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*Sabrina Charles-Pierre,
Editor*

ROCKLAND COUNTY BAR ASSOCIATION



NEWSBRIEF

www.rocklandbar.org

January 2018

President's Post

To the members of the RCBA;

It brings me much happiness to extend greetings to you in my first President's message of the New Year. I hope you all enjoyed the holidays and are back to work with a renewed spirit.

2018 marks the start of the RCBA's 125th Anniversary!! Our first meeting was held in December 1893 at the St. George Hotel in Nyack, New York. We will be commemorating this momentous occasion throughout our 125th year and I will be looking to you for help and assistance with the planning. In my remarks at our installation, I stated I would be forming a working group to help organize the celebrations and commemorations of our 125th year. **Now is the time!** Please reach out to me at acomposto@compostolaw.com if you are interested in taking part in this working group!! We have been a working Bar Association for 125 years and I know, with members such as you, we will see another 125 years to come.

Until Then, My Best;

Andrea F. Composto, Esq.



**IMPORTANT
NOTICE!** 

**SOLICITATION OF NOMINEES FOR UPCOMING VACANCIES ON
THE RCBA BOARD OF DIRECTORS**

Pursuant to Article V, Section 9(c) of the by By-Laws of the Rockland County Bar Association, applications are now being solicited for upcoming vacancies on the Association's Board of Directors. There will be 5 open vacancies on the Board of Directors for terms beginning on July 1, 2018.

Anyone wishing to be a candidate for election to the Board must express their interest, in writing, no later than February 1, 2018. The writing should include the reasons why the member believes he or she is qualified to serve on the Board.

The Nominating Committee will conduct in-person interviews of all candidates. Failure of the candidate to appear at their scheduled interview will disqualify that candidate from consideration.

Upon conclusion of all interviews, the Nominating Committee shall meet and select nominees. Selection of nominees will be completed no later than March 10, 2018. Notice of selected nominees will be sent to the entire membership no later than March 20, 2018.

Please submit your applications in writing to:
Nancy Low-Hogan, Ph. D.
Executive Director
Rockland County Bar Association,
337 North Main Street, Suite 1
New City, N.Y. 10956

U.S. Postal submissions and E-mails to nancy@rocklandbar.org will be accepted in addition to personal deliveries.

Deadline for responses is February 1, 2018.

Any member not selected by the Nominating Committee, whether or not he or she solicited nomination before the Nominating Committee, wishing to have his or her name placed in nomination for election to the Board, shall submit a petition to place his/her name before the membership. The petition must be signed by no fewer than 20 members in good standing with the Association, and must be submitted in person at the Bar Association offices no later than April 5, 2018.

CLE TIME

MEDICINE IN THE COURTROOM



NEW DATE!

JANUARY 24, 2018

6:00pm - 9:00pm

BANCHETTO FEAST

75 WEST RT. 59 & S. MIDDLETOWN RD.

NANUET, NY 10954

PLAN OF THE LAWYER REFERRAL SERVICE

The Rockland County Bar Association under the guidance of the American Bar Association, has established a Lawyer Referral Service (“The Referral Service”) on a County-wide basis. The office is located at the Rockland County Bar Association, 337 North Main Street, Suite 1, New City, New York 10956.

The willing participation and continued support of lawyers practicing in Rockland County is crucial to the smooth operation of the Referral Service.

The purposes of the Referral Service are:

- To be a public service, available to assist the general public by providing an alternative source for any person who can afford to pay a reasonable fee for legal services and who does not have a lawyer by providing a referral to a lawyer who practices in Rockland County.
- To provide a vehicle for persons who need a legal representative but whose earnings or assets are too high for the standards set by Rockland County Legal Aid Society or Pro Bono New York; and
- To establish a better rapport between the public and the legal profession.

The Referral Service Plan is not designed to take clients away from attorneys. In fact, a cardinal principle will be to establish whether a prospective client has a present attorney. The Referral Service will not refer the client to a panel attorney of the Referral Service if we learn that a prospective client has seen other attorneys in an effort to bargain on fees. Additionally, a prospective client shall not be referred to a panel attorney if the prospective client has previously engaged the services of a lawyer on the same matter unless the original-lawyer-client relationship has been properly terminated in writing.

