family and his church and the sentimental songs — but he had a weakness for a tragic tale. And sure enough, after his blazing start Lionel had suffered some sort of breakdown, had to be hospitalized, dropped out of sight. Until Brendan met him in the supermarket and discovered that he was living within a mile of their house, here in North Vancouver. Lionel had given up mathematics entirely and now worked in the publishing office of the Anglican Church.

"Come and see us," Brendan had said. Lionel looked a bit seedy and lonely. "Come and meet my wife."

Later, when Lionel reported this exchange to Lorna, he said that he'd wondered what she might be like.

"I considered you might be awful."

"Oh," said Lorna. "Why?"

"I don't know. Wives."

Lionel used to come see them in the evenings, when the children were in bed. The slight intrusions of domestic life — the cry of the baby reaching them through an open window, the scolding Brendan sometimes gave Lorna about toys left lying on the grass instead of being put back in the sandbox, his voice calling from the kitchen asking if she had remembered to buy limes for the gin and tonic — all seemed to cause a shiver, a tightening of Lionel's tall narrow body and intent, distrustful face. Once he sang, very softly, to the tune of "O Tannenbaum," "O married life, O married life." He smiled slightly, or Lorna thought he did, in the dark. This smile seemed to her like the smile of her four-year-old daughter, Elizabeth, when she whispered some mildly outrageous observation to her mother in a public place. A secret little smile, gratified, somewhat alarmed.

Lionel rode up the hill on his high old-fashioned bicycle — this

at a time when hardly anybody but children rode bicycles. He would not have changed out of his workday outfit. Dark trousers, a white shirt that always looked grubby and worn around the cuffs and collar, a nondescript tie. When they went to see the Comédie Française, he added to this a tweed jacket that was too wide across the shoulders and too short in the sleeves. Perhaps he did not own any other clothes.

"I labor for a pittance," he said. "And not even in the vineyards of the Lord. In the diocese of the archbishop."

He talked with his head on one side, his gaze on something beyond Lorna's head. His voice was light and quick, sometimes squeaky with a kind of nervous exhilaration. He said everything in a slightly astonished way. He told her about the office where he worked, a few blocks from the cathedral — the small high Gothic windows and varnished woodwork (to give things a churchy feeling), the hat rack and umbrella stand (which for some reason filled him with deep melancholy), the typist, Janine, and the editor of *Church News*, Mrs. Penfound. The occasionally appearing, spectral, and distracted archbishop. There was an unresolved battle over tea bags between Janine, who favored them, and Mrs. Penfound, who did not. Everybody munched on secret cats and never shared.

"For this is Hell," Lionel said, with his sly, apologetic laugh. "Nor am I out of it."

He mentioned the hospital where he had been a patient for a while and spoke of the ways it resembled the office, in the manner of secret cats. Secrets generally. But the difference was that every once in a while in the hospital they came and bound you up and took you off and plugged you in, as he put it, to the light socket.

"That was pretty interesting. In fact, it was excruciating. But I can't describe it. That is the weird part. I can remember it but not describe it."

Because of those events in the hospital, he said, he was rather short of memories. Short of details.

Lorna told him about her life before she married Brendan. About the two houses exactly alike, standing side by side in the town where she grew up. In front of them was a deep ditch called Dye Creek, because the water that ran in it was colored by the dye from the knitting factory. Behind them was a wild meadow where girls were not supposed to go. One house was where she lived with

her father; in the other lived her grandmother, her Aunt Beatrice, and her cousin Polly.

Polly had no father. That was what they said and what Lorna had once truly believed. Polly had no father, in the way that a Manx cat had no tail. Aunt Beatrice had had no social life involving a man since the time of her blotted-out disgrace, and she was so finicky, so desperate about the conduct of life, that it was easier to think of Polly's conception as miraculous. The only thing that Lorna had ever learned from her Aunt Beatrice was that you must always press a seam from the side, not wide open, so that the mark of the iron will not show, and that no sheer blouse should be without its slip to hide your brassiere straps.

"Oh, yes. Yes," said Lionel. He stretched out his legs as if appreciation had reached his very toes. "Now, Polly. Out of this benighted household, what is Polly like? Is she like you?"

"I think she's more . . . competent." She wondered what Lionel meant when he said "like you."

Polly was okay, Lorna said. Full of energy and sociability, kind-hearted, confident.

"Ah," said Lionel.

Lorna told him about her only memory of her mother. Lorna was downtown with her mother on a winter day. There was snow between the sidewalk and the street. She had just learned how to tell time, and she looked up at the post office clock and saw that the moment had come for the soap opera she and her mother listened to every day on the radio. She felt a deep concern, because she wondered what would happen to the people in the story with the radio not turned on and them not listening. It was more than concern she felt — it was horror, to think of the way things could be lost, could *not* happen, through some casual absence or chance.

And even in that memory her mother was only a hip and a shoulder in a heavy coat.

Lionel said that he could hardly get more of a sense of his father than that, though he was still alive. A swish of a surplice? Lionel and his mother used to make bets on how long his father could go without speaking to them. He had asked his mother once what made his father so mad, and she had answered that she really didn't know.

"I think perhaps he doesn't like his job," she said.

Lionel said, "Why doesn't he get another job?" "Perhaps he can't think of one he'd like."

Brendan would sit down with Lorna and Lionel for a while, saying, "What are you two gabbling about?" and then, with some relief, as if he had paid his dues for the time being, he would get up, saying that he had some work to do, and go into the house. He seemed happy about their friendship, as if he had in a way foreseen it and brought it about, but their conversation made him restless.

"It's good for him to come up here and be normal for a while instead of sitting in his room," Brendan had said to Lorna. "Of course he lusts after you. Poor bugger."

He liked to say that men lusted after Lorna. Particularly when they'd been to a department party and she had been the youngest wife there. She would have been embarrassed to have anybody hear him say that, lest they think it a wishful and foolish exaggeration. But sometimes, especially if she was a little drunk, it roused her as well as Brendan to think that she might be so universally appealing. In Lionel's case, though, she was pretty sure that it was not true, and she hoped very much that Brendan would never hint at such a thing in front of him. She remembered the look that Lionel had given her over his mother's head. The disavowal, the mild warning in it.

She did not tell Brendan about the poems. Once a week or so, a poem arrived, quite properly sealed and posted, in the mail. These were not anonymous — Lionel had signed them. His signature was just a squiggle, quite difficult to make out — but then, so was every word of every poem. Fortunately, there were never many words — sometimes only a dozen or two in all, making a curious path across the page, like uncertain bird tracks. Lorna was not a person unfamiliar with poetry, or a person who gave up easily on whatever she did not quickly understand. She read a lot, though she often avoided talking about what she read, for fear of making mistakes in pronunciation.

After the first poem, she agonized about what she should say. Something appreciative but not stupid. All she managed was "Thank you for the poem" — when Brendan was well out of earshot. She kept herself from saying, "I enjoyed it." Lionel gave a jerky nod and made a sound that sealed off the conversation. Poems continued to arrive, and were not mentioned again. She be-

gan to think that she could regard them as offerings, not as messages. But not love offerings — as Brendan, for instance, would assume. There was nothing in them about Lionel's feelings for her, nothing personal at all. She thought to say that they reminded her of impressions you can sometimes see on the sidewalks in spring — shadows left by wet leaves plastered there from the year before. But that might sound affected.

There was something else, more urgent, that she did not speak about to Brendan. Or to Lionel. Polly, her cousin, was coming from home.

Polly was five years older than Lorna and had worked, ever since she graduated from high school, in a bank. She was on her way across the country, by bus. To Polly it seemed the most natural and appropriate thing to do — to visit her cousin and her cousin's family. To Brendan it would seem almost certainly an intrusion, something nobody had any business doing unless invited. He was not averse to visitors — look at Lionel — but he wanted to do the choosing himself. Every day Lorna thought of how she must tell him. Every day she put it off.

And this was not a thing she could talk about to Lionel. You could not speak to him about anything seen seriously as a problem. To speak of problems meant to search for, to hope for, solutions. And that was not interesting — it did not indicate an interesting attitude toward life. Rather, a shallow and tiresome hopefulness. Ordinary anxieties, uncomplicated emotions, were not what he enjoyed hearing about. He preferred things to be utterly bewildering and past bearing, yet ironically, half merrily borne.

