

# 2019 ANNUAL REPORT



**Attorney Grievance Committee  
Supreme Court, Appellate Division  
First Judicial Department**

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Supreme Court, Appellate Division  
First Judicial Department**

**Robert J. Anello  
Abigail T. Reardon  
Chairs**

**Jorge Dopico  
Chief Attorney**

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## COMMITTEE MEMBERS

Complaints against attorneys, registered at an address in Manhattan or the Bronx, are investigated and resolved by the Attorney Grievance Committee for the Supreme Court, Appellate Division, First Judicial Department (AGC). The Chief Attorney of the AGC manages a staff of over 40 salaried lawyers and non-lawyers (staff). Together with a volunteer group of lawyers and non-lawyers (collectively referred to as Committee members or the Committee), the Chief Attorney's Office processed 4,223 matters in 2019, including 2,809 new complaints.

Committee members are volunteers appointed by the Court who fulfill both adjudicative and executive functions. Most significantly, they decide, after appropriate investigation by the Chief Attorney's Office, whether a disciplinary proceeding should be brought against an attorney, whether a private admonition or letter of advisement should be issued, or whether a complaint should be dismissed. If a disciplinary proceeding is approved, the Court may appoint a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact, conclusions of law and recommended sanction. Thereafter, the Court makes the final determination on both liability and sanction based on its review of the record.

In 2019, two separate volunteer Committees, each with a Chair, Vice-Chair and 19 other members, reviewed and approved staff's recommendations to dismiss, advise, admonish or formally charge respondents. Each volunteer Committee operates independently and meets six times annually.

Below are brief biographies of the 42 volunteer Committee members who served, with dedication and energy, highlighting their diverse accomplishments:

### Robert J. Anello (Chair)

Mr. Anello, a principal of Morvillo Abramowitz Grand Iason & Anello, PC, has litigated in the federal and state courts for more than thirty years. He focuses his practice on white collar criminal defense, securities and regulatory enforcement matters, complex civil litigation, internal investigations and reviews, and employment discrimination and sexual harassment. Mr. Anello is widely recognized for his skills as a criminal and civil trial and appellate attorney, his ability to negotiate effectively on behalf of his clients, and his efficiency and

discretion in conducting investigations and reviews on behalf of a wide variety of institutions. He is President Emeritus of the Federal Bar Council, and is a Fellow of the American College of Trial Lawyers, the American Bar Association Foundation, and the New York State Bar Foundation. Mr. Anello is a co-author of the two-volume treatise: *White Collar Crime: Business and Regulatory Offenses*, Rev. Ed. (2019), and an author of the *White Collar Crime* column for the *New York Law Journal*. He is a regular contributor to *The Insider Blog on Forbes.com*. Mr. Anello is a frequent contributor to numerous other publications and a speaker on topics in the areas of white collar criminal law, securities law, professional ethics, and trial tactics. He also is widely known for his dedication to organizations serving the legal community. Mr. Anello is the former Chairman of the Audit Committee for the Association of the Bar of the City of New York and was a member of the Association's Nominating Committee. He is also the former Chairman of the Association's Committee on Professional Responsibility. Mr. Anello was named as a member of the Association's Ad Hoc Committee on Multi-disciplinary Practice and the Ad Hoc Committee Task Force on the Role of Lawyers in Corporate Governance. In addition to these roles, he is a member of numerous other bar associations. Mr. Anello serves on the Board of Trustees of The Supreme Court Historical Society, and is a member and secretary of the Foundation of the New York Organ Donor Network and former Chairman of the organization's Audit Committee. Mr. Anello received his J.D., *magna cum laude*, from Syracuse University College of Law, and his B.A. from SUNY Albany.

Abigail T. Reardon (Chair)

Ms. Reardon is a partner in the firm of DLA Piper, LLP, and a member of the Litigation Group and the Technology Sector. She is a graduate of Duke University School of Law and College of the Holy Cross. Ms. Reardon is admitted to practice law in New York and Massachusetts, the U.S. Court of Appeals, Second Circuit, and other federal courts. Ms. Reardon is a member of The Association of the Bar of the City of New York, and the Duke University Law School Board of Visitors. She is a former trustee of Windward School, White Plains, New York, and a former governor of the Nantucket Yacht Club. Ms. Reardon served as Vice-Chair of a Committee for two terms before her appointment as a Chair.