1. Membership on the Referral Service Panel is by individual attorney and not by law firm.
2. A panel attorney must abide by all of the rules of the Referral Service and will in no way hold, or claim to hold, the Rockland County Bar Association, the Referral Service or any of the members, officers or employees liable in connection with any referral made.

***Won't you consider joining this important service? Find out more. Go to: www.rocklandbar.org.
Go to “Member Resources.”***

LAWYER REFERRAL SERVICE (LRS)

TIME TO RENEW OR JOIN FOR 2018

The Lawyer Referral Service (LRS) program year runs from
January 1 – December 31.

It is time to renew or join!

TO RENEW:

Go to homepage on our website, www.rocklandbar.org, and go to “Member Resources.”

1. Click on “Join the Lawyer Referral Service”
2. Log-in to your account
3. Click on “2018 Renewal Form”

TO JOIN:

Go to homepage on our website, www.rocklandbar.org, and go to “Member Resources.”

4. Click on “Join the Lawyer Referral Service”
5. Log-in to your account
6. To Sign-up for the first time: click on “Plan Description and Full Application”

Join or Renew!

HOLIDAY PARTY



COMMERCIAL LITIGATION ISSUES OF INTEREST**January 2018****Submitted by Paul Savad, Esq.****Chair, Commercial and Corporate Law Committee,****Joseph Churgin, Esq., and Susan Cooper, Esq., of****SAVAD CHURGIN, LLP, Attorneys at Law**

Your client has an exclusive 10-foot-wide easement over his neighbor's property along their shared 27-foot-long rear property line. The neighbor's property is improved with a residential apartment building. The exclusive easement is for your client's personal use as a garden, patio, deck, storage, and other non-commercial uses. Your client plans to convert his multi-story industrial building into a residential condominium apartment building with a below-grade garden that is accessible from the basement and extends into the easement area. The garden will require excavation to 12 feet deep and construction of a new retaining wall. The neighbor refuses to allow your client to construct the garden. You bring an RPAPL Article 15 action to determine claims to real property, seeking a permanent injunction prohibiting the neighbor from interfering with construction of the garden. The neighbor moves to dismiss the complaint, arguing that the proposed excavation exceeds the rights conveyed by the garden easement. Will you defeat the motion to dismiss?

The answer is no.

In *41 Great Jones Holdings, LLC v. Bd. of Managers of 40 Bond Condominium*, 157032/2014, NYLJ 1202798314509 (Sup. Ct. N.Y. Co. 2017), the plaintiff brought an RPAPL Article 15 action to declare the parties' rights concerning a 99-year exclusive easement in favor of the plaintiff over a portion of the rear of the defendant's property. The plaintiff's and defendant's rear yards shared a 27-foot property line. The defendant's property contained a multi-story residential building. The plaintiff planned to convert its multi-story industrial building to a residential building with a walk-out, cellar-level garden, extending into the easement area. The plaintiff refused to allow the defendant access to construct a below-grade garden, which required excavation to 12-feet deep.

In 2001, the prior owner of the defendant's lot conveyed the 10-foot by 27-foot, 99-year easement to the plaintiff along the rear property line for the plaintiff's personal use as a garden, patio, deck, storage, planting, light commercial storage of non-hazardous materials, and other non-commercial uses. The easement prohibited the construction of any building, structure, or other obstruction, and contained an acknowledgement that the grantor planned to construct a multi-story building immediately adjacent to the easement.

The plaintiff moved for summary judgment on the complaint and for a permanent injunction preventing the defendants from interfering with the excavation and construction. The defendant cross-moved to dismiss the complaint.

The Court cited a collection of cases discussing the principles governing a court's determination of the intent of an express easement. Ultimately, the Court determined that the plaintiff's right to erect a garden on the servient lot is not unfettered, noting that the holder of an easement "cannot materially increase the burden of the servient estate or impose new and additional burdens on the servient estate," citing *Solow v. Liebman*, 175 A.D.2d 120, 121 (2d Dep't 1991). The Court noted that it was unlikely that the two sophisticated parties would not have included "excavation" in the easement if they intended to authorize the grantee to undertake significant excavation or erect a use at a significant depth below grade. The significant construction for placement of a garden at 12-feet below grade "are neither reasonable nor necessary to fulfill the terms of the 99-year easement, and thus beyond the rights conveyed by the easement agreement...."

