

Inside This Issue:

Welcome Message from The
Honorable Deborah A.
Kaplan
| Page 1

Elder Abuse and Consumer
Debts – Protecting Older
Adults From Financial Fallout
| Page 2-4

Podcast of the Quarter
| Page 4

Part 36 Bench Card
| Page 4-6

Did You Know?
| Page 5

988 Dialing Code in Effect
| Page 6

Times Change but the Work
Remains – Transformation,
Resilience, Equity &
Inclusion
| Page 7-8

New Resource Guide to Aid
NYS Justices, Court
Personnel, and Other Legal
Professionals
| Page 8

MIT Students Wear AGNES
Suits to Understand Older
Adult Needs
| Page 8

Committee Member Corner
| Page 9

Retirement Spotlights
| Page 9-11

The New York State Judicial Committee on Elder Justice Newsletter

January 2023 – Vol. I

Message from the Chair:



*Honorable Deborah A. Kaplan,
Deputy Chief Administrative
Judge for the New York City
Courts*

Welcome to the inaugural issue of the Newsletter of the New York State Judicial Committee on Elder Justice! This newsletter will not only allow our committee members to stay connected all year long, but it will raise awareness and provide up to date information on the newest developments in elder justice to all those involved – or interested in – issues impacting on older adults in New York State and beyond.

In this issue, you will find articles discussing the impact of financial exploitation on older adults and consumer debts taken on by older adults; bench cards utilized by Part 36 justices during the fiduciary appointment process; and a new elder justice resource guide available to justices, court personnel, and other legal professionals. Information regarding the new dialing code, designated for mental health assistance and suicide prevention, and an MIT research program aimed at improving the quality of life of older adults through technology are also included.

Additionally, the issue profiles a highly valued committee member, Frederic Green, Esq., and spotlights those committee members, Gary Brown, Esq., Martha Pollack, and Jennifer Rosenbaum, who have recently retired. A big thank you to the three of them for their incredible work and dedication to the field of elder justice and to the NYS Judicial Committee on Elder Justice over all these years.

I would like to take this opportunity to thank all of the committee members for their commitment to elder justice and their service to the committee. It is a true pleasure to work with you.

NYS Judicial Committee
on Elder Justice
Members:

Hon. Deborah A. Kaplan
Deputy Chief Administrative
Judge for NYC Courts, *Chair*

Christine Burke, Esq.
Kristen Kane, Esq.
Queens County District
Attorney's Office

Jean Callahan, Esq.
Laura A. Russell, Esq.
The Legal Aid Society

Kayla Chan
WomanKind

**Catherine A.
Christian, Esq.,**
New York County
District Attorneys'
Office

Andrea Cianfrani
LiveOn NY

John Cochran
Erin Purcell
NYS Office for the Aging

Donna Dougherty, Esq.
Florian Edwards
JASA

Hon. Elizabeth L. Fassler
Family Court, 11th Judicial
District

Hon. Paula L. Feroletto
New York Supreme Court
8th Judicial District

Shelly Fiebich
NYS Office of Children and
Family Services

Janet Fink, Esq.
NYS Unified Court System

Ann L. Goldweber, Esq.
St. John's University School of
Law

Fredric I. Green, Esq.
Westchester County District
Attorney's Office

Elder Abuse and Consumer Debts – Protecting Older Adults From Financial Fallout

By Erin Riker, Esq. and Sarah Duval, Esq., Center for Elder Law & Justice

The impact of financial exploitation on older adults often goes beyond lost income and resources when these individuals take on debts as a result of abuse. Knowing what to look for and how to address these debts is an important tool for attorneys to utilize when assisting older adults who have been exploited.

Debts can be incurred when older adults take out loans or accrue credit card balances at the behest of either a scammer or an abuser known to the victim. This can happen when individuals are convinced of or tricked into co-signing loans that the abusers have no intention of paying, when they take out loans or lines of credit that the abusers can access, or open up new credit cards that the abusers then use for their benefit. Older adults are often a prime target for this kind of exploitation, with their credit history making them better candidates for loans. While in many cases there is clear fraud or identity theft, depending on the circumstances surrounding the loan, the debt may be considered legitimate. For example, if an individual takes out a loan from a credit union to pay a scammer but tells the creditor that it is for a legitimate sounding purpose, that is very likely a legitimate debt. Understanding consumer protection laws and how they can benefit older adults, as well as steps that can be taken to prevent further abuse, can help lessen the burden caused by financial exploitation.