Ricardo E. Oquendo (Vice-Chair)

Mr. Oquendo is the founder and co-managing partner at Oquendo Deraco, PLLC and Affiliates, and was previously associated with Davidoff Malito & Hutcher, LLP, Oquendo,

Ramirez, Zayas, Torres & Martinez, LLP, LeBoeuf, Lamb, Greene & MacRae, LLP (Dewey LeBoeuf) and with Kalkines, Arky, Zall & Bernstein, LLP (Manett Phelps & Phillips). Mr. Oquendo has over 31 years experience as a business transactional and commercial litigation attorney with a special focus on business, commercial and real estate litigation, commercial and real estate transactions, commercial landlord/tenant matters (leases and litigation), special needs/affordable housing development/tax credit financing, business finance and lending, business contracts, employment law, entertainment, fashion and media transactions, intellectual property licensing and litigation, hospitality and restaurants, nonprofit/tax exempt organizations, professional licensing and discipline and government relations/public affairs. Mr. Oquendo is a graduate of Rutgers University School of Law. Mr. Oquendo is admitted to practice law in the State of New York, the U.S. Supreme Court, the U.S. District Court, Southern, Eastern and Northern Districts of New York. Mr. Oquendo is a member of the Board of Directors of Latino Justice/Puerto Rican Legal Defense and Education Fund and is a Regent Emeritus having served as a member of the New York State Board of Regents from 1998-2003.

Milton L. Williams, Jr. (Vice-Chair)

Mr. Williams is a partner at Walden, Macht & Haran, LLP. He is a former federal prosecutor and deputy general counsel with deep experience in white collar criminal and regulatory matters, employment law, litigation, and advisory work representing corporations in addition to complex commercial litigation. In the course of his distinguished career, he has tried more than 56 cases, both civil and criminal, to verdict. Prior to joining Walden, Macht & Haran, LLP, Mr. Williams was a partner at a nationally recognized law firm, where he handled white collar matters. He also litigated discrimination claims, restrictive covenant, Dodd-Frank, and Sarbanes-Oxley retaliation claims, as well as Securities and Exchange Commission (SEC) and Internal Revenue Services (IRS) whistle blower claims on behalf of employees. Mr. Williams brings to his practice substantial experience in public corruption matters. In 2013, he was appointed co-chair of the Moreland Commission to investigate public corruption. In 2018, Mr. Williams led the trial team that successfully defended a corporate client in a high-profile public corruption case in the Southern District of New York (SDNY). They won the only acquittal in this highly contested and publicized four-defendant trial. Previously, Mr. Williams served as Deputy General Counsel and Chief Compliance Officer at Time Inc., where his responsibilities included compliance, the Foreign Corrupt Practices Act, the Office of Foreign Assets Control (OFAC), and Sarbanes-Oxley, as well as intellectual property, privacy, data security, and other cutting-edge areas. At Time Inc., Mr.

Williams litigated a variety of employment law matters on behalf of the company concerning race, age, disability, and gender discrimination; restrictive covenants; and independent contractor litigation. Earlier in his career, Mr. Williams was an Assistant U.S. Attorney in the U.S. Attorney's Office (USAO) for the SDNY. His last assigned unit in the USAO was the Securities and Commodities Fraud Force. Mr. Williams also served as an Assistant District Attorney in the Manhattan District Attorney's Office. Recognitions: "Labor and Employment Star," *Benchmark Litigation* (2020) and *500 Leading Lawyers in America*, Lawdragon (2019). Mr. Williams received his J.D. from the University of Michigan Law and his B.A. from Amherst College.

