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Sabrina Charles-Pierre,
Editor

ROCKLAND COUNTY BAR ASSOCIATION



NEWSBRIEF

www.rocklandbar.org

January 2019

HAPPY NEW YEAR!

WON'T YOU CONSIDER

JOINING THE

RCBA

LAWYER REFERRAL SERVICE?

A new year begins January 1, 2019.

Annual fee = \$100.00 for 2019*

Find out more:

Go To: www.rocklandbar.org

Click on "Member Resources"

Click on "Join the Lawyer Referral Service"

IT'S TIME TO JOIN OR RENEW.

Grow your practice today!

*For Attorneys admitted 5 years or less cost is only \$75. Annual fee includes up to 3 panels. Additional panels up to 8 panels available for additional \$20 fee per panel.

IMPORTANT NOTICE!



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

Pursuant to Article V, Section 9(c) of the 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 6 open vacancies on the Board of Directors for terms beginning on July 1, 2019.

Anyone wishing to be a candidate for election to the Board must express their interest, in writing, no later than February 1, 2019. 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, 2019. Notice of selected nominees will be sent to the entire membership no later than March 20, 2019.

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, 2019.

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, 2019.

LAWYER REFERRAL SERVICE (LRS)

TIME TO RENEW OR JOIN FOR 2019

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 “2019 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!

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."

THE PRACTICE PAGE

OBTAINING OUT-OF-STATE WITNESSES AND DOCUMENTS

Hon. Mark C. Dillon*

Subpoenas duces tecum and ad testificandum cannot be served upon non-parties who are out of state (Judiciary Law 2-b[1]). Doing so, where there is no jurisdictional predicate over the non-parties, renders such subpoenas void and unenforceable (*Peterson v Spartan Industries, Inc.*, 40 AD2d 807, aff'd., 33 NY2d 463). There are cases, conceivably, where out-of-state documents or witnesses are crucial to a party's claim or defense. What is an attorney to do if non-party materials or witnesses, which are out of reach under the normal subpoena processes, are needed to by a party to establish claims or defenses via summary judgment or at trial? The answer lies in either CPLR 3108 or the Uniform Interstate Deposition and Discovery Act ("UIDDA"), depending on the state where the non-party documents or witnesses are located.

CPLR 3108, which has been on the books since 1962, permits a New York court to execute a "commission" reflecting an official seal, requesting that it be honored by an out-of-state court. The commission, when presented to the out-of-state court, should result, as a matter of comity, in the execution by the foreign court of a subpoena that would be served and enforceable in the foreign state. If the subpoena seeks non-party documents, the responsive records may be transmitted directly to counsel in the normal course. If the subpoena is for either pre-trial deposition or trial testimony of a non-party witness, the testimony is to be taken within the foreign state. While CPLR 3117(a)(3)(ii) permits the reading the transcript at trial, Uniform Rule 202.15 and CPLR 3113(b) also permit its videotaping for use in accordance with that statute.

New York courts will not issue commissions under CPLR 3108 merely upon request. The party seeking the commission must meet a two-part test. First, the party must show that the foreign state witness or document custodian will not cooperate with a discovery notice and will not otherwise voluntarily come to New York to participate in the pre-trial discovery or trial (*Susan A. v Steven J.A.*, 141 AD2d 790, 791). The second test is to show that the non-party document or testimony is material or necessary to the party's claim or defense (*Misfud v City of New York*, 208 AD2d 701, 702).

The commission procedure of CPLR 3108 can sometimes be too time-consuming, particularly when there is a fast-approaching trial date, as it is layered with two different courts, a process server, and a non-party responder. New York adopted the streamlined procedures of the UIDDA in 2011, as embodied in CPLR 3119. Under the UIDDA, the party seeking out-of-state documents or deposition testimony may present a validly-executed New York subpoena to the clerk of the county in the foreign state where the discovery or testimony is sought. The clerk is to ministerially and promptly issue a parallel foreign state subpoena for service upon the person to whom it is directed. The language of the UIDDA does not speak to trial testimony, but only discovery. The subpoena is to be served, and any discovery issues resolved, under the laws of the foreign state (UIDDA secs. 4, 5, and 6). While attorneys in out-of-state actions may utilize CPLR 3119 to obtain records or deposition testimony from non-party New Yorkers, New York attorneys may only use the UIDDA in the 38 other states that have adopted it so far (Uniform Law Commission, available at www.uniformlaws.org/Act.aspx?title=Interstate%20Depositions%20and%20Discovery%20Act). Attorneys who wish to use the UIDDA must first determine that the foreign state has adopted it, and if so, carefully follow the language of the version adopted by that foreign state. Otherwise, attorneys must use the more cumbersome commission procedure of CPLR 3108.