There are a few tools that attorneys or advocates can utilize initially to assess the damage and limit further exploitation. The first step is to offer to assist the older adult in obtaining a credit report. These reports can be accessed for free at annualcreditreport.com. They can provide a current picture of all credit lines in the older adult's name, as well as all phone numbers and addresses associated with the older adult. Unless the individual plans to take out additional lines of credit in the near future, an attorney may wish to offer to assist with placing a credit freeze on the older adult's credit. This way, no additional loans or lines of credit can be taken out.

In the event an individual has taken on debt as the result of financial exploitation, explaining their rights under New York State's consumer protection laws can greatly ease the stress associated with facing collections. Often, these laws are not fully understood by the victims or the creditors themselves, and explaining them to older adults helps ensure that victims receive the full benefits and protections they deserve. These consumer protection laws include the Exempt Income Protection Act and the new 2022 Consumer Credit Fairness Act.

The Exempt Income Protection Act (EIPA) closes a loophole in federal debt collection law that was previously used by creditors to freeze debtors' bank accounts. This practice was especially harmful to low-income debtors. Under the EIPA, debtors in New York are automatically protected from having their bank accounts frozen if the account balance does not meet certain thresholds. If a debtor receives Social Security benefits, pension benefits, or other means-tested benefits into that account, the account is exempt from freezing if the balance is below

Rebecca Thomforde Hauser
Center for Court Innovation

Deputy Chief Joseph Hoch
New York City Police
Department

Captain Charles Hollon
NYS Unified Court System

Deborah Holt-Knight
Deputy Commissioner,
NYC Adult Protective Services

Elizabeth Hooks
NYS Unified Court System

Hon. Eileen Koretz (ret.)

Mary Kornman
NYS Unified Court System

Mark Lachs, MD, MPH
Weill Cornell Medical College,
New York Presbyterian

Joan Levenson, Esq.
NYS Unified Court System
Counsel to the Committee

Elizabeth Loewy, Esq.
Howard Tischler
Eversafe

Veronica LoFaso, MD
Weill Cornell Medical College,
New York Presbyterian

Arlene M. Markarian, Esq.
Nassau County District
Attorney's Office

Karen L. Nicolson, Esq.
Sarah Duval, Esq.
Center for Elder Law & Justice

Thomas E. O'Hanlon, Esq.
Office of the NYS Attorney
General

Heather Parker Hines, Esq.
Ontario County District
Attorney's Office

Lisa Rachmuth, LMSW
NYC Elder Abuse Center,
Weill Cornell Medicine

Denis Reo, Esq.
NYS Unified Court System

\$3,000 at the time the creditor tries to freeze it. If a debtor receives wages or earned income into an account, the protection threshold is calculated by a formula based on the state minimum wage. This threshold is currently between \$3,000 and \$3,600, depending on the minimum wage in the county in which the debtor is located. Banks, credit unions, and financial institutions doing business in New York are required to follow this law regardless of where the financial institution is incorporated.

Often, just knowing that their income is protected brings relief to older adults who may not be able to afford to repay the debt. Frequently, victims are “judgment proof,” meaning they do not have any assets or financial resources that creditors can seize to repay the debts. Because of this, many debts are not pursued for collection if the creditor is informed, via a hardship waiver that the debtor’s (the older adult’s) income is protected and, due to their age, they do not anticipate earning an income from unprotected sources again. This hardship waiver is as simple as a letter to the creditor explaining that the older adult meets those qualifications. Often, creditors will elect not to attempt to collect the debt as a result of this letter, because their chances of collecting are so slim. Attorney communication with lenders and collection agencies early and often also puts a stop to any harassment of the victim and lessens the likelihood of a suit. Another strategy is to request debt verifications from any creditors who are contacting the victim to ensure that these debts are still collectible under New York State law.

If the creditor moves ahead and sues on the debt, and the older adult is not protected by the EIPA, it can greatly benefit the older adult to avoid a default judgment by having legal counsel represent them and file an answer, which includes New York’s consumer protection laws as affirmative defenses to repayment. Often, a settlement for less than the full amount owed can be negotiated, rather than a higher default judgment.

The Consumer Credit Fairness Act (CCFA) is new legislation that expands New York State’s consumer protection laws. Beginning in April 2022, the statute of limitations for a creditor to sue on an unpaid debt was shortened from 6 years to 3 years after the original date of default. Further, this period can no longer be revived if a debtor makes a payment on a defaulted debt. This greatly reduces the ability of collection agencies to sue on “zombie debts,” or debts that were defaulted several years ago and sold through a long chain of collection agencies. The CCFA also adds new filing requirements for lawsuits brought by creditors on defaulted debts. The summons and complaint filed by the creditor to begin the suit must contain very specific information about the debt, including:

- (1) The name and last 4 digits of the account number from the original creditor;
- (2) The date and amount of the last payment before default;
- (3) The amount of the debt due and owing;
- (4) Proof of *each time* the debt was sold or transferred to a collection agency or debt buyer; and
- (5) A sworn statement from the creditor’s attorney that steps were taken to ensure that the lawsuit is brought within 3 years of the original date of default.