She had told him one thing that might have been chancy — how she had cried on her wedding day and during the actual wedding ceremony. But she was able to make a joke of that, by adding that she had tried to pull her hand out of Brendan's grip to get her handkerchief but he would not let go, so she had to keep on snuffling. In fact she had cried not because she didn't want to be married or didn't love Brendan. She had cried because everything at home suddenly seemed so precious to her — though she had always planned to leave — and the people there seemed closer to her than anyone else could ever be, though she had hidden all her private thoughts from them. She cried because she and Polly had laughed as they cleaned the kitchen shelves and scrubbed the lino-

leum the day before and she had pretended she was in a sentimental play and said, "Goodbye, linoleum. Goodbye, crack in the teapot. Goodbye, place under the table where I used to stick my gum. Goodbye." Polly had said, "Why don't you just tell him to forget it?" But of course she didn't mean it. She was proud, and Lorna herself was proud, eighteen years old and never had a real boyfriend and here she was marrying a good-looking thirty-year-old man, a professor.

Nevertheless she cried, and cried again when she got letters from home, in the early days of her marriage. Brendan had caught her at it, and said, "You love your family, don't you?"

She thought he sounded sympathetic. But then he sighed and said, "I think you love them more than you love me."

She said that was not true; it was only that she felt sorry for her family sometimes. They had a hard time, her grandmother teaching fourth grade year after year, though her eyes were so bad that she could hardly see to write on the board, and Aunt Beatrice with too many nervous complaints ever to have a job, and her father — Lorna's father — working in the hardware store that wasn't even his own.

"A hard time?" said Brendan. "They've been in a concentration camp, have they?"

Then he said that people needed gumption in this world. And Lorna lay down on the marriage bed and gave way to one of those angry weeping fits that she was now ashamed to remember. Brendan came and consoled her after a while, but still believed that she cried as women always did when they could not win the argument any other way.

Some things about Polly's looks Lorna had forgotten. How tall she was and what a long neck and narrow waist she had, and an almost perfectly flat chest. A bumpy little chin and a wry mouth. Pale skin, light-brown hair cut short, fine as feathers. She looked both frail and hardy, like a daisy on a long stalk. She wore a ruffled denim skirt with embroidery on it.

For forty-eight hours Brendan had known she was coming. She had phoned, collect, from Calgary, and he had answered the phone. He had three questions to ask afterward. His tone was distant but calm.

How long is she staying?

Why didn't you tell me?  
Why did she phone collect?  
"I don't know," said Lorna.

Now, from the kitchen, where she was preparing dinner, Lorna strained to hear what they would say to each other. Brendan had just come home. His greeting she could not hear, but Polly's voice was loud and full of a risky jollity.

"So I really started out on the wrong foot, Brendan, wait till you hear what I said. Lorna and I are walking down the street from the bus stop and I'm saying, 'Oh shoot, this is a pretty classy neighborhood you live in, Lorna' — and then I say, 'But look at that place, what's it doing here? It looks like a barn.'"

She couldn't have started out worse. Brendan was very proud of their house. It was a contemporary house, built in the West Coast style called post-and-beam. Post-and-beam houses were not painted; the idea was to fit in with the original forests. So the effect was plain and functional from the outside, with the roof flat and protruding beyond the walls. Inside, the beams were exposed and none of the wood was covered up. The fireplace in this house was set in a stone chimney that went up to the ceiling, and the windows were long and narrow and uncurtained. The architecture is always preeminent, the builder had told them, and Brendan repeated this, as well as the word "contemporary," when introducing anybody to the house for the first time.

He did not bother to explain this to Polly, or to get out the magazine in which there was an article about the style, with photographs — though not of this particular house.

Polly had brought from home the habit of starting off her sentences with the name of the person she was specifically addressing. "Lorna —" she would say, or "Brendan —" Lorna had forgotten about this way of talking. It seemed to her now rather peremptory and rude. Most of Polly's sentences at the dinner table began with "Lorna —" and were about people known only to her and Polly. Lorna knew that Polly did not intend to be rude, that she was making a strident but brave effort to seem at ease. And she had at first tried to include Brendan. Both she and Lorna had done so — they had launched into explanations of whomsoever it was they were talking about. But it did not work. Brendan spoke only to call Lorna's attention to something needed on the table or to point out that Daniel had spilled his mashed food on the floor.



Polly went on talking while she and Lorna cleared the table and then as they washed the dishes. Lorna usually bathed the children and put them to bed before she started on the dishes, but tonight she was too rattled — she sensed that Polly was near tears — to attend to things in their proper order. She let Daniel crawl around on the floor while Elizabeth, with her interest in social occasions and new personalities, hung about listening to the conversation. This lasted until Daniel knocked the high chair over — fortunately not on himself, but he howled with fright — and Brendan came in from the living room.

"Bedtime seems to have been postponed," he said as he removed his son from Lorna's arms. "Elizabeth. Go and get ready for your bath."

Polly had moved on from talking about people in town to describing how things were going at home. Not well. The owner of the hardware store — a man whom Lorna's father had always spoken of as more of a friend than an employer — had sold the business without a word of what he was intending until the deed was done. The new man was expanding the store at the same time that business was being lost to Canadian Tire, and there was not a day that he did not stir up some kind of a row with Lorna's father. Lorna's father came home from the shop so discouraged that all he wanted to do was lie on the couch. He was not interested in the paper or the news. He drank bicarbonate of soda but wouldn't discuss the pains in his stomach.

Lorna mentioned a letter from her father in which he made light of these troubles.

"Well, he would, wouldn't he?" said Polly. "To you."

The upkeep of both houses, Polly said, was a continual nightmare. They should all move into one house and sell the other, but now that their grandmother had retired she picked on Aunt Beatrice — Polly's mother — all the time, and Lorna's father, Uncle Art, could not stand the idea of living with the two of them. Polly often wanted to walk out and never come back, but what would they do without her?

"You should live your own life," said Lorna. It felt strange to her to be giving advice to Polly.

"Oh, sure, sure," said Polly. "I should've got out while the going was good, that's what I guess I should have done. But when was

that? I don't ever remember the going being so particularly good. I was stuck with having to see you through school first, for one thing."

Lorna had spoken in a regretful, helpful voice, but she refused to stop in her work and give Polly's news its due. She accepted it as if it concerned some people she knew and liked but was not responsible for. She thought of her father lying on the couch in the evenings, dosing himself for pains he wouldn't admit to, and Aunt Beatrice next door, worried about what people were saying about her, crying because she'd gone to church with her slip showing. To think of home caused Lorna pain, but she could not help feeling that Polly was hammering at her, trying to bring her to some capitulation, wrap her up in some intimate misery. And she was determined not to give in.

*Just look at you. Look at your life. Your stainless steel sink. Your house where the architecture is preeminent.*

"If I ever went away now, I think I'd just feel too guilty," Polly said. "I couldn't stand it. I'd feel too guilty leaving them."

*Of course, some people never feel guilty. Some people never feel at all.*

"Quite a tale of woe you got," said Brendan when they were lying side by side in the dark.

"It's on her mind," Lorna said.

"Just remember. We are not millionaires."

Lorna was startled. "She doesn't want money."

"Doesn't she?"

"That's not what she's telling me for."

"Don't be too sure."

She lay rigid, not answering. Then she thought of something that might put him in a better mood.

"She's only here for two weeks."

His turn not to answer.

"Don't you think she's nice-looking?"

"No."

She was about to tell him that Polly had made her wedding dress. She had planned to be married in her navy suit, but Polly had said, a few days before the wedding, "This isn't going to do." So she got out her own ice-blue high school formal (Polly had always been more popular than Lorna; she had gone to dances) and she put in

gussets of white lace and sewed on white lace sleeves. Because, she said, a bride can't do without sleeves.

But what could he have cared about that?

Lionel had gone away for a few days. His father had retired, and Lionel was helping him move from his town in the Rocky Mountains to Vancouver Island. On the day after Polly's arrival, Lorna got a letter from him. Not a poem — a real letter, though it was very short: "I dreamt that I was giving you a ride on my bicycle. We were going quite fast. You did not seem to be afraid, though perhaps you should have been. We must not feel called upon to interpret this."

Brendan had gone off early. He was teaching summer school and said he would eat breakfast at the cafeteria. Polly came out of her room as soon as he was gone. She wore slacks instead of the flounced skirt, and she smiled all the time, as if at a joke of her own. She kept ducking her head slightly to avoid Lorna's eyes.

"I better get off and see something of Vancouver," she said. "Since it isn't very likely I'll ever get here again."

Lorna marked some things on a map and gave her directions, and said she was sorry she couldn't go along, but it would be more trouble than it was worth, with the children.

"Oh, Oh, no. I wouldn't expect you to. I didn't come out here to be on your hands all the time."

Elizabeth sensed the strain in the atmosphere. She said, "Why are we trouble?"

