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Sabrina Charles-Pierre, Editor

ROCKLAND COUNTY BAR ASSOCIATION

NEWSBRIEF

www.rocklandbar.org

October 2017

President's Post

Greetings members of the RCBA! October is here and as the Fall Season settles upon us, let us reflect on all that we have accomplished this past month and how much we have to look forward to this season.

In early September, the Board of Directors unanimously approved the creation of a new Diversity Committee. I have received much interest from local attorneys expressing their desires to serve on this committee and I will continue to welcome anyone who wishes to be a part of the formation of this committee. Please reach out to me or the staff at the RCBA if you are so inclined! In mid-September, we honored our colleagues that we have lost this past year at our Memorial Ceremony. It was a beautiful and moving ceremony, one that was appreciated by the families and our fellow members of the bench and bar. The committee did a wonderful job and this Memorial Ceremony has made a lasting impact on our legal community. Our Mock Trial Committee is working tirelessly to coordinate with our local High Schools to bring the Mock Trial Program back to Rockland County. These next few months will be exciting for the Mock Trial Committee, as the developments unfold. Last, but certainly not the least, we have our Annual Dinner to look forward to on October 26, 2017. We will be honoring our very own Rockland County Clerk, the Hon. Paul Piperato, as well presenting the Lifetime Achievement Award to Robert B. Marcus Esq., RCBA Immediate Past President and the Natalie Couch Award to John A. Murphy, Chairman & President of Camp Venture, Inc. & Former Rockland County Legislator. Clearly, we have much to celebrate this year and I encourage all of you to attend.

Let us continue the good work we do in our legal community and, as always, I thank you for the opportunity to serve as your President of the RCBA.

Sincerely yours,
Andrea F. Composto, Esq.

INTRODUCING...
THE NEW RCBA WEBSITE
VISIT US AT
www.rocklandbar.org

ROCKLAND COUNTY BAR ASSOCIATION, INC.
337 NORTH MAIN STREET - SUITE 1
NEW CITY, NEW YORK 10956
845-634-2149

2017 Souvenir Journal
Hon. Paul Piperato – Rockland County Clerk
Guest of Honor

The Lifetime Achievement Award:

Robert B. Marcus, Esq. – RCBA Immediate Past President

The Natalie Couch Award:

John A. Murphy – Chairman and President of Camp Venture, Inc., and former
Rockland County Legislator

ADVERTISING RATES

(Please Check One)

- ~~OUTSIDE BACK COVER~~\$750.00 FULL PAGE \$300.00
 ~~INSIDE FRONT/BACK COVER~~ \$500.00 HALF PAGE \$250.00
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Please insert my advertisement to occupy a page, as indicated above, in the 2017 Journal

For the sum of \$ _____

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Please make your check payable to the *ROCKLAND COUNTY BAR FOUNDATION*
DATE OF ANNUAL DINNER: THURSDAY, OCTOBER 26, 2017

Please email your ad to: - sabrina@rocklandbar.org -- ad deadline October 6, 2017.

Call us with your questions: Sabrina Charles-Pierre – 845-634-2149

Rockland County Bar Association
337 North Main Street, Suite #1
New City, New York 10956



**ROCKLAND COUNTY
BAR ASSOCIATION**

1893 – 2017

ANNUAL DINNER

THURSDAY, OCTOBER 26, 2017
6:00 P.M. – Patriot Hills Country Club

Featuring

GUEST OF HONOR
HON. PAUL PIPERATO

Rockland County Clerk

And

LIFETIME ACHIEVEMENT AWARD RECIPIENT
ROBERT B. MARCUS, ESQ.

And

NATALIE COUCH AWARD RECIPIENT
JOHN A. MURPHY

COMMERCIAL LITIGATION ISSUES OF INTEREST

October 2017

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 rented her residential property to a new tenant for \$2,400 per month, relying on the assurances of your client's real estate broker that a background check showed the prospective tenant to be reputable. It took your client six months to evict the tenant for not paying a single month's rent. Your client later learned that the tenant had a criminal history. You sue the broker for breach of fiduciary duty, pleading a cause of action for the broker's failure to conduct a proper background check, and another cause of action pleading the broker's failure to reveal the results of the background check that the broker claimed it performed. The broker moved to dismiss the action, arguing that there was no contract that specifically required it to perform a background check. Therefore, according to the broker, its obligations were satisfied when it produced a ready, willing, and able tenant who signed a rental agreement. Will either of your causes of action survive the motion to dismiss?

The answer is yes.

In *Omabegho v. The Corcoran Group*, 654413/2016, NYLJ 1202795480381, at *1 (Sup. Ct. N.Y. Co., August 16, 2017), a broker employee of The Corcoran Group contacted the plaintiff about leasing out her apartment. The broker showed the property to a couple, who later signed an 18-month lease for \$2,400 per month. The tenants never paid any rent, and were eventually evicted six months after they moved in.

The complaint asserts various causes of action for breach of a broker's fiduciary duties of due care, undivided loyalty, and full disclosure, as provided in Real Property Law § 443 *et seq.* The complaint alleges that the broker assured the plaintiff that the potential tenants were reputable, and that the defendants had performed a background check. The plaintiff later learned that the tenants had a criminal history.

The Court granted the motion to dismiss the cause of action for failure to provide a thorough background check, noting that there was no specific contractual obligation to perform a background check. The Court explained that a real estate broker's duties to its client are satisfied by producing a ready, willing, and able tenant who executes a rental agreement, citing *Donnelly v. Margolis*, 265 A.D.2d523 (2d Dep't 1999).