Geoff Rogers

Silberman School of Social
Work at Hunter College

Aurora Salamone

Cheryl Lee, LMSW

NYC Department for the Aging

Joy Solomon, Esq.

Deirdre Lok, Esq.

The Weinberg Center for
Elder Justice

Hon. Audrey E. Stone

Criminal Court, Bronx
County

Mike Williams

NYS Unified Court System

Podcast of the Quarter



“How on Earth Do I Deal with Social Isolation?”

AARP’s *Take on Today*,
Episode 108: **NASA retired
astronaut Scott Kelly**

discusses his year-long trip
in outer space and how he
learned to combat social
isolation

**Available through most
podcast service providers*

For more information:

[NASA Astronaut Scott Kelly
Talks About Social Isolation
\(aarp.org\)](#)

The creditor must also send letters to the debtor at certain points in the lawsuit containing specific language explaining what their legal documents mean and why the debtor needs to respond to them. These letters must include contact information for nonprofit legal services agencies that could assist the debtor in defending against the lawsuit. These provisions make it more difficult for creditors to unfairly obtain judgments against debtors by giving debtors the information they need to defend against the suit. They also make it more difficult for collection agencies and debt buyers to illegally sue on debts that are past the newly-shortened statute of limitations. For victims of financial exploitation who are already overwhelmed trying to rebuild their lives, these protections provide a lifeline to help protect them against future financial damages.

By knowing how to identify debts resulting from financial exploitation and understanding protections available to consumers, attorneys assisting victims of financial exploitation can greatly ease their burden and offer protection against future exploitation.

Part 36 Bench Card

By Brian Balmes, Esq., New York State Unified Court System

Judiciary Law Section 35-a and Parts 26 and 36 of the Rules of the Chief Judge constitute the statutory, regulatory, and administrative framework governing court-appointed fiduciaries. Modern efforts to regulate the fiduciary appointment process began in 1967 with the enactment of Judiciary Law Section 35-a, which requires judges to file statements with the Office of Court Administration for compensation awards of more than \$500. Part 26 of the Rules of the Chief Judge is the administrative implementation of Judiciary Law Section 35-a. Part 36 of the Rules of the Chief Judge represents the contemporary cornerstone of the regulatory, administrative, and operational infrastructure governing the fiduciary appointment process. Part 36 applies to ten primary categories of appointment and six secondary categories of appointment specifically enumerated in the Rule including guardians, court evaluators, attorneys for alleged incapacitated persons, court examiners, and counsel to guardian.

To address ongoing concerns over noncompliance with court rules designed to curb patronage and increase transparency in the fiduciary appointment process, then Chief Judge Jonathan Lippman appointed the Honorable Michael V. Coccoma, then Deputy Chief Administrative Judge for Courts Outside New York City, as the Statewide Administrative Judge for Fiduciary Matters. Judge Coccoma established the Second Special Commission on Fiduciary Appointments to conduct a comprehensive assessment of the effectiveness of the prevailing regulatory structure governing the judicial appointment of fiduciaries.

The Second Special Commission conducted an extensive analysis on issues, such as operations and staffing, compliance and audit, education and training, and automation and technology. The Report of the Second Special Commission on Fiduciary Appointments noted that “the lack of mandatory training for judges, chambers and support staff fostered an environment of limited understanding and confusion regarding the requirements and procedures for fiduciary appointments pursuant to Parts 26 and 36 of the Rules of the Chief Judge.” As a result, the Second Special Commission recommended the creation and dissemination of instructions and directions regarding Parts 26 and 36 in a Judicial Bench Card.



Yale University is developing a mobile app, VOICES, to aid older adults in identifying and reporting elder mistreatment. The app includes virtual coaching, educational resources, videos, graphics, and more to assist older adults in recognizing the signs of mistreatment.

For more information:
[VOICES: A Digital Health Tool for Identifying Elder Abuse \(yale.edu\)](#)


On March 24, 2022, Alabama was added to the list of 27 states to develop a statewide elder abuse registry. The database will list those individuals convicted of elder abuse, individuals who have or had an elder protection order against them, and anyone found to have committed elder abuse in the past. The registry will be available to select employers starting January 1, 2023.

