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Ph.D.

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Sabrina Charles-Pierre,
Editor

ROCKLAND COUNTY BAR ASSOCIATION



NEWSBRIEF

www.rocklandbar.org

May 2019



CONGRATULATIONS!

ISABEL L. BECKER, ESQ.

RCBA

LIFETIME ACHIEVEMENT AWARD

to be presented at the Installation Dinner

Thursday, June 20, 2019

Click Here
To Register



**ROCKLAND COUNTY BAR ASSOCIATION
INSTALLATION DINNER
AND
SWEARING-IN OF NEW OFFICERS**

JOIN US AS WE RECOGNIZE THIS YEAR'S HONOREES:

DR. DUNCAN ROGERS LEE II - THE STERNS AWARD

RICHARD A. GLICKEL - THE COMMITTEE CHAIR OF THE YEAR AWARD

ISABEL L. BECKER - THE LIFETIME ACHIEVEMENT AWARD

Thursday, June 20, 2019

6:00 p.m. – Cocktails (includes beer, wine & soda)

7:00 p.m. – Dinner

Double Tree Hilton

425 E. Rte 59

Nanuet, NY 10954

\$75.00/pp – in advance ~ \$85.00/pp – at the door

Please RSVP by June 14th

Make checks payable to RCBA. Mail to: RCBA, 337 N. Main St, Suite 1, New City, NY 10956 or [click here to register & pay online.](#)

**Click Here
To Register**





RCBA 2019-20 Board of Directors

ELECTION RESULTS

As per the RCBA By-Laws, the names of candidates for the Board of Directors were published to the Membership and Members voted (all ballots were received by May 1, 2019).

The ballots received were opened and counted by the Executive Director and then audited by the three most senior Directors who are not candidates for election. Pursuant to the By-Laws, Section 9, notice of the election results shall be published to the Membership by May 15.

The following candidates have been elected to the 2019-20 Board of Directors:

- Martin Butcher – 3 year term**
- Hernan Caceres – 3 year term**
- Laura M. Catina – 3 year term**
- Laurie A. Dorsainvil – 3 year term**
- Robert L. Pitkofsky – 3 year term**
- Ira S. Schoeps – 3 year term**

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Technology Tips for Attorneys

submitted by
Michael Loewenberg*

Protecting Your Clients' Personal Information

We have an obligation - in some cases legally - to keep our clients' as well as our own personal information secure.

Personally Identifiable Information (PII) is any data that could potentially identify a specific individual. Any information that can be used to distinguish one person from another and can be used for de-anonymizing anonymous data can be considered PII. (I promise I'll never use the word de-anonymizing again; it was part of the definition).

PII can be sensitive or non-sensitive. Non-sensitive PII can be easily gathered from public records, phone books, corporate directories and websites. Non-sensitive PII is information that can be sent in a regular, unencrypted email because it would not result in harm to the individual.

Sensitive PII is information which, when disclosed, could result in harm to the individual whose privacy has been breached. Sensitive PII should therefore be encrypted in transit (in email) and when the data is at rest (stored on a server). Sensitive PII includes biometric information (fingerprints and facial patterns), medical information, personally identifiable financial information, and unique identifiers such as passport, driver license or Social Security numbers.

Examples of sensitive PII elements include, but are not limited to:

- Name and other names used,
- Social Security number, full and truncated,
- Driver license and other government identification numbers,
- Citizenship, legal status, gender, race/ethnicity,
- Birth date, place of birth and
- Home and personal cell telephone numbers.

Most communications these days happens over email. If we send sensitive PII in an email, that email should be encrypted. And while we're at it, we can't leave documents or physical files with PII open on our desks. And computer data containing PII needs be password protected.

Attorneys who work in certain industries may be required by their clients or rules and laws to keep sensitive PII secure. I think it's a good idea for everyone who deals with sensitive personal information to provide adequate protections and security.

Here are some things to consider so your clients' privacy rights are protected and you are not vulnerable to claims for breaches of those rights:

- Implement email encryption when you send sensitive PII
- Password-protect computers and access to electronic documents
- Keep files and offices locked and desks clean at night

Be careful out there!

*Michael Loewenberg is the President of MESH Business Solutions, Inc., New City, NY, 10956 and he is also an Affiliate Member of the RCBA.

CLE - Managing Communications and Increasing Inclusivity in Legal Practice

May 13, 2019

12:00 pm - 2:00 pm

Double Tree Hilton

425 E. Rte 59

Nanuet, New York 10954

CLE - Elder Law

June 4, 2019

6:00 pm - 9:00 pm

Double Tree Hilton

425 E. Rte 59

Nanuet, New York 10954

WE ARE VERY HAPPY TO ANNOUNCE:

THE RCBA LIBERTY BELL AWARD

Presented on Law Day, May 1

To a member of our Community for outstanding service in promoting a better understanding and respect for the Constitution, the Bill of Rights and our institutions of government,

This year presented to:

Elizabeth Santiago

Executive Director, Center for Safety & Change

CONGRATULATIONS!