### Robert M. Abrahams

Mr. Abrahams is of counsel to Schulte Roth & Zabel LLP. Mr. Abrahams concentrates his practice in complex commercial litigation, including securities, real estate, employment, derivative actions, trusts and estates, partnership disputes, defending claims brought against lawyers and law firms, and director and officer liability matters. For many years, he headed his firm's litigation department and was a member of the firm's executive committee. His many significant representations include a major interdealer broker in numerous regulatory investigations, arbitrations and civil litigations, including a five-month jury trial and related FINRA arbitration in which his clients recovered in excess of \$140 million; 173 former Dewey LeBoeuf partners in the successful defense of a \$200-million claim; one of the largest law firms in the world in a \$100-million malpractice suit. Mr. Abrahams has tried more than 100 civil cases and arbitrations and he has recently served as an arbitrator appointed by the International Chamber of Commerce. He is listed in *Benchmark Litigation: The Definitive Guide to America's Leading Litigation Firms & Attorneys* ("National Star" in securities litigation), *Best Lawyers in America*, *The Legal 500 US*, *New York Super Lawyers*, *Who's Who in America* and *Who's Who in the World*. Mr. Abrahams is the author of the "Commercial Real Estate" chapter of *Business and Commercial Litigation in the Federal Courts* (Thomson West, 2010-2016) and the "Document Discovery" chapter of *Commercial Litigation in New York State Courts* (Thomson West and the New York County Lawyers' Association, 2011-2015). He received his B.A. from Hobart College and his J.D., *with distinction*, from Hofstra University School of Law, where he was editor-in-chief of the *Hofstra Law Review*.

### Daniel R. Alonso

Mr. Alonso is currently a partner at Buckley LLP, where he focuses his practice on white



collar defense and internal investigations, regulatory enforcement defense, complex civil litigation, and anti-corruption compliance. Immediately before joining Buckley, he was Managing Director and General Counsel of the global compliance and risk management firm Exiger. Mr. Alonso is a graduate of Cornell University (1987) and New York University School of Law (1990), and served as law clerk to Judge Joseph W. Bellacosa of the New York Court of Appeals. He was previously a litigation partner at Kaye Scholer LLP, and has also served in senior positions as a federal and state prosecutor, first as the Chief of the Criminal Division in the United States Attorney's Office for the Eastern District of New York, and later as the Chief Assistant District Attorney in the Manhattan District Attorney's Office. He is a member of the Board of Directors of the Fund for Modern Courts; the New York State Bar Association's Committee on Standards of Attorney Conduct; and the Board of Editors of the Journal of Financial Compliance. In 2012-13, Mr. Alonso was Co-Chair of the New York State White Collar Crime Task Force, and between 2007 and 2009, Mr. Alonso served by appointment of the Governor of New York as a member of the New York State Commission on Public Integrity.

#### Marjorie E. Berman

Ms. Berman, a partner at Krantz & Berman LLP, practices in the areas of employment litigation, complex commercial litigation and white-collar criminal defense. In addition, she provides mediation services and employment counseling. She represents a diverse group of clients, ranging from individuals and partnerships to small, mid-size and Fortune 500 Companies. She has been recognized by *Super Lawyers* as one of Metro New York's top fifty women lawyers. Ms. Berman graduated *magna cum laude* and *Phi Beta Kappa* from Brown University in 1983. She received her J.D. from Columbia University in 1989 where she was a Harlan Fiske Stone Scholar. Following law school, she clerked for the Honorable Naomi Reice Buchwald of the Southern District of New York. Ms. Berman presently serves as President of the Federal Bar Council Inn of Court and Secretary of the Federal Bar Council. She previously served as Secretary of the Columbia Law School Alumni Association and remains a Board Member. She has also been active in alumni affairs for Brown University. Ms. Berman currently serves on the Board of Day One ([www.dayoneny.org](http://www.dayoneny.org)), an advocacy group committed to ending dating abuse and domestic violence among teens and young adults. Ms. Berman has an active mediation practice and has been appointed to the mediation panels for the Southern District of New York, the Eastern District of New York and the Commercial Division of New York Supreme Court.

Eleazar F. Bueno

Mr. Bueno is currently on the Manhattan Board Chair 12 and JPD Foundation Chair. He is also the Vice-Chair of the Washington Heights & Inwood Chamber of Commerce. Mr. Bueno is pursuing a BA & Masters Degree in Public Administration & Economics at CUNY Center of Workers Education. He is the Managing Partner at AAE Enterprises franchises.