Lorna gave Daniel an early nap, and when he woke up she got him into the stroller and told Elizabeth they were going to a playground. The playground she had chosen was not the one in a nearby park — it was down the hill, close to the street Lionel lived on. Lorna knew his address, though she had never seen the house.

It did not take her long to get there — though no doubt it would take her longer to get back, pushing the stroller uphill. But she had already passed into the older part of North Vancouver, where the houses were smaller, perched on narrow lots. The house where Lionel rented a room had his name beside one bell, and the name B. Hutchison beside the other. She knew that Mrs. Hutchison was the landlady. She pressed that bell.

"I know Lionel's away and I'm sorry to bother you," she said.

"But I lent him a book — it's a library book, and now it's overdue — and I just wondered if I could run up to his apartment and see if I could find it."

The landlady said, "Well." She was an old woman with a bandanna around her head and large dark spots on her face.

"My husband and I are friends of Lionel's. My husband was his professor at college."

The word "professor" was always useful. Lorna was given the key. She parked the stroller in the shade of the house and told Elizabeth to stay and watch Daniel.

"This isn't a playground," Elizabeth said.

"I just have to run upstairs and back. Just for a minute, okay?"

Lionel's room had an alcove at the end of it for a two-burner gas stove and a cupboard. No refrigerator and no sink, except for the one in the toilet. A Venetian blind stuck halfway down the window and a square of linoleum whose pattern was covered by brown paint. There was a faint smell of the gas stove, mixed with a smell of unpaired heavy clothing, perspiration, and some menthol decongestant, which she accepted — hardly thinking of it and not at all disliking it — as the intimate smell of Lionel himself.

Other than that, the place gave out hardly any clues. She had come here not for any library book, of course, but to be for a moment inside the space where he lived, to breathe his air and look out of his window. The view was of other houses, probably like this one, chopped up into small spaces, on the wooded slope of the mountain. The bareness, the anonymity of the room were severely challenging. Bed, bureau, table, chair. Just the furniture that had to be provided so that the room could be advertised as furnished. Even the tan chenille bedspread must have been there when he moved in. No pictures — not even a calendar — and, most surprisingly, no books.

Things must be hidden somewhere. In the bureau drawers? She couldn't look. Not only because there was no time — she could hear Elizabeth calling her from the yard — but because the very absence of whatever might be personal made the sense of Lionel stronger. Not just the sense of his austerity and his secrets but of a watchfulness — almost as if he had set a trap and was waiting to see what she would do.

What she really wanted to do was not to investigate anymore but

to sit down on the floor, in the middle of the square of linoleum. To sit for hours, not so much looking at this room as sinking into it. To stay in this room where there was nobody who knew her or wanted a thing from her. To stay here for a long, long time, growing sharper and lighter, light as a needle.

On Saturday morning, Lorna and Brendan and the children were to drive to Penticton. A graduate student had invited them to his wedding. They would stay Saturday night and all day Sunday and Sunday night as well, and leave for home on Monday morning.

"Have you told her?" Brendan said.

"It's all right. She isn't expecting to come."

"But have you told her?"

Thursday was spent at Ambleside Beach. Lorna and Polly and the children rode there on buses, changing twice, encumbered with towels, beach toys, diapers, lunch, and Elizabeth's blow-up dolphin. The physical predicaments they found themselves in, and the irritation and dismay the sight of their party roused in other passengers, brought on a peculiarly feminine reaction — a mood of near hilarity. Getting away from the house where Lorna was stalled as wife was helpful too. They reached the beach in triumph and ragtag disarray and set up their encampment, from which they took turns going into the water, minding the children, fetching soft drinks, Popsicles, French fries.

Lorna was lightly tanned, Polly not at all. She stretched a leg out beside Lorna's and said, "Look at that. Raw dough."

With all the work she had to do in the two houses, and with her job in the bank, she said, there was not a quarter-hour when she was free to sit in the sun. But she spoke now matter-of-factly, without the undertone of virtue and complaint. Some sour atmosphere that had surrounded her — like old dishrags — was falling away. She had found her way around Vancouver by herself — the first time she had ever done that in a city. She had talked to strangers at bus stops and asked what sights she should see, and on somebody's advice had taken the chairlift to the top of Grouse Mountain.

As they lay on the sand, Lorna offered an explanation.

"This is a bad time of year for Brendan. Teaching summer school is really nerve-racking — you have to do so much so fast."

Polly said, "Yeah? It's not just me, then?"

"Don't be stupid. Of course it isn't you."

"Well, that's a relief. I thought he kind of hated my guts."

She then spoke of a man at home who wanted to take her out.

"He's too serious. He's looking for a wife. I guess Brendan was too, but I guess you were in love with him."

"Was and am," said Lorna.

"Well, I don't think I am." Polly spoke with her face pressed into her elbow. "I guess it might work, though, if you liked somebody okay and you went out with them and made up your mind to see the good points."

"So what are the good points?" Lorna was sitting up so that she could watch Elizabeth ride the dolphin.

"Give me a couple of minutes," said Polly, giggling. "No. There's lots. I'm just being mean."

As they were rounding up toys and towels, she said, "I really wouldn't mind doing all this over again tomorrow."

"Me neither," said Lorna. "But I have to get ready to go to the Okanagan. We're invited to this wedding." She made it sound like a chore — something she hadn't bothered speaking about till now because it was too disagreeable and boring.

Polly said, "Oh. Well, I might come back by myself, then."

"Sure. You should."

"Where is the Okanagan?"

The next evening, after putting the children to bed, Lorna went into the room where Polly slept. She wanted to get a suitcase out of the closet, expecting the room to be empty — Polly, as she thought, still in the bathroom, soaking the day's sunburn in lukewarm water and soda.

But Polly was in bed, with the sheet pulled up around her like a shroud.

"You're out of the bath," said Lorna, as if she found all this quite normal. "How does your burn feel now?"

"I'm okay," said Polly, in a muffled voice. Lorna knew at once that she had been and probably still was weeping. She stood at the foot of the bed, not able to leave the room. A disappointment had come over her which was like sickness, a wave of disgust.

"What is it?" Lorna said. She feigned surprise, she feigned compassion.

Polly looked out at her now.

"You don't want me."

Her eyes were brimming, not just with tears and the bitter accusation of betrayal but with an outrageous demand to be welcomed, blessed, comforted.

Lorna would sooner have hit her. What gives you the right, she wanted to say. And, do you know how ugly you look? What are you leeching onto me for? What do you think I can do about Brendan? What gives you the right?

Family. Family gives Polly the right. She saved her money and planned her escape, with the idea that Lorna would take her in. That is what she must have dreamed of — staying here and never having to go back. Becoming part of Lorna's good fortune, Lorna's transformed world.

"What do you think I can do?" said Lorna, quite viciously and to her own surprise. "Do you think I have any power? He never even gives me more than a twenty-dollar bill at a time."

She dragged the suitcase out of the room.

It was all so false, putting her own lamentations forth in that way, to match Polly's. What did the twenty dollars at a time have to do with anything? She had a charge account; he never refused her when she asked.

She couldn't go to sleep, berating Polly in her mind.

The heat of the Okanagan made summer seem more authentic than summer on the coast. The hills with their pale grass, the sparse shade of the drylands pine trees, seemed a natural setting for so festive a wedding, with its endless supply of champagne, its dancing and flirtation and overflow of instant friendship and good will. Lorna got rapidly drunk and was amazed at how easy it was, with alcohol, to be loosed from the bondage of her spirits. For, Lorna vapors lifted. She went to bed still drunk, and lecherous, to Brendan's benefit. Even her hangover the next day seemed mild, cleansing rather than punishing. Feeling frail but not at all displeased with herself, she lay by the shores of the lake and watched Brendan help Elizabeth build a sandcastle.

"Did you know that your daddy and I met at a wedding?" she said.

"Not much like this one, though," said Brendan. He meant that the other wedding, when a friend of his married the McQuaigs girl

(the McQuaigs being a top family in Lorna's hometown), had been officially dry. The reception had been at the United Church Hall — Lorna was one of the girls recruited to pass sandwiches — and the drinking had been done in a hurry, in the parking lot. Lorna was not used to smelling whiskey on men and thought that Brendan must have put on too much of some unfamiliar hairdressing. Nevertheless she admired his thick shoulders, his bull neck, his laughing and commanding golden-brown eyes. When she learned that he was a teacher of mathematics, she fell in love with what was inside his head too. She was excited by whatever knowledge a man might have that was utterly strange to her. A knowledge of auto mechanics would have worked just as well.