The Court denied the plaintiffs' motion for summary judgment and for a permanent injunction. The Court converted the cross-motion to dismiss the cause of action for declaratory relief into a motion for a declaration in its favor, citing *Pilgrim v. Pantorilla*, 144 A.D.2d 882 (2d Dep't 2016), and declared that "the easement does not permit the plaintiff to excavate the servient lot in the manner it has proposed, or to erect a garden 11-12 feet below grade level on that portion of the servient lot."

The lesson? When preparing an easement for your grantor client, be precise in detailing and limiting the permitted use. Consider excluding any use not expressly stated, and provide that the easement does not permit a change in grade.

MOCK TRIAL

ROCKLAND

We are pleased to announce
the return of Mock Trial to Rockland County in 2018.
Local competition will begin in March, with Regional Finals in April and State
Finals in May in Albany.

Participating schools:
Albertus Magnus High School
Clarkstown North High School
Clarkstown South High School
Nyack High School



THE NEW UPDATED CONDO & CO-OP LIST

CAN BE FOUND ON OUR WEBSITE –

WWW.ROCKLANDBAR.ORG

GO TO:

Member Resources

Attorney Resources

Condo & Co-op List

You are cordially invited
to attend the

Administration of the Oath of Office of

HONORABLE KEITH J. CORNELL
Rockland County Surrogate

Thursday January 11, 2018
3:00 p.m. promptly

JURY ROOM
Rockland County Courthouse
1 South Main St., New City, NY 10956

Reception to follow.

Please see these important announcements inside this issue of Newsbrief:

- 1. Solicitation of Nominees for Upcoming Vacancies on the RCBA Board of Directors (page 2).**
- 2. Lawyer Referral Service (LRS) - time to renew instructions (page 5)**



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Brian K. Condon

is pleased to announce his partnership with

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and the firm of

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& MARA PLLC
ATTORNEYS AT LAW**

55 Old Turnpike Road, Suite 502
Nanuet, New York 10954

Telephone: 845-627-8500

Fax: 845-627-8507

Website: www.CCMLawOffices.com

Please note the change to our office email addresses.

Brian@CCMLawOffices.com

Laura@CCMLawOffices.com

Amy@CCMLawOffices.com

Winter Wonderland

**ASSIGNED COUNSEL PANEL
MEMBERS PLEASE NOTE:**

**THE 2017 FISCAL YEAR HAS COME TO A
CLOSE. PLEASE SEND IN YOUR
VOUCHERS FOR CASE COMPLETED.
DO NOT HOLD YOUR VOUCHERS FOR
THE 2018 BILLING CYCLE.**

DON'T FORGET!

**LEGAL RESEARCH
& WRITING**

- Trial and Appellate Courts
• Motions • Memoranda • Briefs •
• Oral Argument •



SUSAN COOPER, ESQ.

845-304-2969

SusanCooperEsq@gmail.com

Getting involved is important.

At M&T Bank, we know how important it is to support those organizations that make life better in our communities. That's why we offer our time and resources, and encourage others to do the same. [Learn more at mtb.com](http://mtb.com).


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Suffern, NY 10901
Tel# (845) 357-6800
Fax# (845) 357-4616

Michael E. Zall
Attorney At Law
Mike@Zall-Law.com

MEMO

TO ALL RCBA COMMITTEE CHAIRS & VICE- CHAIRS

The Association is seeking articles from your committee for publication in the Bar's monthly Newsletter. The membership would greatly benefit from your input and would appreciate it. The article does not have to be complicated or long - a succinct piece of general interest and importance would be best.

If you are able to submit an article for the Newsletter it should be sent via email to sabrina@rocklandbar.org by the 15th of the month so that the Executive Board may review it.

Thank you!



Monthly
Newsletter

Bankruptcy
Tax Analysis

Offer in
Compromise

Unfiled Tax
Returns

**IRS
PROBLEMS**

Penalty
Abatement

WE DO IT ALL...WE CAN HELP!



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The Tax Problem Solvers

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Phone: (845) 638-4527 | Fax: (845) 638-4529
email: jim@deminno.tax | www.deminno.tax

**We are looking for
Spanish-speaking attorneys for
Assigned Counsel panels.**



News from the Executive Director

RCBA STAFF UPDATE

*Below please find a break-down of major areas of responsibility for the
RCBA Staff:*

ASSIGNED COUNSEL COORDINATOR – MANUELA GOMEZ

LAWYER REFERRAL SERVICE COORDINATOR – MANUELA GOMEZ

CLE COORDINATOR – SABRINA CHARLES – PIERRE

ADVERTISING/NEWSLETTER – SABRINA CHARLES – PIERRE

EXECUTIVE DIRECTOR – NANCY LOW – HOGAN, Ph.D.