John P. Buza

Mr. Buza is a New York trial attorney. Upon graduating from law school, Mr. Buza served as a prosecutor in the New York County District Attorney's Office from 2008 through March of 2014 when he entered private practice. Mr. Buza specializes in defending those accused of crimes on the state and federal level as well as representing individuals and corporations being investigated by the government.

Rev. Reyn Cabinte

Rev. Cabinte is the Senior Pastor of Uptown Community Church in Washington Heights. He planted Uptown in 2008, previously serving Emmanuel Presbyterian Church (Morningside Heights) and Church planting Fellow at Redeemer Presbyterian Church. Rev. Cabinte is a founding board member of Viva Uptown, a church-based collaborative non-profit working for the renewal of northern Manhattan. He is also the Manhattan Catalyst for Redeemer City to City, a global urban missions organization. Prior to the ministry he worked at CBS News' 60 Minutes, a writer for economic development NGO World Vision, and once captain of the men's swim team at Columbia University. He has two boys with his wife, Esther.

Hon. James M. Catterson

Judge Catterson is a partner at Arnold & Porter Kaye Scholer LLP, specializing in complex commercial litigation. Prior to joining the firm, he was an Associate Justice of the Appellate Division, First Department of the New York State Supreme Court, where he participated in more than six thousand civil and criminal appeals. Prior to his elevation to the Appellate Division, Judge Catterson presided over hundreds of civil jury trials of a wide range of classifications in the Tenth Judicial District of the New York State Supreme Court. Before his election to the Supreme Court, Judge Catterson served as Suffolk County's Deputy County Attorney and throughout his career has litigated on behalf of a broad spectrum of federal and local entities at the administrative, trial and appellate levels in both federal and state courts as well as arbitration on a wide range of municipal issues. He has prepared and

argued appeals before the United States Court of Appeals for the Second Circuit and the Supreme Court of the State of New York, Appellate Division, First and Second Judicial Departments. He also served as an Assistant United States Attorney in the Eastern District of New York. Judge Catterson spent the majority of his tenure in the EDNY as Chief of the Asset Forfeiture Unit. Judge Catterson is a former adjunct professor for Cardozo Law School and Touro Law School. He received his JD from St. John's University School of Law and his BA from Colgate University. Judge Catterson has been retained to provide extensive opinions in domestic and international litigation and arbitration. He also works as a mediator and arbitrator for high value civil litigations and consults with other law firms on complex New York litigation issues.

### Sylvia Fung Chin

Ms. Chin is partner/of counsel in the firm of White & Case LLP. She has considerable experience in corporate and commercial financing with an emphasis on asset-based financing transactions. She graduated from New York University and Fordham University School of Law. After graduation she clerked for Hon. Lawrence W. Pierce in the United States District Court of the Southern District of New York. She is an adjunct professor at Fordham University School of Law. She also serves on the governing Council of the ABA Business Law Section and as Co-Chair of the First Judicial District of the NY Bar Foundation, President of the Asian American Law Fund of New York, a board chair of Stichting to Promote Women's World Banking, and a trustee of the Fordham Law Alumni Association. She is a member of the American Law Institute, the ABA Legal Opinions Committee, the Tribar Opinions Committee, and the Association Advisory Board of the Working Group on Legal Opinions. She also served as President of the American College of Commercial Finance Lawyers, President of the American College of Investment Counsel, President of the Asian American Bar Association of New York, President of the NAPABA Law Foundation, Board Secretary of Women's World Banking, Chair of the ABA Business Law Section Diversity and Inclusion Committee, Treasurer of the National Asian Pacific American Americas Bar Association, a Director of the New York County Lawyers Association and was a representative to the NYSBA House of Delegates. Her awards include the Jean Allard Glass Cutter Award of the ABA Business Law Section, the CLEO Legacy Diversity Award, AABANY's Norman Lau Kee Trailblazer Award, Leonard F. Manning Achievement Award from Fordham Law Review, the NAPABA Northeast Region Trailblazers Award, the Fordham Law Women Distinguished Alumna Award and the Pace Law School AALSA Achievement Award. She has been listed in the *Guide to the World's Leading Structured*

*Finance and Securitization Lawyers, Euromoney's Women in Business Law, and New York Metro Super Lawyers.*