His answering attraction to her seemed to be in the nature of a miracle. She learned later that he had been on the lookout for a wife: he was old enough, it was time. He wanted a young girl. Not a colleague or a student, perhaps not even the sort of girl whose parents could send her to college. Unspoiled. Intelligent, but unspoiled. A wildflower, he said in the heat of those early days, and sometimes even now.

On the drive back they left this hot golden country behind, somewhere between Keremeos and Princeton. But the sun still shone, and Lorna had only a faint disturbance in her mind, like a hair in her vision that could be flicked away or could float out of sight on its own.

But it kept coming back, it grew more ominous and persistent, till at last it made a spring at her and she knew it for what it was.

She was afraid — she was half certain — that while they were away, Polly would have committed suicide in the kitchen of the house in North Vancouver.

In the kitchen. It was a definite picture Lorna had. She saw exactly the way in which Polly would have done it. She would have hanged herself just inside the back door. When they returned, when they came into the house from the garage, they would find the door locked. They would unlock it and try to push it open but be unable to because of the heavy lump of Polly's body against it. They would hurry around to the front door and come into the kitchen that way and be met by the full sight of Polly dead. She would be wearing the flounced denim skirt and the white draw-

string blouse — the brave outfit in which she had first appeared to try their hospitality. Her long pale legs dangling down, her head twisted fatally on its delicate neck. In front of her body would be the kitchen chair she had climbed onto and then stepped or jumped from, to see how misery could finish itself.

Alone in the house of people who did not want her, where the very walls and the windows and the cup she drank her coffee from must seem to despise her.

Lorna remembered a time when she had been left alone with Polly, left in Polly's charge for a day, in their grandmother's house. Perhaps her father was at the shop. But she had an idea that he too had gone away — all three adults were out of town. It must have been an unusual occasion, since they never went on shopping trips, let alone trips for pleasure. A funeral, almost certainly a funeral. The day was a Saturday, there was no school. Lorna was too young to be in school anyway. Her hair had not grown long enough to be put into pigtails. It blew in tender wisps around her head, as Polly's did now.

Polly was going through a stage then in which she loved to make candy, or rich treats of any kind, from her grandmother's cookbook. Chocolate date cake, macaroons, divinity fudge. She was in the middle of mixing something up that day when she found that an ingredient she needed was not in the cupboard. She had to ride uptown on her bicycle to charge it at the store. The weather was windy and cold, the ground bare — the season must have been late fall or early spring. Before she left, Polly pushed in the damper on the woodstove. But she was fearful because of stories she had heard about children who perished in house fires when their mothers had run out on similar quick errands. So she directed Lorna to put on her coat and took her outside, around to the corner between the kitchen and the main part of the house, where the wind was not so strong. The house next door must have been locked, or she would have taken her there. She told her to stay put. Stay there, don't move, don't worry, she said. Then she kissed Lorna's ear and rode off to the store. Lorna obeyed her to the letter. For ten minutes, maybe fifteen, she remained crouched behind the white lilac bush, learning the shapes of the stones, the dark and light ones, in the house's foundation. Until Polly came tearing back and flung the bike down in the yard and came calling her name — "Lorna, Lorna" — throwing down the bag of brown sugar or walnuts and

kissing her all over her head. For the thought had occurred to her that Lorna might have been spotted in her corner by lurking kidnappers — the bad men who were the reason that girls were not supposed to go down into the field behind the houses. She had prayed all the way back for this not to have happened. And it hadn't. She bustled Lorna inside to warm her bare knees and hands.

"Oh, the poor little handsies," she said. "Oh, were you scared?" Lorna loved the fussing and bent her head to have it stroked, as if she were a pony.

The pines gave way to the denser evergreen forest, the brown lumps of hills to the rising blue-green mountains. Daniel began to whimper, and Lorna got out his juice bottle. Later she asked Brendan to stop so that she could lay the baby down on the front seat and change his diaper. Brendan walked at a distance while she did this, smoking a cigarette. Diaper ceremonies always affronted him a little.

Lorna also took the opportunity to get out one of Elizabeth's storybooks, and when they were settled again she read to the children. It was a Dr. Seuss book. Elizabeth knew all the rhymes, and even Daniel had some idea of where to chime in with his made-up words.

Polly was no longer that person who had rubbed Lorna's small hands between her own, the person who knew all the things Lorna did not know and who could be trusted to take care of her in the world. Everything had been turned around, and it seemed that in the years since Lorna got married, Polly had stayed still. Lorna had passed her by. And now Lorna had the children in the back seat to take care of and to love, and it was unseemly for a person of Polly's age to come clawing for her share.

It was no use for Lorna to think this. No sooner had she put the argument in place than she felt the body knock against the door as they tried to push it open. The deadweight, the gray body. The body of Polly, who had been given nothing at all. No part in the family she had come to join, and no hope of the change she must have dreamed was coming in her life.

"Now read *Madeline*," said Elizabeth.

"I don't think I brought *Madeline*," said Lorna. "No. I didn't bring it. Never mind, you know it by heart."

She and Elizabeth started off together:

In an old house in Paris that was covered with vines  
lived twelve little girls in two straight lines.  
In two straight lines they broke their bread  
and brushed their teeth and went to bed.

This is stupidity, this is melodrama, this is guilt. This will not have happened.

But such things do happen. Some people founder, they are not helped in time. They are not helped at all. Some people are pitched into darkness:

In the middle of one night  
Miss Clavel turned on her light  
and said, "Something is not right!"

"Mommy," said Elizabeth. "Why did you stop?"  
Lorna said, "I had to, for a minute. My mouth got dry."

At Hope, they had hamburgers and milkshakes. Then down the Fraser Valley, the children asleep in the back seat. Still some time left. Till they got to Chilliwack, till they got to Abbotsford, till they saw the hills of New Westminster ahead and the other hills crowned with houses, the beginnings of the city. Bridges still to go over, turns they had to take, streets they had to drive along, corners they had to pass. All this in the time before. The next time she saw any of it would be in the time after.

When they entered Stanley Park, it occurred to her to pray. This was shameless — the opportune praying of a nonbeliever. The gibberish of let-it-not-happen, let-it-not-happen. Let it not have happened.

The day was still cloudless. From the Lions Gate Bridge they looked out at the open water.

"Can you see Vancouver Island today?" said Brendan. "You look — I can't."

Lorna craned her neck to look past him.

"Far away," she said. "Gabriola. Then Vancouver Island. Quite faint, but it's there."

And with the sight of those blue, progressively dimmer, finally almost dissolving mounds that seemed to float upon the sea, she thought of one thing there was left to do. Make a bargain. Believe

that it was still possible, up to the last minute it was possible to make a bargain.

It had to be serious, a most final and wrenching promise or offer. Take this. I promise this. If it can be made not true, if it can not have happened.

Not the children. She snatched that thought away as if she were grabbing them out of a fire. Not Brendan, for an opposite reason. She did not love him enough. She would say she loved him, and mean it to a certain extent, and she wanted to be loved by him, but there was a little hum of hate running along beside her love, nearly all the time. So it would be reprehensible — also useless — to offer him in any bargain.

Herself? Her looks? Her health?

It occurred to her that she might be on the wrong track. In a case like this, it might not be up to you to choose. Not up to you to set the terms. You would know them when you met them. You must promise to honor them without knowing what they were going to be. Promise.

But nothing to do with the children.

Up Capliano Road, into their own part of the city and their own corner of the world, where their lives took on true weight and their actions took on consequences. There were the uncompromising wooden walls of their house showing through the trees.

The front door would be easier," Lorna said. "Then we wouldn't have any steps."

But Brendan went the usual way, saying, "What's the problem with a couple of steps?"

"I never got to see the bridge," Elizabeth cried, suddenly wide awake and disappointed. "Why didn't you wake me up to see the bridge?"

Nobody answered her.

Daniel's arm is all sunburnt," she said, in a tone of incomplete satisfaction.

Lorna heard voices that she thought were coming from the yard of the house next door. She followed Brendan around the corner of the house. Daniel lay against her shoulder, still heavy with sleep. She carried the diaper bag and the storybook bag, and Brendan carried the suitcase.

The people whose voices she had heard were in her own back



yard. Polly and Lionel. They had dragged two lawn chairs around so that they could sit in the shade. They had their backs to the view.

Lionel. She had forgotten all about him.

He jumped up and ran to open the back door.

"The expedition has returned with all members accounted for," he said, in a voice that Lorna did not believe she had ever heard before. An unforced heartiness in it, an easy and appropriate confidence. The voice of the friend of the family. As he held the door open he looked straight into her face — something he had almost never done — and gave her a smile from which all subtlety, secrecy, ironic complicity, and mysterious devotion had been removed. All complications, all private messages had been removed.