MEMORIAL DAY

REMEMBER AND HONOR

COMMERCIAL LITIGATION ISSUES OF INTEREST
Submitted by Joseph Churgin, Esq. and Susan Cooper, Esq.*

Your new client, a manufacturer incorporated in Delaware with its principal place of business in Michigan, has been sued in New York for a defective product that was manufactured in Missouri and caused injuries in Virginia to a New York State resident. Your client has numerous facilities, stores, and franchises in New York and throughout the United States and internationally, and enjoys significant income from business in New York. The complaint claims general jurisdiction over your client pursuant to CPLR 301. The motion court denied your motion to dismiss for lack of personal jurisdiction, reasoning that your client's activities were so continuous and systematic that it is essentially at home here in New York, and that your client consented to general jurisdiction by registering to do business in New York as a foreign corporation and designating a local agent for service of process. You appealed.

Will the Appellate Division reverse and dismiss the case?

The answer is *yes*.

The case of *Aybar v. Aybar*, NYLJ 1548684942NY7690915, 706909/15, January 31, 2019 (2d Dep't 2019), arose from an automobile accident in Virginia. A Ford Explorer that was manufactured in Missouri and was registered in New York and owned by a New York resident, rolled over, allegedly due to the failure of a Goodyear tire that was designed in Ohio and manufactured in Tennessee, killing three passengers and injuring three other passengers. The plaintiffs claimed general jurisdiction over Ford and Goodyear under CPLR 301.

There was no dispute that there is statutory authority in New York to exercise general jurisdiction over both Ford and Goodyear, and that the exercise of such jurisdiction would be consistent with New York law. However, the determinative issue was whether the exercise of such jurisdiction would comport with the limits imposed by federal due process in the aftermath of the recent case of *Daimler AG v. Bauman*, 571 US 117 (2014). In a 14-page decision, the Appellate Division, Second Department, analyzed the changing landscape in over one-hundred years of case law on general jurisdiction and specific jurisdiction, from *Pennoyer v. Neff*, 95 US 714 (1878), to *International Shoe Co. v. Washington*, 326 US 310 (1945), to *Daimler* (2014), to *BNSF Ry Co. v. Tyrell*, __US__, 137 S. Ct. 1559 (2017).

The Court quoted *BNSF* (*Id.* at 1559), holding that mere "in-state business . . . does not suffice to permit the assertion of general jurisdiction over claims . . . that are unrelated to any activity occurring in [the forum state]". In determining whether the defendant's affiliations with the state are so continuous and systematic as to render it essentially at home, *Daimler* advises that the inquiry calls for an appraisal of the corporation's activities in their entirety, nationwide and worldwide, not just the magnitude of the defendant's in-state contacts. A corporation operating "in many places can scarcely be deemed at home in all of them." *Daimler* at 139 n 20.

COMMERCIAL LITIGATION ISSUES OF INTEREST
Submitted by Joseph Churgin, Esq. and Susan Cooper, Esq.*

The Court considered the magnitude of Ford's New York activities, including multiple New York facilities, properties, employees, dealerships, products, etc., in the context of the entirety of Ford's activities worldwide, and held "it cannot be said that Ford is at home in New York." The same analysis applied to Goodyear.

Finally, in a holding that overrules longstanding judicial construction by New York and federal courts, the Court held that in view of Daimler, a foreign corporation can no longer be deemed to have consented to the general jurisdiction of New York courts by virtue of having registered to do business in New York and appointed a local agent for the service of process. The Court declined to opine on the constitutionality of the proposed amendments to BCL § 1301 to provide that a corporation's application to do business in New York constitutes consent to personal jurisdiction in New York actions against the corporation.

The lesson? If you client is conducting business with a large multistate corporation, include a provision in your contract for jurisdiction in New York for all disputes arising under the contract.

*By Joseph Churgin, Esq. and Susan Cooper, Esq. of

SAVAD CHURGIN, LLP, Attorneys at Law





**Congratulations to
Elizabeth Santiago
on receiving the RCBA Liberty Bell Award Presented on Law Day!**

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THE PRACTICE PAGE**THE TIME FOR FILING THE NOTICE OF APPEAL****Hon. Mark C. Dillon ***

CPLR 5513(a) provides that the time for taking an appeal as of right is 30 days after service by a party of a copy of the order or judgment to be appealed from, with notice of its entry. While that rule sounds straight-forward, beware of a couple of complications.

Those of us practicing law at least 25 years ago remember a time when the procedures for obtaining, serving, entering, and appealing from orders and judgments varied from county to county. In some counties, judges filed original papers with the county clerk and transmitted written notice of entry as to trigger the time for filing appeals. In other counties, judges filed the original papers with the clerk's office but notified parties that they needed to obtain and serve a copy to trigger the appellate time frame. Elsewhere, attorneys needed to periodically requisition files at clerk's offices to locate orders or judgments, and then serve them with notice of entry. And there were even some counties where original papers were sent by the judge to the movant, who was then responsible for filing the orders or judgments with notice of entry (Mem. of the Office of Court Admin., Bill Jacket, L. 1996, ch. 214). To unify the administrative and geographical differences between counties, the state legislature amended CPLR 5513(a) effective January 1, 1997 to require "service" of the order or judgment to be appealed from by "a party" to the action, with notice of entry, which uniformly commences the time for filing a Notice of Appeal for all.

