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Sabrina Charles-Pierre, Editor

ROCKLAND COUNTY BAR ASSOCIATION

NEWSBRIEF

www.rocklandbar.org

November 2017

CLE TIME

Immigration Enforcement 2017

Friday, November 3, 2017

12:00pm - 3:00pm

Banchetto Feast

75 West Rt. 59 & S. Middletown Road

Nanuet, NY 10954

Matrimonial Update

Tuesday, November 14, 2017

6:00pm - 9:00pm

Banchetto Feast

75 West Rt. 59 & S. Middletown Road

Nanuet, NY 10954

It's A Wonderful Time of Year

The Rockland County Bar Association

INVITES YOU TO

Celebrate the Season!

HOLIDAY PARTY

Thursday, December 14, 2017

6:00pm - 9:00pm

Bella Gianna's

77 NY-303, Congers, New York 10920

Cost: \$60/PP

RSVP via check or online by

December 4, 2017

MAKE ALL CHECKS PAYABLE TO:
ROCKLAND COUNTY BAR ASSOCIATION
337 NORTH MAIN STREET, SUITE 1
NEW CITY, NEW YORK 10956

COMMERCIAL LITIGATION ISSUES OF INTEREST**November 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, a co-trustee of a trust created by his deceased relative's will, signed a contract to sell real property held by the trust. The fully executed contract contained a handwritten correction on the first page striking the misidentification of your client as the "Executor" of his relative's estate, and identifying your client as "Trustee of the Last W+T" of his deceased relative. The contract's rider identified your client as "Executor," which was not corrected. The rider also contained a clause providing that any inconsistency with the contract would be controlled by the rider. Neither the contract nor the rider was signed by the other co-trustee, but all transfer documents necessary to close were signed by both trustees. The purchaser brought an action for return of the down payment on the ground that the contract was null and void because the named seller did not possess title, and the co-trustee did not sign the contract. You move to dismiss the action and for summary judgment, arguing that the discrepancy in identification of the owner was a mere scrivener's error. The purchaser cross-moved for summary judgment. You submit an affidavit of the other co-trustee stating that she was fully aware of the contract, participated in the transaction, and did not believe her signature was necessary. Will your client's contract be upheld?

The answer is *no*.

In *Leonard H. Shapiro Revocable Living Trust v. Achenbaum*, 605858/2016, NYLJ 1202796204129, at *1 (Sup. Ct. Nassau Co. August 9, 2017), Defendant Warren Achenbaum was one of two "Trustees of the Trust Created Under Article Fifth of the Last Will and Testament of Elaine Achenbaum." Achenbaum signed a contract to sell real property belonging to the trust. Achenbaum received a down payment of \$98,500, which the plaintiffs sued to recover, claiming that the contract is null and void because the seller did not possess title, and because the co-trustee did not sign the contract.

The pre-printed contract misidentified the seller on the first page as "Executor of the Estate of Elaine Achenbaum." The misidentification was corrected by hand to say "Warren Achenbaum as Trustee of the Last W+T of Elaine Achenbaum."

The contract's uncorrected pre-printed rider identified Achenbaum as "Executor of the Estate of Elaine Achenbaum." Neither the contract nor the rider were signed by the second co-trustee, Anne Cacciola. The rider provided that any inconsistency between the contract and the rider would be controlled by the rider.

The title report required the contract to be amended to identify the title holder as "Warren Achenbaum and Anne Cacciola, as Trustees of the Trust Created Under Article Fifth of the Last Will and Testament of Elaine Achenbaum who died a resident of Nassau County on April 1, 2013."

Achenbaum moved to dismiss the plaintiffs' action and for summary judgment, arguing that the discrepancy between the seller listed in the contract and the name of the tiled owners was nothing more than a scrivener's error. An affidavit of the second co-trustee, Cacciola, states that she was fully aware of the sale at the time of the transaction and did not believe her signature on the contract was necessary. They argue that any defect was remedied by both Achenbaum and Cacciola being ready, willing, and able to close, and that both trustees had signed all transfer documents. The plaintiffs cross-moved for summary judgment.