She made her voice an echo of his.

"So — when did you get back?"

"Saturday," he said. "I'd forgotten you were going away. I came laboring up here to say hello and you weren't here, but Polly was here, and of course she told me and then I remembered."

"Polly told you what?" said Polly, coming up behind him. This was not really a question, but the half-teasing remark of a woman who knows that almost anything she says will be well received. Polly's sunburn had turned to tan, or at least to a new flush, on her forehead and neck.

"Here," she said to Lorna, relieving her of both the bags carried over her arm and the empty juice bottle in her hand. "I'll take everything but the baby."

Lionel's floppy hair was now more brownish black than black — of course, she was seeing him for the first time in full sunlight — and his skin too was tanned, enough for his forehead to have lost its pale gleam. He wore the usual dark pants, but his shirt was unfamiliar to her. A yellow short-sleeved shirt of some much-ironed, shiny, cheap material, too big across the shoulders, maybe bought at the church thrift sale.

Lorna carried Daniel upstairs. She laid him in his crib and stood beside him, making soft noises and stroking his back.

She thought that Lionel must be punishing her for her mistake in going to his room. The landlady would have told him. Lorna should have expected that, if she had stopped to think. She hadn't stopped to think, probably because she had the idea that it would

not matter. She might even have thought that she would tell him herself.

I was going past on my way to the playground and I just thought I would go in and sit in the middle of your floor. I can't explain it. It seemed like that would give me a moment's pure peace, to be in your room and sit in the middle of the floor.

She had thought — after the letter? — that there was a bond between them, not to be made explicit but to be relied on. And she had been wrong, she had scared him. Presumed too much. He had turned around and there was Polly. Because of Lorna's offense, he had taken up with Polly.

Perhaps not, though. Perhaps he had simply changed. She thought of the extraordinary bareness of his room, the light on its walls. Out of that might come such altered versions of himself, created with no effort, in the blink of an eye. In response to something that had gone a little wrong, or to a realization that he could not carry something through. Or to nothing that definite — just the blink of an eye.

When Daniel had fallen into true sleep, she went downstairs. In the bathroom she found that Polly had rinsed the diapers properly and put them in the pail, covered with the blue solution that would disinfect them. She picked up the suitcase that was sitting in the middle of the kitchen floor, carried it upstairs, and laid it on the big bed, opening it to sort out which clothes had to be washed and which could be put away.

The window of this room looked out on the back yard. She heard voices — Elizabeth's raised, almost shrieking with the excitement of a homecoming and perhaps the effort of keeping the attention of an enlarged audience, Brendan's authoritative but pleasant, giving an account of their trip.

She went to the window and looked down. She saw Brendan go over to the storage shed, unlock it, and start to drag out the children's wading pool. The door was swinging shut on him, and Polly hurried to hold it open.

Lionel got up and went to uncoil the hose. She would not have thought he even knew where the hose was.

Brendan said something to Polly. Thanking her? You would think they were on the best of terms.

How had that happened?

It could be that Polly was now fit to be taken account of, being Lionel's choice. Lionel's choice and not Lorna's imposition.

Or Brendan might simply be happier because they had been away. He might have dropped for a while the burden of keeping his household in order. He might have seen, quite rightly, that this altered Polly was no threat.

A scene so ordinary and amazing, come about as if by magic. Everybody happy.

Brendan had begun to blow up the rim of the plastic pool. Elizabeth had stripped to her underpants and was dancing around impatiently. Brendan hadn't bothered this time to tell her to run and put on her bathing suit because underpants were not suitable. Lionel had turned the water on, and until it was needed for the pool he stood watering the nasturtiums, like any householder. Polly spoke to Brendan and he pinched shut the hole he had been blowing into and passed the half-inflated heap of plastic over to her.

Lorna recalled that at the beach Polly had been the one to blow up the dolphin. As she said herself, she had good wind. She blew steadily and with no apparent effort. She stood there in her shorts, her bare legs firmly apart, skin gleaming like birch bark. And Lionel watched her. Exactly what I need, he might be thinking. Such a competent and sensible woman, pliant but solid. Someone not vain or dreamy or dissatisfied. That might well be the sort of person he would marry someday. A wife who could take over. Then he would change and change again, maybe fall in love with some other woman, in his way, but the wife would be too busy to take notice.

That might happen. Polly and Lionel. Or it might not. Polly might go home as planned, and if she did there wouldn't be any heartbreak. Or that was what Lorna thought. Polly would marry or not marry, but whichever way it was, the things that happened with men would not be what broke her heart.

In a short time the rim of the wading pool was swollen and smooth. The pool was set on the grass, the hose placed inside it, and Elizabeth was splashing her feet in the water. She looked up at Lorna as if she had known she was there all the time.

"It's cold," she cried in a rapture. "Mommy—it's cold."  
Now Brendan looked up at Lorna too.

"What are you doing up there?"

"Unpacking."

"You don't have to do that now. Come on outside."

"I will. In a minute."

Since she had entered the house—in fact, since she had first understood that the voices she heard came from her own back yard and belonged to Polly and Lionel—Lorna had not thought of the vision she'd had, mile after mile, of Polly lashed to the back door. She was surprised by the recollection of a dream. It had a dream's potency and shamefulness. A dream's uselessness as well.

Not quite at the same time but in a lagging way came the memory of her bargain. Her weak and primitive, neurotic notion of a bargain.

But what was it she had promised?

Nothing to do with the children—she remembered that.

Something to do with herself?

She had promised that she would do whatever she had to do when she recognized what that was.

That was hedging, that was a bargain that was not a bargain, a promise that had no meaning at all.

But she tried out various possibilities. Almost as if she were shaping this story to be told to somebody—not Lionel now, but somebody—as an entertainment.

Give up reading books. Take in foster children from bad homes and poor countries. Labor to cure them of wounds and neglect.

Go to church. Agree to believe in God.

Cut her hair short, stop putting on makeup, never again haul her breasts up into a wired brassiere.

She sat down on the bed, tired out by all this sport, this irrelevance.

What made more sense was that the bargain she was bound to go on living as she had been doing. The bargain was already in force. To accept what had happened and be clear about what would happen. Days and years and feelings much the same, except that the children would grow up, and there might be one or two more of them, and they too would grow up, and she and Brendan would grow older and then old.



It was not until now, not until this moment, that she saw so clearly that she had been counting on something happening, something that would change her life. She had accepted her marriage as one big change but not as the last one.

So nothing now but what she or anybody could sensibly foresee. That was to be her happiness, that was what she had bargained for. Nothing secret, or strange.

Pay attention to this, she thought. This is serious. She felt like getting down on her knees. Elizabeth called again, "Mommy. Come here." And then the others — Brendan and Polly and Lionel, one after the other — were calling her, teasing her.

"Mommy!"

"Mommy!"

"Come here."

It was a long time ago that this happened. In North Vancouver when they lived in the post-and-beam house. When she was twenty-four years old and new to bargaining.

## NEW YORK CITY

performing her necessary work functions. Her physician confirmed that she is permanently disabled.

The defendants contended that McDermott's doctor said that her hand numbness stemmed from carpal-tunnel syndrome, which was unrelated to the accident. The defendants also presented diagnostic film that was taken one week following the accident. The film revealed that McDermott suffered from scoliosis and degenerative changes in her lumbar spine.

**RESULT** The jury issued a defense verdict on liability.

**DEMAND** \$150,000  
**OFFER** \$7,500

**TRIAL DETAILS** Trial Length: 3 days  
Trial Deliberations: 1 hour  
Jury Poll: 6-0  
Jury Composition: 1 male, 5 female

**CASE STATUS** The judge denied the plaintiff's motion for a new trial.

**PLAINTIFF EXPERT(S)** Douglass A. Schwartz; physical medicine; New York, NY

**DEFENSE EXPERT(S)** none reported

**INSURER(S)** self-insured both defendants

Glenn Koch

## QUEENS COUNTY

## PREMISES LIABILITY

## Dangerous Condition

## Police Officer Claimed Injury From Electrified Fence

## DECISION Defense

**CASE** Eva Avezzano v. Guido and Anna Selva, No. 25312/96  
**COURT** Queens Supreme  
**JUDGE** Sheri S. Roman  
**DATE** 1/28/2003

**PLAINTIFF ATTORNEY(S)** Dominic Diprisco; Decolator, Cohen & Diprisco; Mineola, NY

## DEFENSE

**ATTORNEY(S)** Joseph Nador; Furey & Furey, P.C.; Hempstead, NY

**FACTS** Plaintiff Eva Avezzano, 26, a police officer, was chasing a suspect through the backyard of defendants Guido and Anna Selva, when she attempted to climb a garden fence that contained exposed, electrified wires, which were designed to ward off squirrels. Avezzano claimed that she received an electric shock, which injured her hand and caused her to fall from the fence.