For more information:
[Examining "Shirley's Law" and Adult Abuse Registries \(americanbar.org\)](#)

To that end, Deputy Chief Administrative Judge (DCAJ) for New York City Courts, the Honorable Deborah A. Kaplan, and her Office recently spearheaded the creation and dissemination of the second edition of the Part 36 Bench Card. The laminated, double-sided, and letter-sized Bench Card increases awareness and understanding of Part 26 and Part 36 of the Rules of the Chief Judge. It provides judges, chambers staff, and fiduciary clerks with a comprehensive, yet succinct, overview of the administrative and operational requirements of the rules governing court-appointed fiduciaries.

The Bench Card lists the categories of appointments subject to Part 36, as well as the exceptions that may apply, indicates the administrative requirements of the appointing judge and chambers staff, and specifies the operational duties of the fiduciary clerks pursuant to the Rule. Sections of the Bench Card include concise reminders of specific provisions on non-list appointments, compensation, secondary appointments, and the most important rules to remember.

DCAJ Kaplan's team collaborated closely with their counterparts at the Office of the DCAJ for Courts Outside New York City and the Office of Court Administration to create an easy-to-read and concise reference guide for judges, chambers staff, and clerks. Compared to the original, the new Part 36 Bench Card has larger font and updated language for increased readability and clarity. Since its initial dissemination in 2019, courts have requested multiple copies for their judges, guardianship departments, and clerk staff, and judges have remarked that they keep a copy on the bench and another in chambers. This past summer, DCAJ-NYC distributed over 300 Part 36 Bench Cards to the Civil Terms of Supreme Court and the Surrogate's Courts in New York City.



NEW YORK STATE
Unified Court System

PART 36 BENCHCARD

REV. 6/22/2022

THE JUDGE:

- Evaluates the need for a Part 36 appointment, either on request of the parties or at the Judge's initiative.
- Shall refer to the list of eligible fiduciaries in the appropriate category and county, including foreign languages spoken, by going to the Home Page of the UCS Intranet and selecting the Fiduciary Eligibility List from the menu on the left.
- If additional information is needed concerning an Appointee's qualifications, a request may be made for a username and password to the Fiduciary Case Management System (FCMS) by contacting the Fiduciary District Liaison or appropriate Fiduciary Clerk.
- Issues an Order of Appointment for all Appointees, including any Secondary Appointee performing services for a Part 36 Guardian or Receiver, and indicates whether the appointment is list or non-list.
- Forwards a copy of the Order of Appointment to the Fiduciary Clerk within 2 business days.
- Reviews and approves compensation on the UCS-875 form (Statement of Approval of Compensation).

PART 36 GENERALLY PERTAINS TO THESE APPOINTMENTS MADE BY JUDGES (§36.1):

- Article 81 MHL Appointments:
 - Guardians (excluding: relatives, nonprofit institutions, Department of Social Services, or other public agency with legally recognized duties or interests, banks, guardians who are nominated or proposed by a party and guardians appointed in 17A proceedings)
 - Court Evaluators (excluding: nonprofit institutions and Mental Hygiene Legal Services (MHLS))
 - Attorneys for an Alleged Incapacitated Persons (excluding: nonprofit institutions and MHLS)
 - Court Examiners
- Guardians ad litem (excluding: nonprofit institutions or a GAL nominated by the infant of 14 years of age or over, or a physician whose appointment is necessary for emergency medical care or a GAL appointed pursuant to Article 12 of the Civil Practice Law and Rules, who is an uncompensated friend or relative of a party incapable of adequately prosecuting or defending the party's rights)
- Attorneys for the Child (private pay)
- Supplemental Needs Trustees (except when nominated by the beneficiary of a supplemental needs trust or proposed by a proponent of the trust)
- Receivers (all Receivers are subject to Part 36)
- Referees (other than special masters and those serving in a quasi-judicial capacity, e.g., Referees to hear and report, or Referees to supervise discovery)
- Secondary Appointees required to perform services for Part 36 only when hired by Guardians and Receivers:
 - Counsels
 - Accountants
 - Auctioneers
 - Appraisers
 - Property managers or
 - Real estate brokers
- Public Administrators and Counsel to the Public Administrator within the City of New York and for Westchester, Onondaga, Erie, Monroe, Nassau and Suffolk Counties (subject to disqualifications only)

988 Dialing Code Now in Effect

By Megan H. Schnader, Esq.,
New York State Unified Court System

July 16, 2022 will go down in history as a life-changing day for suicide prevention and mental health assistance. On this day, a new helpline was established: 988. This new three-digit code takes the place of the National Suicide Prevention Lifeline's previous phone line: 1-800-273-TALK.