CPLR 3108 and the UIDDA are not needed if out-of-state document custodians or witnesses are cooperative. But since the acquisition of documents or testimony is sometimes crucial from uncooperative sources, and the time elements of CPLR 3108 or the UIDDA are controlled by others, attorneys should utilize the available procedures as soon as practically possible in litigations.

Mark C. Dillon is a Justice of the Appellate Division, Second Department, and is an Adjunct Professor of New York Practice at Fordham Law School.

COMMERCIAL LITIGATION ISSUES OF INTEREST**January 2019****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, a foreign corporation with its principal U.S. office in New York, contracted to provide consulting services over a three-month period to a Delaware corporation located solely in Seattle. Your client did not receive all of the payments due for its services. You commenced an action for breach of contract in the Southern District of New York, claiming long-arm jurisdiction. You allege that the agreement contains a New York choice-of-law provision, that notices were to be sent to your client in New York, that the defendant communicated by email and telephone to your client in New York, that your client performed the services in New York, and that the defendant maintains an interactive website to communicate with users in all states. The defendant has moved to dismiss for lack of personal jurisdiction.

Will you defeat the motion?

The answer is no.

In *ICO Servs. Ltd. v. Coinme Inc.*, NYLJ 1545233235NY18Civ42, 18 Civ. 4276 (S.D.N.Y. December 17, 2018), ICO, a New York-based Hong Kong firm, contracted to provide consulting services for Coinme, a Delaware corporation offering cryptocurrency from its sole office in Seattle, Washington. The agreement was negotiated by Coinme from Seattle and signed by ICO in Hong Kong. The agreement contains a New York choice-of-law provision, and provides for notices to be given to ICO in New York, with no provision for where payments were to be made. The plaintiff performed the consulting services under the agreement primarily in New York from November 2017 to February 2018, during which time the parties exchanged emails and spoke by telephone.

ICO sued Coinme in New York for failing to pay half of what was owed under the agreement, claiming long-arm jurisdiction under CPLR § 302(a)(1), which provides for personal jurisdiction over a non-domiciliary who “transacts any business within the state or contracts anywhere to supply goods or services in the state.” Coinme moved to dismiss for lack of personal jurisdiction.

The Court weighed the four factors provided in *Sunward Elecs., Inc. v. McDonald*, 362 F.3d 17, 22 (2d Cir. 2004), for determining whether there is personal jurisdiction under New York’s long arm statute, noting that no one factor is dispositive, and the ultimate determination must be made based on the totality of the circumstances.

COMMERCIAL LITIGATION ISSUES OF INTEREST**January 2019****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**

The first factor – an “on-going contractual relationship with a New York corporation” – weighed against personal jurisdiction. The Court determined that the three-month contract was a “single short-term contract” insufficient to constitute an “ongoing contractual relationship” with ICO, citing *Schentag v. Nebgen*, No. 17 Civ. 8734, 2018 WL 3104092, at *19 (S.D.N.Y., June 21, 2018).

The second factor – negotiation or execution of the contract in New York and defendant’s visit to New York after execution of the contract – also weighed against personal jurisdiction. Coinme negotiated and executed the contract outside of New York, and ICO did not state where it negotiated and executed the contract. Coinme did not come to New York.

The third factor – the choice-of-law clause – weighed in favor of ICO. Although this factor was significant, it was ruled insufficient standing alone, citing *CutCo Industries, Inc. v. Naughton*, 806 F.2d 361, 367 (2d Cir. 1986).

The fourth factor – a provision for notices and payments into the forum state, or supervision of the parties by the New York corporation – weighed neither for or against New York as a forum. The contract called for notices to be sent to New York, but did not provide for payments in New York, nor subject either party to supervision here.

As to Coinme’s communication with ICO in New York by email and telephone, the Court ruled that such activity was not engaged in by Coinme in New York, and was insufficient to constitute the transaction of business in New York, citing *Kennedy v. Yousaf*, 127 A.D.3d 519, 520 (1st Dep’t 2015).