However, the Court denied the motion to dismiss the cause of action for failure to disclose the tenant's criminal history. If the broker represented, as alleged, that it performed a background check, and described the tenant as reputable, then the broker had a duty to inform the plaintiff of the result of the background check, and not hide any poor history. The Court cited *John J. Reynolds, Inc. v. Snow*, 11 A.D.2d 653 (1st Dep't 1960), explaining that while there is no duty to investigate the suitability of the proposed tenant, there is a duty to fully and truthfully disclose knowledge that materially affected the transaction.

The lesson?

If your client owns residential real property and wants a real estate broker to have an obligation to investigate anything that materially affects

the transaction, then specifically provide for it in a contract. Otherwise, there is no duty for the broker handling residential real property to investigate. There is, however, a duty under Real Property Law § 443 *et seq.* for the broker who acts as agent for the landlord (or tenant or seller or buyer) of residential property, to disclose to its principal all facts known to the broker that materially affect the transaction.

Savad | Churgin



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Please contact Michael Adams at 914.906.0608 with questions.

Hot Topics in NY Underwriting

Course RELO470 (2 Hours)

**Thursday
October 26, 2017**

Breakfast will be served at 8:30AM
Legal Education from 9:00 – 11:00AM

Paramount Country Club

60 Zukor Road, New City, NY 10956

COST: FREE | RSVP: Events@HudsonUnited.com

AFTER OCTOBER 6, 2017 DUES AMOUNT INCREASES TO \$200.00!

This is a friendly reminder that it is time to pay your 2017-18 RCBA Membership Dues.

Annual Dues for 2017-18 for regular Members is \$185.00.

Please send in your Membership Renewal Form now if you have not done so already.

If you have any questions about your Membership, please contact Sabrina Charles-Pierre ,

Program Coordinator, at sabrina@rocklandbar.org, or call Sabrina at 845-634-2149.

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**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

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Contact us anytime at 845 634-2149. Direct lines: Assigned Counsel – 845 634-1761; Lawyer Referral Service – 845 708-5719

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ARE CORDIALLY INVITED
TO THE ANNUAL "RED MASS" IN WHITE PLAINS, NEW YORK
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**THE MASS WILL BE CELEBRATED BY
HIS EMINENCE, TIMOTHY CARDINAL DOLAN
Archbishop of New York**

at

**ST. JOHN THE EVANGELIST CHURCH
148 Hamilton Avenue
(Between Grove Street & North Lexington Avenue)
White Plains, New York**

ON THURSDAY, OCTOBER 12, 2017, at 6:00 P.M.

**LAWYERS AND MEMBERS OF LAW ENFORCEMENT
OF ALL FAITHS AND THEIR FAMILIES
ARE INVITED TO ATTEND**

THE RED MASS

The Red Mass is a solemn Mass invoking the guidance of the Holy Spirit on the deliberations of the Courts and on the endeavors of all members of the legal profession and law enforcement. Tradition holds that it came to be called "Red" symbolizing the scriptural "Tongues of Fire" descent of the gifts of the Holy Spirit upon the Apostles.

This venerable custom began in Europe in the 13th century. From the time of Edward I, the Mass was offered at Westminster Abbey at the opening of Michaelmas Term. Similar celebrations are held in Paris and Rome.

In the New World, the practice was instituted by the Guild of Catholic Lawyers of the Archdiocese of New York in 1928, with Patrick Cardinal Hayes presiding. It provides a unique opportunity for the legal profession to seek the special gifts of the Holy Spirit: wisdom, understanding, counsel, and fortitude.

Upcoming
EVENTS

**2017 CALENDAR
RCBA MAJOR EVENTS**
Mark Your Calendar!

October 26 - Annual Dinner
December 14 - Holiday Party

**ANNUAL DINNER
SOUVENIR JOURNAL**

Deadline Extended
October 6, 2017
Submit Your Ad Today!

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under **Member Resources**, or call Manuela for an Application at 845-634-2149.

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OUR NEW MEMBER SPONSOR
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Annual Dinner

October 26, 2017

Patriot Hills Country Club

6:00pm

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!

Michael E. Zall

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Monthly
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COMMITTEE CORNER

Condominium & Co-op Committee

October 4, 2017, at 5:30 PM

Location:

Law Offices of Alden Smith
151 N. Main Street, Suite 100, New City, NY 10956

Commercial & Corporate Law Committee

October 17, 2017 @ 5:30pm

Location:

Savad Churgin
55 Old Turnpike Road, Suite 209, Townhouse Office Park, Nanuet, New York 10954

still not a member?
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Lawyer
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If anyone has read a book that they would like to recommend, please write a short review for publication in our Newsletter.

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REVIEWED BY THE

EXECUTIVE COMMITTEE

FOR CONTENT.

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RCBA Conference Rooms
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MEMBER PRICES:

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

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\$50/hour
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CLE CORNER

October 24, 2017

Mediation: Increasing your Success at Resolving Legal Disputes
12:00pm - 2:00pm

November 1, 2017

Divorce Fraud Forensic Red Flags & Financial Pitfalls of Divorce
6:00pm - 9:00pm

November 3, 2017

Immigration Update
12:00pm - 3:00pm

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.

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1/8 PAGE (3.75x2.5):	\$125.00
BUSINESS CARD:	\$75.00



NEWSBRIEF ADVERTISING RATES CONT.

Announcing New Discounts:
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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.

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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.

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Applicants can learn more about the Law Firm of Valerie J.

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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:

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E-mail: michael@demoyalaw.com

ASSOCIATE ATTORNEY NEEDED

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

TO MY FAMILY COURT AND MATRIMONIAL COLLEAGUES

I am closing my New City office Effective August 31, 2017. I am "semi-retiring." I am writing to advise my colleagues that I will be available for per diem work. My telephone number is 845-641-8100. My email address is CBilottaEsq@aol.com.

Thank you for considering me. Cassandra Bilotta

WANTED FOR PURCHASE

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