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*Investment management services provided by our affiliate, Hudson Valley Investment Advisors, Inc., a wholly-owned subsidiary of Orange County Bancorp, Inc.



HAPPY NEW YEAR

2018



We thank our members for their continued support and wish everyone a 2018 filled with happiness and success!

The Rockland County Bar Association's Board of
Directors & Staff

COMMITTEE CORNER

1st Meeting of the new RCBA Immigration Committee will be held Tuesday, January 23, 2018 at 5:30 p.m. at the RCBA Offices. All are welcome. Please RSVP to Manuela Gomez at manuela@rocklandbar.org

**ALL ADVERTISEMENTS
AND ARTICLES MUST BE
REVIEWED BY THE
EXECUTIVE COMMITTEE
FOR CONTENT.**

Need a Place to Meet in New City?

RCBA Conference Rooms
available for rent.

MEMBER PRICES:

**1st two hours FREE, then \$25/hour
Full Day (8 hours) = \$140.00**

NON-MEMBER PRICES:

**\$50/hour
Half Day (4 hours) = \$150.00
Full Day (8 hours) = \$300.00**

NEWSBRIEF ADVERTISING RATES

FULL PAGE (7.5x10.25)	\$400.00
1/2 PAGE (7.5x5):	\$250.00
1/4 PAGE (3.75x5):	\$200.00
1/8 PAGE (3.75x2.5):	\$125.00
BUSINESS CARD:	\$75.00



NEWSBRIEF ADVERTISING RATES CONT.

Announcing New Discounts:

- 10% for 6 mo. bookings
- 20% for 1 year bookings

PLEASE NOTE:

**NEWSBRIEF IS NOT PUBLISHED IN JULY
CALL SABRINA @ 845-634-2149
TO ADVERTISE IN NEWSBRIEF**

Advertising & articles appearing in the RCBA Newsletter does not presume endorsement of products, services & views of the Rockland County Bar Association.

2017-18 SPONSORSHIPS

Our 2017-18 Sponsorship Year began July 1, 2017 and continues through June 30, 2018.

There are several types of Sponsorships still available.

See complete details on our website under "About."



CLE CORNER

PLAN YOUR YEAR OF CLE'S NOW

2018 CLE Title	Date and Time
Medicine in the Courtroom NEW DATE!	Wednesday, January 24, 2018 - 6:00pm - 9:00pm
Diversity	Monday, February 5, 2018 - 12:00pm - 2:00pm
Divorce Fraud Forensic Red Flags & Financial Pitfalls of Divorce	Monday, February 12, 2018 - 6:00pm - 9:00pm
Criminal Practice	Thursday, March 8, 2018 - 1:00pm - 4:00pm
Mortgage Foreclosure Update	Tuesday, March 27, 2018 - 6:00pm - 9:00pm
Drug Court – Incentives and Sanctions, Addiction Neuroscience	Thursday, April 5, 2018 - 6:00pm - 9:00pm
2017 Elder Law Update	Wednesday, April 18, 2018 - 12:00pm - 2:00pm
CPLR Update	Friday, May 4, 2018 - 1:00pm - 4:00pm
Family Business: Legal and Accounting Issues	Monday, May 21, 2018 - 6:00pm - 9:00pm
Elder Law and Special Needs Planning Update	Thursday, June 7, 2018 - 6:00pm - 9:00pm

CLE REQUIREMENTS

Newly admitted attorneys must complete 32 credit hours of accredited “transitional” education within the first two years of admission to the Bar. Sixteen (16) credit hours must be completed in each of the first two years of admission to the Bar as follows: 3 hours of Ethics and Professionalism; 6 hours of Skills; 7 hours of Practice Management and/or areas of Professional Practice. Experienced Attorneys must complete 24 credit hours of CLE during each biennial reporting cycle: 4 credit hours must be in Ethics and Professionalism. The other credit hours may be a combination of the following categories: Ethics and Professionalism, Skills, Practice Management or Professional Practice.