Not only will this phone number reduce the volume of mental health-related calls to 911, but it will also direct those calls to specialized resources and appropriate intervention sources. While this new helpline will aid individuals of all ages, it will specifically benefit older adults and caregivers.

According to the report by SAMSHA (The Substance Abuse and Mental Health Services Administration), older adults are at a much higher risk for suicide or mental health crises.

This helpline will serve as a simple and much more effective way for older adults and disabled adults to receive help in their time of crisis. In addition, callers also have access to interpretation services for over 250 languages, TTY services for the hearing impaired, and a text chat box feature.

For more information: [988 Suicide and Crisis Lifeline](https://www.988lifeline.org/)

RULES FOR "NON-LIST" APPOINTMENTS:

- Fiduciary appointments pursuant to Part 36 shall be made by the Judge from the approved list established by the Chief Administrator of the Courts.
- However, a Judge may appoint a person not on the approved list if the Judge first determines that good cause exists for a "non-list" appointment.
- "Good cause" is a matter of judicial discretion.
- A finding of good cause for all non-list appointments must be in writing, dated and signed by the appointing Judge utilizing a UCS-872.5 (Statement of Reasons for Non-List Appointment). The Fiduciary Clerk must upload the UCS-872.5 into FCMS before sending a UCS-872 to the Appointee.
- The non-list Appointee must comply with all other provisions of Part 36, including not being disqualified for appointment under the provisions of Section 36.2(c), and filing any necessary appointment forms.

COMPENSATION:

- The Judge evaluates the request for compensation, and upon considering the merit of the request, the Judge may approve or fix such compensation as the Judge deems appropriate. The Judge must issue an Order approving any such compensation.
- The Judge completes questions 10-16, signs and dates a UCS-875 when the Judge awards compensation **greater than \$500** for both Part 36 and non-Part 36 Appointees. **Note:** The date of approval is the date of the Order awarding compensation.
- **Compensation of \$5,000 or more** - Every approval of compensation of \$5,000 or more must contain the Judge's written statement of reasons for such approval. Enter the reason on line 15 of the UCS-875 or attach as an addendum (see Section 36.4(c)(3)).
- **Attorney for the Child (AFC)** appointments require a copy of the UCS-882 (Order Approving AFC Compensation) and the UCS-875 with the same date of approval on both forms.
- **Foreclosure Referees** are not required to file a UCS-872 for an appointment to compute or an appointment to sell real property when compensation for such appointments is not anticipated to exceed \$1,100. **Note:** A Judge who awards compensation exceeding \$500 for an appointment to compute or an appointment to sell is required to file a statement of approval of compensation (UCS-875) pursuant to Judiciary Law § 35-a (1) (a) and 22 NYCRR Part 26.



NEW YORK STATE
Unified Court System

PART 36 BENCHCARD

REV. 6/22/2022

SECONDARY APPOINTMENTS:

- The selection and appointment of a Secondary Appointee is a judicial function. Only the Judge may make a secondary appointment.
- When a Part 36 Guardian or Receiver seeks to retain counsel, an accountant, appraiser, auctioneer, property manager or a real estate broker, the retained professional is subject to the requirements of Part 36 (see Section 36.2(a)), including the filing of a UCS-872 (Notice of Appointment and Certification of Compliance).
- The Guardian or Receiver must request that the Judge appoint such a professional, and the professional must comply with all provisions of Part 36, including those governing list enrollment, disqualification and limitations based on compensation.
- The Judge **MUST** issue an Order appointing all secondary professionals. The Judge may consider the recommendation of the Part 36 Guardian or the Receiver, but the final decision rests with the Judge.
- No Guardian or Receiver shall be appointed as his or her own counsel, and no person associated with a law firm of the Guardian or Receiver shall be appointed as counsel to that Guardian or Receiver, unless there is a compelling reason to do so (see Section 36.2(c)(8)).
- Professionals retained by Guardians who are exempt from Part 36 (e.g., lay and nominated Guardians) are not subject to the secondary appointment rules, but the Court always has the statutory authority to restrict the Guardian's powers and the Guardian's exercise of those powers.
- Compensation for Secondary Appointees is subject to the requirements of Part 36, and the Court must issue an Order. A UCS-875 (Statement of Approval of Compensation) must be filed with OCA when compensation is greater than \$500.