The Selvas contended that the fence was only partially electrified, and that Avezzano was climbing a section of fence that never contained wires. They argued that even if Avezzano came into contact with the wires, the 16-volt current was not sufficiently powerful to cause the burning, searing jolt of pain that Avezzano claimed. They added that the pain caused by such voltage would be imperceptible.

Demonstrative evidence included a model fence with 16-volt wires, which were attached to a transformer connected to a doorbell and volt meter.

**INJURIES** frozen shoulder; hand; radiculopathy; reflex sympathetic dystrophy; temporomandibular joint dysfunction; torn lateral meniscus; torn rotator cuff

Avezzano claimed that she suffered a sprained right hand; a torn lateral meniscus of her right knee, which required arthroscopic surgery; a frozen right shoulder; and a torn rotator cuff, which required arthroscopic surgery and a second manipulation surgery under anesthesia.

She also claimed cervical radiculopathy; temporomandibular joint syndrome; and reflex sympathetic dystrophy of her right hand, arm and shoulder. The latter condition required nerve block treatments and permanent implantation of a spinal-cord stimulator. Avezzano claimed that she is permanently disabled.

**RESULT** The jury rendered a defense verdict.

**DEMAND** \$1 million  
**OFFER** None

**CASE STATUS** The plaintiff was denied a post-trial motion to set aside the verdict.

**PLAINTIFF EXPERT(S)** Stephen Kane; safety; West Islip, NY

**DEFENSE EXPERT(S)** Kevin Cassidy; electrical; Northport, NY

**INSURER(S)** Frontier in Rehabilitation

Nancy DeLuca

### LOCAL COMMITTEES 2002-2003

Name of the Committee Nassau County Judicial Committee on Women in the Courts

Name, Address and Telephone and Fax Numbers and E-Mail Address of the Chair \_\_\_\_\_

Hon. Claire I. Weinberg, 262 Old Country Road, Mineola, New York 11501

516-571-2628

Fax 516-571-6300

e-mail: cweinber@courts.state.ny.us

Meeting Dates in the Past Year February 7, 2002, July 18, 2002 and March 5, 2003

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Activities for Domestic Violence Awareness Month 2002 See Rider

Activities for Women's History Month 2003 As part of our celebration of Women's History Month, the graduation ceremony of the Nassau County Family Treatment Court will be incorporated.

Other Activities in the Past Year \_\_\_\_\_

Plans for Next Year (2003) \_\_\_\_\_

**Please attach copies** of flyers or programs from events or written materials about your committee.

Please return this form by March 24, 2003, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

*Brooklyn Gender Fairness Committee*

**Hon. Marsha Steinhardt**  
Justice, Supreme Court  
360 Adams Street, Room 935  
Brooklyn, NY 11201  
718-643-5127

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LOCAL COMMITTEES REPORTS - 2002-2003

Kings County

Name of the Committee Gender Fairness Committee

Name, Address, Telephone and Fax Numbers and E-mail Address of the Chair

Hon. Marsha L. Steinhardt

360 Adams Street

718 643-5127 (Fax) 212-401-9042 MSteinha@Courts.STATE  
NY.US

Meeting Dates in the Past Year \_\_\_\_\_

Activities for Domestic Violence Awareness Month 2002 \_\_\_\_\_

*Please See Attached*

Activities for Women's History Month 2003 \_\_\_\_\_

Other Activities in the Past Year \_\_\_\_\_

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Plans for Next Year \_\_\_\_\_

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Please attach copies of flyers or programs from events or written materials about your committee.

Please return this form by **Monday, March 24, 2003**, to:

Jill Laurie Goodman, Counsel  
NYS Judicial Committee on Women in the Courts  
25 Beaver Street, Room 878  
New York, New York 10004

**GENDER FAIRNESS COMMITTEE  
SECOND JUDICIAL DISTRICT**

**SEXUAL ASSAULT AWARENESS MONTH**

On Tuesday, April 23, 2002, a "Panel Discussion by Survivors of Sexual Abuse," sponsored by Administrative Judge Ann T. Phau and the Gender Fairness Committee, was presented during the hours of 1 p.m. to 2:15. The courtroom, in which the program took place, was packed with spell bound spectators. Three courageous participants, Grace A. Berman, Gaitana Martin and Allison Bird described years of abuse they endured at the hands of fathers, step-fathers and grandparents. In one instance, the victim's mother ultimately divorced the abusive father and then continued, on her own, to beat and abuse the children. The program was moderated by Donna Robin Lippman, M.S., Executive Director - Incest Awareness Foundation, NYC. "Eyes Wide Open," a quarterly newsletter for incest survivors and their supporters was distributed at the program. This document, published by the Foundation, contains useful phone numbers, vignettes and other information of import. The program was all the more moving and meaningful, as it was conceived and coordinated by Ms. Berman, a well known, well liked and well respected court employee. This writer was inspired by her courage to come forward and share her experience with colleagues. Everyone in attendance profited by being there.

**BRING YOUR CHILD TO WORK DAY**

Two days later, Thursday, April 25 our committee was "back in action" at this annual event. It was a grand success, attended by approximately seventy-five children, aged nine to seventeen. A limited, two hour event was conducted by court volunteers for the younger children, ages seven and eight. Our volunteer Court Personal showed these children around the court house, demonstrating various security equipment. As part of the "festivities" all the children were photographed in a judge's robe, seated on the bench. These pictures were disseminated at the conclusion of the day, as was a signed certificate (suitable for framing) attesting to the child's participation. Each child also received a small package containing information about our court system as well as some "goodies" donated by the Brooklyn Public Library. Welcoming remarks were made by Administrative Judge Ann T. Phau and Program Chair, the Honorable Albert Tomei. Each of the older children participated in a mock trial, a video of which was shown during the afternoon session. Our budding attorneys were able to critique their performance while "munching" on some fat-free, healthy snacks. A highlight of the day was the appearance of Tiffany Walker, then Miss New York City, daughter of committee member, Court Reporter Aldorine Walker. She was an inspiration to all in attendance (children and adults) instilling a sense of self worth. (All of us in Kings County were tuned in to this year's Miss America Pageant as Tiffany carried the banner of Miss New York State.) The entire day was interesting and informative for "bringers" and "bringeers," alike!



## DOMESTIC VIOLENCE AWARENESS MONTH

We in Kings County thought that Halloween was a most appropriate date to discuss the horrors of domestic violence. Our guest speakers, Lucia Davis-Raiford and Professor Lisa Smith, told a rapt audience of recent innovations. Ms. Davis-Raiford is the director of the New York City Police Department Domestic Violence Unit, having founded same in 1996. The function of this important part of the Police Department is to advise the Police Commissioner and Chief of Police with reference to domestic violence. They have strong input regarding patrol policy and administrative matters. Formerly, Ms. Davis-Raiford was counsel to the Chief of the Transit Authority Police. Professor Smith is the Director of the Criminal Clinic Program at Brooklyn Law School. She is a member of the New York State Governor's Advisory Council on Domestic Violence, Women and Law Committee of the Association of the Bar of the City of New York and the New York State Violence against Women DCJS Task Force. This was a most informative forum. Judge Mathew D'Emic, Co-Chair of our Domestic Violence Sub-Committee is to be commended for arranging it.

## WOMEN'S HISTORY MONTH

Last year (2002) the Gender Fairness Committee of Kings County presented, for the first time, the Hon. Ruth E. Moskowitz Award to the four women who served as President of the Brooklyn Bar Association. The event was so positively received that we decided to replicate it this year, but, to present the award to four men. Our honorees included the immediate past chair of the Gender Fairness Committee, Hon. John Leventhal; Hon. Albert Tomei and our two chief clerks, James Imperatrice and Tom Kilfoyle. The presenters were all women. We had some introductory remarks and the actual presentations, including citations from the Brooklyn Borough President. We also presented a "surprise" award (truly - the recipient was shocked!) to Izetta Johnson, Management Analyst and friend to all, here in Kings County. The theme of our event was "Fairness Knows No Gender." Unfortunately, I got some (very little) negative feed-back as to why we honored four men during a women's history program.