Finally, Coinme’s interactive website was ruled insufficient to confer jurisdiction, because there was no nexus between the website and ICO’s claims. There must be an “articulable nexus” and “substantial relationship” between the transaction and the claim.

The lesson? A short-term contract with an out-of-state party will not, even with a New York choice-of-law provision, constitute an ongoing contractual relationship sufficient to obtain personal jurisdiction in New York courts over disputes arising from the contract. Consider a provision for jurisdiction of disputes in New York courts, a provision for notices and payments to be sent to New York, and execution of the contract in New York.

ANNOUNCING THE RETURN OF
ROCKLAND COUNTY

HIGH SCHOOL MOCK TRIAL

We are thrilled to announce there will be **ELEVEN**
PARTICIPATING HIGH SCHOOLS THIS YEAR:

Albertus Magnus
Clarkstown North
Clarkstown South
Green Meadow Waldorf
Nanuet
North Rockland
Nyack
Pearl River
Ramapo
Rockland BOCES
Spring Valley

**Attorney Advisors are still needed. To volunteer, please
email:**

rocklandmocktrial@gmail.com

Attorney Advisors receive three (3) CLE credits.

Brought to you by the RCBA Mock Trial Committee, Chris Exias and Sarah Lusk, Co-Chairs

CLE

Risk Management

January 23, 2019

12:00 pm - 2:00 pm

Double Tree Hilton
425 E. Rte 59
Nanuet, New York 10954



Important Notice

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 3)

TRUSTED

BY LAWYERS SINCE 1892

Estate plans, like homes require routine check-ups to function properly. New tax laws make it more prudent than ever to ensure that your clients' estate plans are up-to-date and functioning properly.

With 125 years of experience, we're the expert practitioners lawyers like you trust.



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BIG BROTHERS BIG SISTERS OF ROCKLAND COUNTY IS SEEKING PRO BONO LEGAL ASSISTANCE TO FORMAT A 501c3 ORGANIZATION.

PLEASE CONTACT GILLIAN BALLARD: GBALLARD@BBBSOFRFC.COM OR TELEPHONE: 845 634 2199 X 5.



Big Brothers Big Sisters is the oldest, largest, and most effective youth mentoring organization in Rockland and throughout the United States.

We have been the leader in one-to-one youth service for more than a century, developing positive relationships that have a direct and lasting impact on the lives of young people ages 7 to 18 throughout all of Rockland's communities.

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ROCKLAND'S ESTABLISHED LEADER IN MENTORING.

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.

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Still not a member?
JOIN NOW!



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Lawyer
REFERRAL SERVICE

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RCBA STORE

Click here

OPEN FOR BUSINESS

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

COMMITTEE CORNER

Assigned Counsel Meeting
Thursday, January 17, 2019
12:30pm @ the RCBA Offices

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

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

NEWSBRIEF ADVERTISING RATES

FULL PAGE (7.5x10.25)	\$400.00
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BUSINESS CARD:	\$75.00

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.

CLE CORNER

RISK MANAGEMENT

January 23, 2019
12:00pm - 2:00pm
Double Tree Hilton
425 E. Rte 59
Nanuet, New York 10954

GUN LAW

February 13, 2019
12:00pm - 2:00pm
Double Tree Hilton
425 E. Rte 59
Nanuet, New York 10954

NEW CLE REQUIREMENT

In addition to ethics and professionalism, skills, law practice management, and areas of professional practice, a new category was added for diversity, inclusion and elimination of bias courses. This category of credit is effective January 1, 2018.

Experienced attorneys due to re-register on or after July 1, 2018 must complete at least one credit hour in the Diversity, Inclusion and Elimination of Bias CLE category of credit as part of their biennial CLE requirement. The transitional CLE requirement for newly admitted attorneys remains unchanged. For more information about the CLE Rules, visit nycourts.gov/Attorneys/CLE.

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.

**‘TIS THE SEASON
WHAT A GREAT GIFT IDEA!
THE
ROCKLAND COUNTY BAR ASSOCIATION
125TH ANNIVERSARY
MUGS
FOR THE HOLIDAYS!**

Limited Edition.



SIX STYLES/COLORS. CHOOSE YOURS TODAY!

To order, [click here](#) or call us 845-634-2149

\$20.00 each, or 6 for \$100 - INTRODUCING THE

SIX MUG SPECIAL!