RULES TO REMEMBER:

- **\$15,000 Rule** - An Appointee may accept only one appointment per year for which compensation is anticipated to exceed \$15,000 in the year of appointment or in any future calendar year.
- **\$100,000 Rule** - If an Appointee is awarded an aggregate amount of Part 36 compensation over \$100,000 in a calendar year, the Appointee is NOT eligible to receive compensated Part 36 appointments the following year.
- **Exception to the \$15,000 or \$100,000 Rule** - Where the Judge determines that the appointment is necessary for continuity of representation or of service.
- Generally, Part 36 applies only to Appointees compensated at the expense of private parties. Part 36 does not apply to appointments pursuant to Family Court Act § 243, Surrogate's Court Procedure Act § 403-a, 407, Judiciary Law § 35 and County Law article 18-B.
- Clearly indicate on the record and/or the Order of Appointment whether the appointment is subject to Part 36 or exempt (e.g., a nominated or proposed guardian).
- Produce a written Order for each appointment approved by the Court, including all secondary appointments.
- An Attorney for an Alleged Incapacitated Person may NOT be appointed Guardian or Counsel to Guardian in the same case under any circumstances.
- Court Evaluators may not be appointed Guardian in the same case unless the Court makes a written finding of "extenuating circumstances."

THE FIDUCIARY CLERK:

- Upon receipt of the Order of Appointment, the Fiduciary Clerk must enter the appointment into the Fiduciary Case Management System (FCMS).
- Non-list appointments require the appointing Judge to complete and sign form UCS-872.5 (Statement of Reasons for Non-List Appointment). A UCS-872.5 must be uploaded properly into FCMS before a UCS-872 may be generated and sent to the Appointee for acceptance.
- Within 30 days, the Appointee must either complete a UCS-872 to accept the appointment or decline the appointment. The Fiduciary Clerk, and any designated court personnel, will receive an email notification once the Appointee has accepted or declined the appointment.
- Establish benchmarks to notify the Court promptly of any Appointee who declines an appointment.
- Once the Appointee seeks and is awarded compensation for services rendered, the Fiduciary Clerk must generate a UCS-875 for the Judge to review and complete.
- Upon receipt of the completed UCS-875 from the Judge, the Fiduciary Clerk must enter the compensation and upload the UCS-875 into FCMS.
- Monitor appointments with no compensation on file and note appropriate status - e.g. case closed, case pending, clean-up in progress.

NEW YORK STATE OFFICE OF COURT ADMINISTRATION

DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR THE COURTS OUTSIDE OF NEW YORK CITY, HON. NORMAN ST. GEORGE
SHEENA A. MCNAMARA, Upstate Fiduciary Supervising Liaison, smcnamar@nycourts.gov 518-453-5947

DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR THE NEW YORK CITY COURTS, HON. DEBORAH A. KAPLAN
BRIAN BALMES, New York City Fiduciary Liaison, bbalmes@nycourts.gov 646-386-4487

Times Change but the Work Remains – Transformation, Resilience, Equity & Inclusion

By Brian Balmes, Esq., New York State Unified Court System

The New York State Adult Abuse Training Institute (AATI), sponsored by the Silberman School of Social Work at Hunter College and the New York State Office of Children and Family Services, hosted their annual three-day conference titled *Times Change but the Work Remains - Transformation, Resilience, Equity & Inclusion* in Albany this past October.

Geoff Rogers, Director of The Learning & Development Projects at the Silberman School of Social Work, and Shelly Fiebich, Director of the New York State Office of Children and Family Services, Bureau of Adult Services, who worked tirelessly on this conference, are members of the New York State Judicial Committee on Elder Justice.

The AATI annual conference brought together stakeholders and partners from Adult Protective Services, criminal justice, healthcare, law enforcement, mental and public health, aging, domestic violence and a variety of other professions to collaborate, build networks, share ideas and learn from one another. The Honorable Deborah A. Kaplan, Deputy Chief Administrative Judge for New York City Courts, delivered the Keynote speech for the conference. Judge Kaplan spoke about the important work the courts are engaged in to eliminate inequality; the progress the courts have made since the release of Secretary Jeh Johnson's report on equal justice; the groundbreaking work of the Elder Justice Innovation Grant; and the DCAJ-NYC's initiatives such as the drafting and dissemination of Part 36 Benchcards to the Civil Terms of Supreme Court and the Surrogate's Courts in New York City.