The Court noted that no title is established by a deed from a person not in possession or who is not the owner, citing *Gardner v. Hart*, 1 N.Y. 528. The Court ruled that the contract was signed by Achenbaum as Executor of the Estate of Elaine Achenbaum, who had no interest in the property that was owned by the trust. The handwritten correction was meaningless, as the rider controlled. There was no valid contract, and the plaintiffs were entitled to the return of their down payment.

The lesson?

A contract to sell real property must contain the name of the seller as it appears on the title documents, such that a title company will insure title transfer. If the seller is not properly named, then the purchaser may cancel the contract, because a deed from a seller who is not in possession or is not the owner establishes no title.

Savad | Churgin

Portrait Unveilings & Presentations

Honorable Victor J. Alfieri, Jr.

Judge of the County Court and
Acting Justice of the Supreme Court, Retired

Friday, November 3, 2017

3:00 p.m.

Rockland County Courthouse

Room 479



Honorable William A. Kelly

Justice of the Supreme Court, Retired

Monday, November 6, 2017

3:00 p.m.

Rockland County Courthouse

Room 453

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RCBA'S ANNUAL DINNER

October 26, 2017



CASINO
Night

\$150 per person

Includes Casual Dinner
and Dessert, Open Bar,
Gaming Tables and
Casino Chips,
and Fabulous Prizes



Please join the
Legal Aid Society
of Rockland County

for a night of fun and
entertainment as we honor

Stephanie Fox
Court Appointed Special Advocates

Thursday
November 16, 2017
6:00 - 10:00 pm

Nyack Seaport
21 Burd Street, Nyack



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Compromise**

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PROBLEMS**

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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

CLE COORDINATOR – SABRINA CHARLES – PIERRE

ADVERTISING/NEWSLETTER – SABRINA CHARLES – PIERRE

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

Upcoming EVENTS

Honorable Victor J. Alfieri, Jr. - Portrait Presentation

Friday, November 3, 2017 @ 3:00 pm
Rockland County Courthouse, Room 479

Honorable William A. Kelly - Portrait Presentation

Monday, November 6, 2017 @ 3:00 pm
Rockland County Courthouse, Room 453

Holiday Party

Thursday, December 14, 2017 @ 6:00pm
Bella Gianna's

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RCBA RECEIVES SILVER SPONSORSHIP CHECK FROM OUR 2017-18 SILVER SPONSOR M&T BANK



Pictured above from left to right: Nancy Low-Hogan, Ph.D., RCBA Executive Director; Arlene R. Rodgers, Relationship Manager, M&T Bank; Andrea F. Composto, Esq., RCBA President; Ira S. Schoeps, Esq., RCBA Treasurer.

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Holiday Party

December 14, 2017
Bella Gianna's
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

Intellectual Property Law
Patents, Trademarks &
Copyrights
Zall-Law.com

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

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



Monthly
Newsletter

COMMITTEE CORNER

Assigned Counsel Committee Meeting

November 16, 2017 @ 12:30pm

Offices of the RCBA

Debt Collection, Bankruptcy and Creditor's Rights Committee Meeting

November 20, 2017 @ 5:30pm

Offices of the RCBA

still not a member?
JOIN NOW!

2017 RCBA
Lawyer
REFERRAL SERVICE

READ A GOOD BOOK?

If anyone has read a book that they would like to recommend, please write a short review for publication in our Newsletter.

**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

CLE CORNER

November 3, 2017

Immigration Update

12:00pm - 3:00pm

November 14, 2017

Matrimonial Update

6:00pm - 9:00pm

December 4, 2017

ESI in Non-Commercial Litigation

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.

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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:

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See complete details on our website under “About.”



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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. Call Bill at 845-300-9168.

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OFFICE SPACE

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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 Orangetown 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. Applicants can learn more about the Law Firm of Valerie J. Crown by visiting our website: valeriecrown.com

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 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

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

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