## FUTURE EVENTS

Our committee is planning to do an event in our Central Jury Room during Breast Cancer Awareness Month (October). We plan to have a radiologist and/or a breast surgeon speak and we are hoping to register some of the audience members for the free mammograms to be given later in the year.

In Celebration Of

# Women's History Month

The  
Gender Fairness Committee  
Proudly Presents  
The

## RUTH E. MOSKOWITZ AWARD

To

Hon. John Leventhal  
Hon. Albert Tomei  
James Imperatrice  
Thomas Kilfoyle, Esq.

March 20th, 2003  
1:00 P.M. to 2:00 P.M.  
Room 224  
360 Adams Street  
Brooklyn, N.Y.

EVERYONE WELCOME, LIGHT RECEPTION TO FOLLOW

Hon. Marsha Steinhardt, Chair



Please join us in support of  
*Sexual Assault Awareness Month*

*Tuesday, April 23, 2002*  
*1:00 PM - 2:15 PM*

*Brooklyn Supreme Court*  
*Room 774*

*Panel Discussion by Survivors of Sexual Abuse*

*conceived and coordinated by*

*Grace A. Berman*

*and*

*Donna Robin Lippman, M.S.*

*Executive Director - Incest Awareness Foundation, NYC*

*Sponsored by:*

*Administrative Judge Ann Pfau*

*Second Judicial District Gender Bias Committee, Hon. Marsha Steinhardt, Chair*

*Domestic Violence Awareness Sub-Committee, Hon. Matthew J. D'Emic, Chair*

# Bring Your Child To Work Day Program

Program for 9-17 years old.

8:30 a.m. - 10:00 a.m.  
Registration and Photos  
(Courtroom 461)

10:30 a.m. - 12:30 p.m.  
Mock Trial  
(Courtroom 461)

12:30 p.m. - 1 p.m.  
Hon. Ann T. Pfau  
Administrative Judge, Second Judicial District  
and  
Tiffany Walker, Ms. New York City  
(Courtroom 461)

1 p.m. - 2 p.m.  
Lunch with Parent or Guardian

2 p.m. - 3 p.m.  
View Mock Trial  
(11<sup>th</sup> floor boardroom)

NY LAW JOURNAL  
Friday, May 3, 2002  
p. 1, col. 2

**Albany County** Family Court Judge Gerard E. Maney has been named supervising judge of the family courts in the Third Judicial District and an acting justice of the Supreme Court. Judge Maney will oversee Family Court operations in Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and Ulster counties. The appointment was made by Chief Administrative Judge Jonathan Lippman. Judge Maney has served as an Albany County Family Court Judge since 1991. He succeeds Christian F. Hummel, recently elected to Surrogate's Court.

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BROOKLYN DAILY BULLETIN  
Wednesday, April 24, 2002  
p. 12, col. 1

**Supreme Court Sexual Assault Awareness Month Program Held at Supreme Court**  
One Out of Four Girls Are Believed To Have Been Victims

**By Susan Master, Esq.**  
Brooklyn Daily Eagle

ADAMS STREET - "Incest and sexual assault happens more often than we realize and would like to believe," said Allison Bird, president of the Incest Awareness Foundation.

To educate members of the Kings County Supreme Court, Donna Robin Lippman, MS, executive director of the Incest Awareness Foundation of New York City and Grace Berman, court clerk specialist in the Kings County Supreme Court Civil Term, conceived of and coordinated a panel discussion of sexual abuse survivors.



Administrative Judge Ann Pfau



Justice Marsha Steinhardt



Justice Matthew D'Emic

The program was sponsored by Administrative Judge Ann T. Pfau, Second Judicial District Gender Bias Committee chair Judge Marsha Steinhardt, and Domestic Violence Awareness Subcommittee chair Judge Matthew D'Emic. The panelists were Donna Robin Lippman, Grace Berman, Allison Bird, and, Gaetane Martin.

Judge Pfau was pleased with the terrific turnout of more than 50 members of the court community

who came to this court employee initiative. She appreciated the "richness and texture that employees bring" and hoped that they "all learn something they did not know."

Part of what everyone learned were the alarming statistics of the incidence of incest, as reported in a 1990 study. One in four girls and one in seven boys are believed to carry this burden of shame and fear into their adulthood.

Panel moderator Lippman said that incest survivors eventually "find the need to put their secrets out." She explained, "It's exhausting being an incest survivor. It's like carrying an elephant on your back."

That elephant is the burden of pain, fear, shame, and guilt that incest victims feel. A burden which belongs to the criminal perpetrator, noted Gaetane Martin, and not the victim. Martin, a member of the Incest Awareness Foundation, said she used all of her energy to find a new life, but nonetheless carried her rapist's shame and guilt.

"He took away my birthright of freedom and fulfillment," she said.

"The Incest Awareness Foundation offers opportunities for survivors of incest to get together to experience community," said Bird. "The key to healing is knowing you are not alone," she continued. The organization sends speakers into the community to teach about sexual abuse.

"Officers of the court are mandated to report child abuse, but unlike black eyes and broken bones, the signs of incest are hard to spot," said Bird.

Unfortunately, added Lippman, when the organization sent out thousands of flyers to school personnel to invite them to their annual conference, the only ones who responded were those with a history of incest themselves.

After the panelists shared their personal experiences with the audience, Lippman reminded everyone, "We are bombarded with images from the media, but this is the real story."

There were several judges and many court personnel in the audience, some of whom took an active part in a discussion about what they can do to help. Bird said, "it is important to understand the role you can play in the life of a child whose case you are investigating. Be open to what you hear, and try to separate your feelings from theirs."

Telltale signs to look for are weight changes, drug use, intentional self-infliction of wounds, suicide attempts, addictions, overachieving attitudes with no margin for error, as well as doing poorly in school and having unhealthy relationships. The panelists said they coped with their attacks by leaving home and emigrating to the United States, changing their name, and gaining 100 pounds in two years.

Berman explained that victims do not tell about their experiences because they do not want to be ostracized by friends, family, and colleagues. If children are given a safe environment in which their stories are believed and the issues are legitimized, they may be more apt to speak up. "I want to serve as a role model for those who still hide in shame."

Berman feels that the best thing someone can say when they hear a victim's story is "I am very sorry that that happened to you."

In the audience were Brooklyn Bar Association Executive Director Avery Okin, Kings County Supreme Court Judges Ann Feldman, Carolyn Demarest, Matthew D'Emic, Marsha Steinhardt, and Family Court Judge Bruce Balter.

Judge Batter noted that in his courtroom, he has seen "more concern for the perpetrators of incest than for the victims," but fortunately forensic evaluators gave one of these girls the courage to take the leap forward and address her situation.

Berman concluded, "Incest destroys childhoods, innocence, families, and relationships." It is something victims never forget, but should not control them.

Judge Steinhardt considered the panel discussion "a meaningful and dynamic program" and she said, "I have never been in the presence of such courageous people."

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NY LAW JOURNAL  
Friday, May 3, 2002  
p. 3, col. 1



PHOTOGRAPH BY ALAN SOLOMON

### **State Bar Celebrates 125 Years**

More than 130 people from around the state helped the New York State Bar Association celebrate its 128th Anniversary in Albany on Tuesday. State Bar President Steven C. Krane, left, joined Chief Judge of the State of New York Judith S. Kaye, center, and past president Henry G. Miller (1984-1985), of Clark, Gagliardi & Miller, at the event, which was held at the association's headquarters.

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BROOKLYN DAILY BULLETIN  
Tuesday, March 25, 2003  
p. 14, col. 1

## Let Hollywood Keep Oscar; We've Got Ruthie!

By Elizabeth Stull

Brooklyn Daily Eagle

ADAMS STREET - Though less publicized and perhaps less glamorous than the recent Hollywood awards ceremony, the Second Annual Ruth E. Moskowitz Awards were no less meaningful to Brooklyn honorees, friends, and families.

"Set thy heart upon thy work but never upon its reward: but never cease to do thy work," said Justice Albert Tomei, quoting an ancient Hindu poem as he accepted his Ruth E. Moskowitz Award last week.



ABOVE LEFT: Justice John Leventhal with his mother.  
ABOVE: Justices Albert Tomei and Anne Feldman.

This year, the Gender Fairness

Committee presented the Second Annual "Ruthie" Awards to four men: Justices John Leventhal and Tomei, and Chief Clerks James Imperatrice and Thomas Kilfoyle, Esq. The irony was not lost on award presenters.

"Fairness knows no gender," said Justice Michelle Patterson, as she welcomed attendees to the Kings County Supreme Court ceremony. "Ruth Moskowitz was a colleague and a friend. Her judicial independence knew no boundaries."