Joan Levenson, Esq., Special Counsel to Judge Kaplan, moderated a workshop titled *Article 81 Guardianships: A Closer Look at the Process Through the Eyes of Key Actors* whose participants included the Honorable Lisa S. Ottley, Justice of the Supreme Court, Kings County - Civil Term; Brian Balmes, Esq., Deputy Chief of Staff to Judge Kaplan; Committee member Lisa Rachmuth, LMSW, Executive Director of the NYC Elder Abuse Center at Weill Cornell Medical; Ivette Callender, Managing Director of Self-Help's Community Guardianship Program; and Barry Clarke, Esq., former Chief of Operations for the Office of Court Administration now in private practice. The workshop focused on guardianships from the perspective of an Article 81 guardianship judge, a court evaluator, a lawyer for the Alleged Incapacitated Person and a client advocate. The panel also discussed the collaborative work of the Elder Justice Innovation Grant to ensure increased accessibility, language translation services and the implementation of plain language principles for all forms utilized throughout the life of an Article 81 proceeding.

Another workshop, *The Evolution of Capacity Determinations in Guardianships and Beyond*, featured Morgan Thurston, Esq., Assistant Welfare Attorney for the Onondaga County Department of Law, and Joan Levenson, Esq.



The two discussed legal capacity, the substantive and procedural differences between Article 81 and Article 17-a Guardianships and included a comprehensive review of recent guardianship cases with a focus on cases where guardianship petitions were denied, or guardianships were terminated. The presenters also discussed the Supported Decision Making Agreement Act (MHL Article 82), its upcoming implementation and potential impact.

New Resource Guide to Aid NYS Justices, Court Personnel, and Other Legal Professionals

By The Weinberg Center for Elder Justice

The Weinberg Center, in partnership with the NYS Unified Court System's Division of Policy and Planning, has created a new Elder Justice Resource Guide, a statewide source of resources, information and support for New York's judges, court personnel and other legal professionals. The Guide, which will be continuously updated as the landscape changes, represents the court's commitment to substantively improving access to justice for older adult litigants across the state, and to making a wide array of relevant resources available to those who need them. Presentations based on the Resource Guide are available for CLE credit.

MIT Students Wear Suits to Understand Older Adult Needs

By Megan H. Schnader, Esq., New York State Unified Court System

MIT's AgeLab, a research program created to generate ideas and formulate technology solutions to advance the quality of life for older adults and their caregivers, offers a unique experience to their students: the utilization of Age Gain Now Empathy System (AGNES) suits. These suits allow engineering students to literally walk in older adults' shoes. This gives students a better understanding of the physical challenges that older adults face and enhances students' empathy towards them.

The suit is comprised of braces, bands, tinted glasses, earplugs, gloves, and custom shoes. The suits can stimulate various aches and pains that an older adult may experience, such as limited joint mobility, fatigue, vision loss, hearing difficulties, balance issues, and more. Students can understand how these physical impediments affect daily activities, such as riding on public transportation, driving, and engaging in the workplace.

The AGNES suits are not only being used by MIT students. MIT AgeLab has used them to train researchers and faculty, assisted living facility employees, and Harvard Medical School students. In addition, these suits are being used in other industries, including pharmacies and transportation systems, in order to improve accessibility.

Having gained insight into how aging affects the body, students develop a different perspective that helps them create new a technology for the benefit of older adults.

If interested, please contact:
joy.solomon@theweinbergcenter.org or
Deirdre.lok@theweinbergcenter.org

To access the Elder Justice Resource Guide: [Elder Justice Resource Guide](#)

For more information:
[AGNES \(Age Gain Now Empathy System\) | MIT AgeLab](#)

[AGNES MIT — Atlas of the Future](#)

Video Clip: [Meet A.G.N.E.S. - M.I.T. AgeLab's Aging Suit | Fast Forward | THIRTEEN - New York Public Media](#)



"Both of my parents were public servants. Working with the public is ingrained in me. I believe in that."



"I loved having the ability to do the right thing and advocate for the right position."

Committee Member Corner: Frederic Green, Esq.

Westchester County District Attorney's Office

Fred has served as a member of the NYS Judicial Committee on Elder Justice since its formation. From the very beginning, Fred was very eager and enthusiastic to hit the ground running. He relished the opportunity to be around professionals from different areas of elder justice who were doing amazing work and who he could learn from.

Following in his parents' footsteps, Fred has worked as a public servant since he graduated from law school. He started his career off as an Assistant District Attorney at the Westchester County District Attorney's Office. Since that time, he has worked in every single division at the DA's office and has risen to the position of a Second Deputy District Attorney and Chief of the Special Prosecutions Division.

In his position at the DA's office, Fred handles various types of cases, including domestic violence, child abuse, sex crimes, human trafficking, and elder abuse; oversees the work of others in all of these areas; teaches ADAs and at the police academy; and performs outreach in the community. In addition, he has helped to train chiefs and police officers in almost every precinct in Westchester County on a new initiative where police officers perform domestic violence risk assessments at the scene and connect victims on the spot with a hotline for further services and support.