The calculation of the 30-day time for filing a Notice of Appeal is muddled if multiple parties serve the same order or judgment with Notice of Entry on different dates. Are the 30 days measured from the first such notice, or the last? If notice of entry is served upon some, but not all parties, when does the time to appeal commence? Are five days added for mailing?

A recent opinion from the Appellate Division, Second Department, clarifies all of the foregoing questions, as the answers have not always been understood. *W. Rogowski Farm, LLC v County of Orange*, __AD3d __, 2019 WL 1141580 (2nd Dept.), decided on March 13, 2019, involved the appellants' suit to declare null and void a prior tax foreclosure judgment against certain parcels of land in Orange County, and an appeal of the Supreme Court's denial of that prayer for relief. The order appealed from was served with Notice of Entry three times by three different respondent parties. The Appellate Division dismissed the appellants' entire appeal as untimely, since the Notice of Appeal was filed beyond the time frame of CPLR 5513(a) measured from the first service of the order with Notice of Entry to all. The initial Notice of Entry commenced the 30-day deadline as to all of the parties who, by affidavit of service, were served with it. In dicta, the Appellate Division stated a logical corollary: if an order or judgment is served upon some, but not all, parties, the time to appeal by a party not served does not begin to run until service with Notice of Entry is accomplished against it.

While attorneys and judges are programmed to think of the appeal time as 30 days, the mailing of the notice of entry adds five days to the calculation (CPLR 2103[b][2]; *Stancage v Stancage*, 173 AD2d 1081), so that as a practical matter, an appealing party has 35 days from the date of the initial mail service. However, if the appealing party self-serves the order or judgment with notice of entry, it is not entitled to an additional five days for its own mailing. With e-filing, the time runs from the e-filing with Notice of Entry, without extension.

The importance of CPLR 5513 is that non-compliance with the statute's deadline is a non-waivable and jurisdictional defect (*Mileski v MSC Indus. Direct Co., Inc.*, 138 AD3d 797, 799), which cannot be forgiven under CPLR 2001. Mark the appeal time on your office calendars accordingly.

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



NEW LAWYERS EVENT



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TJP Wealth Solutions

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TJP Wealth Solutions is a part of our RCBA Member Services program. Attorney members of the RCBA receive a discount on individual disability insurance through TJP Wealth Solutions.





NEW LAWYERS EVENT



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Save the date!

Thursday, OCTOBER 24, 2019

RCBA ANNUAL DINNER

Pearl River Hilton



still not a member?
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2019 RCBA
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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!



2019 Rockland High School Mock Trial

Congratulations to the Champions: Nyack High School



And to the Runner-Up-North Rockland High School



Thank you to All of Our Teams!

COMMITTEE CORNER

**Assigned Counsel Committee
Thursday, June 6, 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**

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AND ARTICLES MUST BE
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EXECUTIVE COMMITTEE
FOR CONTENT.**

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

CLE CORNER

PLAN YOUR YEAR OF CLEs NOW

2019 CLE TITLE	DATE & TIME
Managing Communications and Increasing Inclusivity in Legal Practice	Monday, May 13, 2019 - 12:00pm - 2:00pm
Elder Law	Tuesday, June 4, 2019 - 6:00pm - 9:00pm

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.

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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.
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OFFICE SPACE

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OFFICE SPACE

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Contact opportunityunique2019@gmail.com

OFFICE SPACE

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Please call Jason Horowitz at 845-323-9177.

OFFICE SPACE FOR RENT

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email: lawoffice10927@gmail.com

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

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Paralegal. Must have 3+ years experience in personal injury litigation. Your case load will involve all aspects of nursing home litigation and general negligence. Full or near full time. Benefits are an option. Bi-lingual an asset. If interested, please call 845-638-6800 or email resume to jeff@injurylaw-ny.com

PARALEGAL WANTED

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ENTRY LEVEL ASSOCIATE WANTED

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ATTORNEY WANTED

New City, Rockland County, NY Law Office seeks attorney with experience in Personal Injury, Dental Malpractice, Nursing Home Neglect, and/or Workers' Compensation. Prefer minimum of 5 to 10+ years' 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.com.

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 PART-TIME

Legal/administrative assistant for small law firm in New City. This is a part-time entry level position suitable for someone interested in gaining practicable and invaluable job experience in the legal area. Good computer skills, detailed oriented, knowledge of basic office procedures and Internet savvy candidate preferred. Students are encouraged to apply. Please fax resume to (845) 517-0671.

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

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I have interpreted in Kings County Criminal Court and I am presently interpreting in Haverstraw Justice Court.
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I can be reached at (845) 743-1151 or joanneconde7@gmail.com

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