Justice Moskowitz, who died in 1996 at age 60, became the first woman elected to the state Supreme Court in Brooklyn, in 1976. She was dedicated to civil rights, committed to judicial independence, and a loyal friend.



Moskowitz's husband, Martin Gershon, daughter Leah, and identical twin sister, Ann, attended Thursday's ceremony.

"In the early part of the last century, [women] had few rights," said Justice Yvonne Lewis. "We've come a long ways - we have come this far. We don't know how far we have to go."

Justice Lewis observed that women represent 51 percent of the population, but only 23 percent of elected state officials. "We have to exert a bit more effort than we have done," she said, suggesting that psychosocial stereotyping still begins when a baby is first identified as a boy or a girl.



Administrative Judge Ann Pfau  
with Award-Winning Chief  
Clerks Thomas Kilfoyle, Esq.,  
and James Imperatrice.  
Photos by Mario Belluomo

"To be successful, a woman must be better at her job than a man," said Lewis, quoting both her mom and Golda Meir.

"Half of all law students are women; but not half of the people in law firms or on the bench, where the money and power lie ... [O]ne hundred percent of the mothers are women, and I raise my hat to those. We need women's influence in every aspect of human endeavor."

Justice Lewis urged women to be active in human rights, as the best way to help women's rights.

"As recently as the 1970s women's history was virtually an unknown topic," said Justice Marsha Steinhardt, chair of the Gender Fairness Committee and a true "Brooklyn daughter." She explained the evolution of Women's History Month from an educational project in California in 1978, to a presidential proclamation.

### Brooklyn Stars Of Gender Fairness

In 1977, Justice Anne Feldman became the second woman elected to the Supreme Court after Justice Moskowitz. Thursday, Feldman remembered that they were regularly addressed as "gentlemen."

People went out of their way to ignore or to extravagantly praise the women judges, as if they were

incapable of doing anything notable, Justice Feldman recalled.

But "Al [Tomei] treated women fairly and even had lunch with them," Justice Feldman said, as she presented Justice Tomei with a Ruthie Award. He had a female law clerk when it was not common. "He would have marched for women's rights and never noticed that he was the only man marching," Justice Feldman claimed.

"When I get up in the morning I want to go to work, to go to my second family, the outstanding women and men at 360 Adams Street," said Justice Albert Tomei, in his acceptance speech.

"I consider myself very lucky and fortunate to have an occupation that I truly love. Whatever I have done, accomplished or achieved as a judge within these past 25 years could not have been done without the support staff of this court," said Tomei.

Justice Tomei studied with Moskowitz at Brooklyn Law School. "Her legacy of excellence in the law, for fairness, for integrity, for courage and for equality under the law has set a high bar for any [Award] recipient.

"To this day I still miss her smile, the sound of her voice, her spirit of egalitarianism and the pleasure of her company," said Tomei. He also expressed gratitude to Justice Feldman, for her steadfast friendship.

"The work of a judge is lonely work, work done in isolation, work that requires you and no one else to make decisions that have a huge impact on the citizenry of the community."

Tomei thanked Feldman for her "intelligence, wisdom, moral coverage, honesty, and ability to really listen".

Justice Tomei's wife Lynda, who convinced him that a two judge bench is best, his daughter Elisa, who "can reverse me in seconds flat," and his mother Rita attended the Awards ceremony. Tomei praised his parents' successful production company, "the Tomei's."

Justice Esther Morgenstern presented the Moskowitz Award to another leader of gender fairness, Justice John Leventhal: "a true champion for women's rights."

In 1997, a reluctant Justice Leventhal was appointed to preside over the first felony Domestic Violence Court, and he has made it a model of success that is emulated in other jurisdictions. Domestic violence has become more visible as an issue, and less taboo, in Brooklyn and across the country.



Last week, the Gender Fairness Committee at Kings County Supreme Court presented the Second Annual Ruth E. Moskowitz Awards to four distinguished men. In addition (above), Hon. Marsha Steinhardt, Gender Fairness Committee chair, presented Izetta Johnson with a Special Award.

"Before it was fashionable, everyone knew what was right and wrong. Ruth Moskowitz acted on what was right before it was fashionable," said Leventhal, of Moskowitz's civil rights actions.

"I was scared to do it," Leventhal admitted. "But I did it, and we made it fashionable. Thanks to the supervision of Judge Pesce and Judge Pfau."

"Batterers intervention groups don't change an attitude," said Leventhal. "It's a matter of power and entitlement that society must change over the next few years. In the courts, we must address overtures of violence until we come to terms with this attitudinal change.

"It would be perfect if we all saw with our hearts," he concluded. Justice Leventhal thanked his mom, and the mother of his child, both of whom were in the audience, last week.

Finally, Administrative Judge Ann Pfau presented Moskowitz Awards to Chief Clerks James Imperatrice and Thomas Kilfoyle, Esq. The chief clerks "personify justice and integrity," said Judge Pfau: "they are the best possible role models for everyone."

"They gave up their palatial offices to help out a novice administrative judge," said Pfau, who became Brooklyn's Administrative Judge last year. "[Tom] is always right. Jim knows everything ... Their professionalism and pride in everything they do is contagious.

"We could not be first in state in almost all categories, without them," said Pfau.

"The last year has been exciting, challenging, and wonderful," said James Imperatrice, in his acceptance speech. He thanked the Committee for presenting him and Tom with their own awards. "We don't always get our own," he noted, joking about the awkwardness of sharing a trophy.

Imperatrice met Moskowitz when he was a new court officer, in 1973. Like others, he learned from her example. "I learned that attorneys could wear sneakers to the courtroom," he said. "I was thrilled when she became a judge, and thrilled again when I got to be bridgeman for her."

"It is very special to have my name again associated with my friend, Ruth Moskowitz," Imperatrice concluded.

"I was lucky to work with Judge Moskowitz," Thomas Kilfoyle, Esq., agreed. "She was honest, fair, compassionate. Thanks to everyone," he said. "To my wife, and to Judge Moskowitz for showing us how it should be done."

A special award was presented to Izetta Johnson for her spirit and dedication, the "backbone of our court." Johnson accepted on behalf of everyone on the Gender Fairness Committee.

### **The Woman Behind the Award**

Moskowitz became the first woman elected to the state Supreme Court in Brooklyn, in 1976. The Award is one of many manifestations of the spirited judge that survived her.

Justice Moskowitz graduated from Brooklyn College with a bachelor's degree in sociology, and took her master's from the University of Connecticut. Then, in the summer of 1961, she joined the civil rights movement.

On a mission to integrate a Jackson, Miss., lunch counter, she was arrested and charged with trespassing.

While in solitary confinement in a Mississippi prison, Moskowitz decided to become a lawyer. She returned to Brooklyn to attend Brooklyn Law School, graduating in 1964. Moskowitz then went to work for Legal Aid, before her election to the bench.

In the 1980s, Justice Moskowitz faced public criticism for sentencing former parking-meter collectors who had pocketed several thousand dollars. Because they had no prior records, she ordered sentences that did not include jail time, fines, or restitution.

Mayor Koch himself appeared in court to support the people's demand for heavier sentences. But he received only a reprimand for his trouble. Justice Moskowitz suggested he concern himself with the administration's supervision, and declined to amend her decision.

The defendants were "little people," she said, but they had the same rights as "the big boys," she said, alluding to politically connected officials involved in corruption scandals.

In a more recent decision, *Boyette v. Lafevre*, Justice Moskowitz found that the prosecutor withheld material exculpatory documents and vacated the defendant's conviction. Her 1994 decision was eventually affirmed by the Second Circuit Court of Appeals in 2001.

On appeal, the Second Department reversed because "the defendant failed to demonstrate that he had, in fact, been denied certain materials to which he was entitled," certain of the items allegedly withheld were not *Brady* material; and even if the materials were not delivered and were *Brady* material, no prejudice resulted to defendant. *People v. Boyette*, 201 A.D. 2d 490, 491 (2d Dep't 1994).

The federal district court affirmed, and on appeal, the Second Circuit applied the deferential review standards imposed by the Anti-Terrorism and Effective Death Penalty Act ("AEDPA") to the factual findings and mixed findings of fact and law that could be inferred from the state court opinion, and reversed.

Throughout her career, Moskowitz served as a model of judicial integrity, and an inspiration to those who knew her.

"I hope that within my lifetime there will be no more glass ceilings, no more first woman this or that," Justice Tomei said last week. "[A]ll of the women of the world will take their rightful place at the table of humanity and share equally in the bounty they so richly deserve."

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