This is not just a job to Fred; it is his life's work. He is passionate about his work at the DA's Office and always strives to be a fair, ethical, and a fierce advocate.

Retirement Spotlight: Gary Brown, Esq.

Office of the New York State Attorney General, Westchester Regional Office

Upon joining the NYS Judicial Committee on Elder Justice at its outset, Gary knew it would be a wonderful opportunity to train colleagues and learn from colleagues. In addition, members had the opportunity to bring new information from their colleagues back to their own constituents.

Prior to retiring, Gary served as the statewide Elder Abuse Coordinator for the New York Attorney General, Letitia James. He was also the Assistant Attorney General-in-Charge of the Attorney General's Westchester Regional Office. In his coordinator role, he raised awareness about elder abuse throughout the State of New York through speeches, radio, press releases, and trainings.

From the start of the Covid-19 pandemic to date, Gary participated in some 52 presentations - both live and virtual - including one for the New York State Unified Court System, entitled *How to Avoid Common Scams and Frauds During the Pandemic*. These expert and thoughtful trainings served to educate professionals and the community about how to protect vulnerable older adults.

When thinking back on the countless number of cases he worked on during his 30-year tenure at the Attorney General's Office, Gary recounts that what he loved most about his job was his ability to do the right thing and advocate for the right position. He also enjoyed hosting a radio show, *The Attorney General's Report*, where he educated and alerted older adults to recent spoofing, scam prevention, and more.

In addition to being a part of the NYS Judicial Committee on Elder Justice, Gary served as the Co-Chair of the Westchester Elder Abuse Coalition, was a member of Westchester County's Multidisciplinary Team on Elder Abuse, and a member of the Elder Financial Exploitation Advisory Board of the National Adult Protective Services Association.

Retirement Spotlight: Jennifer Rosenbaum

New York State Office for the Aging (NYSOFA)



Jennifer joined the NYS Judicial Committee on Elder Justice at its inception. She always enjoyed the fact that the Committee on Elder Justice included experts and voices in the field of elder justice from different disciplines. In addition, Jennifer finds it very important that the Committee considers issues that arise not only in New York City, but throughout the state.

Jennifer spent the majority of her career devoted to state public service. Prior to her recent retirement, Jennifer was the Assistant Director of Division of Policy, Planning, Program, and Outcomes (D3PO) at NYSOFA. She began working at the Office for the Aging in 1987, and had various roles, including gerontologist, policy analyst, and program manager. In these positions, some of her duties included the development of policy and programs, contract and project management, development of data reporting, quality assurance, and outcomes measurement for various programs and projects.

She was also a part of many of the agency's projects over the years, such as the Long-Term Services and Supports initiative, NY Connects initiative, elder justice initiatives, the expansion of the Elder Abuse Enhanced Multidisciplinary Team statewide initiative, and the development of the Caregiving and Respite services. Jennifer especially loved working in elder justice because of the research, partnerships, teamwork, and critical thinking required in order to expand initiatives and convert them into effective policies and services to help New Yorkers.

"I'll always be passionate about the importance of the work we do and what we seek to achieve."



"I will make contributions in different ways now."

Retirement Spotlight: Martha Pollack

Jewish Association Serving the Aging (JASA)

As an active member of the NYS Judicial Committee on Elder Justice, Martha enjoyed the networking, great resources, interesting new initiatives, and the fact that the Committee was comprised of members from various disciplines in the elder justice field. She believed that members of the Committee always had their "finger on the pulse" and saw the whole picture when it came to elder justice. Martha appreciated the profound impact the Committee had on the elder justice field overall.

Prior to retiring, Martha served as the Senior Director of Elder Abuse Prevention Services at JASA, where she worked for over 10 years. Prior to this role, she was the Queens District Director. While at JASA, she supervised elder abuse workers and assisted vulnerable adults in New York. Martha was also instrumental in planning the annual NYC Elder Justice Conference, running JASA's Elder Justice Training Institute, training staff members, and mentoring chaplaincy student interns.

Additionally, Martha aided in the development of a naturally occurring retirement community (NORC) for older adults in Riverton, which is a Metropolitan Life housing development in East Harlem. This community enables older adults to remain at home while not only receiving necessary services, but also staying independent and safe. The community offers many services, including, but not limited to, nursing services, health, exercise, and socialization activities, in-home services, counseling, and crisis intervention.

As a professor at Touro College, Martha shares her knowledge and experience with social work and podiatry students. Martha plans to continue to teach. Martha will miss her colleagues, teams, and the great sense of community she always felt at JASA.