CLASSIFIED ADS

SITUATION WANTED

Attorney seeking to rent a law office space in the New City Area. If you are an attorney with an extra office to rent, kindly contact me at 624-1041. Willing to share expenses. Ask for Ira.

PART-TIME OFFICE - NEW CITY

Office in New City available to use on your letterhead, accept packages, meet with clients, hold conferences, send faxes, accept mail, meetings at day or night, receptionist, waiting area for clients, very ample free parking, private bathroom. Perfect for practitioner with home office who needs a public presence. Low monthly fee. Call Bill at 845-300-9168.

OFFICE FOR RENT

North Main Street, New City 11' x 13' with closet. Access to waiting room, bathroom and kitchenette. Bright and clean, freshly painted. Please call Carol at 914-557-5750.

OFFICE SPACE

New City- 4 adjoining office suites, approx. 1800 sq. ft. total, can combine/ divide to suit individual user(s) needs -South Main Street, walk to courthouse, restaurants, gov't buildings, ample parking. Call Arthur 845-359-3560

OFFICE SPACE

Office Space available in New City. Attorney or Accountant preferred. Please call us for details. DaSilva & Hilowitz LLP (845) 638-1550

STORAGE SPACE - ORANGEBURG

Storage space for legal files available. 180 square foot storage space. 24/7 access. Currently used by local lawyers for storage. Premises are located in Route 303 in Orangeburg and are sprinklered. \$225.00/month, no lease required. Contact Bruce : 845-359-5400

OFFICE FURNITURE FOR SALE

Priced to sell. Vertical and lateral file cabinets, storage units, desks, chairs, conference table, book cases, credenza, tables, dividers, bulletin boards, white board. Please call Madelon at 914-527-2400 for information. Items are located in New City.

ATTORNEY WANTED

New City, Rockland Law Office seeks attorney with experience in Personal Injury, Workers' Compensation, Dental/Medical Malpractice, Nursing Home Neglect. Prefer minimum of 5 to 10 years plus experience in some or all of these areas. Deposition and Trial experience a plus. Salary and Benefits to be discussed. Call 845.598.8253. Email: vcrownlaw@aol.

NEWLY ADMITTED ATTORNEY

Rockland County PI firm looking for newly admitted attorney (or awaiting admission) -- we are willing to train the right candidate in all phases of personal injury litigation...submit resume to Lawyers@pilaw.com.

WORKERS' COMP. ATTORNEY WANTED

Perez & Morris LLC, a national client based law firm, seeks an experienced workers compensation attorney (at least one year) to handle NY workers compensation cases out of our Rockland County, NY office. We offer a competitive salary and benefit package. Email your resume to mdonohue@perez-morris.com.

ATTORNEY WANTED

New City, Rockland County, NY Law Office seeks attorney with some experience to handle all aspects of our Workers' Compensation cases in a busy and friendly small personal injury/malpractice law firm. Salary and Benefits to be discussed. Call 845-598-8253. E-mail: vcrownlaw@aol.

IMMIGRATION ATTORNEY WANTED

Immigration Attorney Wanted: New City Law Office seeking an attorney with immigration experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Also willing to assist with family law/bankruptcy/collections and loan modifications a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail: michael@demoyalaw.com

LEGAL ASSISTANT WANTED

Entry level position available for part-time bilingual assistant. Located in New City, NY. Please call 845 709-6800

MATRIMONIAL ATTORNEY WANTED

Attorney Wanted: New City Law Office seeking an attorney with matrimonial and family law experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail: michael@demoyalaw.com

ASSOCIATE ATTORNEY NEEDED

3-5 years litigation experience for busy Rockland County firm. Please forward resume to phabas@barpc.com or fax to 845-359-5577

RECEPTIONIST/CALENDAR CLERK WANTED

For busy personal injury practice in Rockland County; typing and computer skills necessary; Spanish speaking a plus. Submit resume to Lawyers@pilaw.com

SPANISH INTERPRETER

I'm interested in offering my services as a Spanish interpreter to the attorneys of the Rockland Bar Association. I have interpreted in Kings County Criminal Court and I am presently interpreting in Haverstraw Justice Court. I can interpret to help prepare for hearings and trials. I am willing to accompany attorneys to interpret in prisons or jails. I am available to meet interpretation needs professionally an affordably. I can be reached at (845) 743-1151 or joanneconde7@gmail.com

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