(SIX MUGS FOR THE PRICE OF FIVE)



Buy mugs for the Staff!

P.S. These mugs won't last forever! Order yours today!

Holiday Party December 13, 2018



CLASSIFIED ADS

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

Ideal 1100 sq. ft. attorney office space in Nanuet near Costco, large level parking lot, furnished lobby, reception office, executive office, conference room, large kitchen, storage room, private bath. \$1600/month includes: utilities, landscaping, and weekly cleaning service. Available 2-8-2019 Call Ted 845-222-4215 or email ted@carecrafters.com

OFFICE SPACE

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

OFFICE SPACE

Office Space available in Nyack. 9 Units 93 SF- 232 SF. All utilities included (except phone & internet), parking included, card access for security, individual mailboxes, conference room, furniture available & walk to Main Street. Please call Jason Horowitz at 845-323-9177.

OFFICE SPACE

Office Space available in Bardonia. 2 Units - \$850 & \$950/month. All utilities included, turn key office space, parking, located on 304, shredding and coffee included, conference rooms, furnished for the right terms and basement storage available.
Please call Jason Horowitz at 845-323-9177.

OFFICE SPACE FOR RENT

Haverstraw - one, two or three offices available. Waiting room, receptionist area, large parking lot, large conference room, with or without furniture. Possible overflow.
email: lawoffice10927@gmail.com

OFFICE SPACE FOR RENT

Beautiful, fully furnished office available for rent.
Convenient location with shared services.
Contact Adam Kurland for details: (845) 638-4700 /
akurland@akkpc.com

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.

ENTRY LEVEL ASSOCIATE WANTED

A solo criminal, commercial and personal law office is looking to hire a part or a full-time entry or newly established associate. The salary and hours are negotiable. Please forward resume to lauren@garyliptonlaw.com or fax to 845-624-0288.

ATTORNEY SEEKING PART-TIME

Attorney with 7+ years of commercial litigation and real estate experience interested in part time and/or per diem work, including but not limited to, legal research, commercial/residential leasing, legal briefs/memoranda, e-filing. If interested, please call 914-260-1266.

LEGAL SECRETARY WANTED

Legal Secretary with 5 + years of experience primarily in Trust and Estates. Extensive client contact, heavy phone coverage, calendar management. Highly proficient in Word and Excel. Extensive document preparation and editing. Full time position located in New City, NY. If interested, please email resume to mgoodman@mcfnylaw.com.

RECEPTIONIST/ADMINISTRATIVE ASSISTANT - TEMPORARY (Approximately 2 Months) - Fulltime

General office duties, including but not limited to: Greet visitors and answer the phone, Check emails, Type letters, memos, emails, leases, extensions, rent increases, etc.

Schedule: Monday through Friday from 9 am to 5 pm.

Salary: flexible

Strong communication and organization skills, multitasking, Microsoft Word, attention to detail and basic computer skills are essential.

Please send cover letter and resume via email to Valeria Palacios at koenigmgmt@gmail.com or fax it to 845-639-0433.

TRIAL ATTORNEY WANTED

Finkelstein & Partners is seeking to hire a TRIAL ATTORNEY to cover Orange, Rockland and Westchester County personal injury cases. Candidates must be licensed to practice in New York and have 3 to 5 years of litigation experience. To be considered please your email resume to: tcavallucci@lawampm.com

LEGAL ASSISTANT WANTED

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

ATTORNEY WANTED FOR EXPANDING LAW FIRM

Boutique law firm in Rockland County, NY specializing in matrimonial (divorce) and family law, bankruptcy law, immigration and real estate is seeking a full-time associate to join its growing practice. This office serves a diverse and expanding range of clientele consisting of individuals, families and small businesses. Ideal candidate will have superior writing skills, trial experience, fluency in Spanish, and the ability to thrive in a dynamic environment. Unique opportunity to partner with highly-motivated, entrepreneurial professionals.

Please fax resume to 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

ATTORNEYS SEEKING PARALEGALS

Rockland Community College ABA approved Paralegal program can assist attorneys with filling their open job positions for both part and full time employment opportunities. We have students that range from entry level to experienced Paralegals. Paralegals are not permitted to practice law, which means they cannot give legal advice, represent clients in court, set a legal fee or accept a case. Contact Amy Hurwitz- Placement Coordinator at (845) 574-4418 or email at ahurwitz@sunyrockland.edu

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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