Catherine A. Christian

Ms. Christian is the New York County District Attorney's Office Special Assistant District Attorney for External Affairs and Chief of the Elder Abuse Unit. After graduating from Dickinson School of Law in 1988, Ms. Christian began her legal career as an Assistant District Attorney in the Office's Trial Division under Robert M. Morgenthau. She prosecuted a wide variety of crimes, including, domestic violence and homicides. In 1995, she joined a private law firm, and later served as an Assistant Counsel for the New York State Commission of Investigation. She subsequently served as the Principal Law Clerk to the Honorable Rosalyn Richter. Ms. Christian was reappointed as an ADA in 1998 and assigned to the Office of the Special Narcotics Prosecutor for New York City, serving in various roles, including, as a member of the Executive Staff. In 2014, District Attorney Cyrus R. Vance, Jr., appointed Ms. Christian Chief of the Elder Abuse Unit. Ms. Christian is a member of the Appellate Division First Department's Attorney Grievance Committee and Character and Fitness Committee. From 2007-2008, Ms. Christian was President of the New York County Lawyers' Association.

Robert S. Cohen

Mr. Cohen is the Senior Partner at Cohen, Clair, Lans, Greifer, Thorpe & Rottenstreich, LLP. His area of concentration is in complex family law matters. Prior to his present affiliation, he was a partner at Morrison Cohen LLP where he was also the Managing Partner and Chair of the firm's Executive Committee. He has been the lead lawyer in some of the most important equitable distribution and custody matters in New York and represents individuals in significant matters outside New York including in Connecticut, Florida, Georgia, Illinois, New Jersey and jurisdictions outside the United States. He has lectured in the United States, Europe and Asia and has been, for the past 17 years, an Adjunct Professor at the University of Pennsylvania School of Law. He is the author of *Reconcilable Differences* published by Simon & Schuster and has been recognized by *The New York Times* as one of the most important divorce lawyers in the United States. He has been profiled by both *The New York Times* and the *Wall Street Journal*. In 2016, the Governor named Mr. Cohen Chairperson of the Judicial Screening Committee of the First Judicial Department, which Committee he has served on since 2012, and also designated him as a member of the State Judicial Screening Committee. In 2016, he was also appointed as Chairperson of the

Supreme Court's Matrimonial Committee. Mr. Cohen is a member of The American College of Family Trial Lawyers and a Fellow of the American Academy of Matrimonial Lawyers. His biography appears annually in *The Best Lawyers in America*, *Who's Who in the World*, *Who's Who in America*, *Who's Who in American Law*, *Best Lawyers in New York* and *Super Lawyers*. He attended Alfred University where he is presently a trustee and Fordham University where he was an editor of the Law Review. He was an officer in the Judge Advocate General's Corp and has completed seven marathons.

#### Susan M. Cofield

Ms. Cofield was employed by the New York City Department of Education for over 35 years. During the course of her career with the department, she served in a number of positions including School Counselor, Community School District Director of Pupil Personnel Services, Citywide Director of Guidance and Support Services and Executive Director of Borough Enrollment for Manhattan. Prior to Ms. Cofield's retirement she served as Deputy Chief Executive Officer for Student Enrollment. In this capacity, her responsibilities included managing operations and the development of policies and professional development for the twelve Enrollment Family Welcome Centers located across the five boroughs and supervising the Executive Directors of Borough Enrollment. She graduated from New York University (B.A. cum laude) and Columbia University School of Social Work (M.S. with Distinction). In addition, she has an Education Administration and Supervision Certificate from the City College of New York.

#### William F. Dahill

Mr. Dahill is a Partner at Dunnington, Bartholow & Miller LLP, where he is a member of Dunnington's employment and litigation, arbitration and mediation practice area. Since 1991, Mr. Dahill has concentrated his practice on complex commercial litigation and employment litigation and counseling. Areas of focus include securities industry litigation, employment litigation, payment processing disputes, asset purchases disputes, secured lending disputes, partnership disputes, shareholder disputes and construction litigation. Mr. Dahill appears regularly in Federal and State Courts in New York and Connecticut. Mr. Dahill is admitted to the bar in the States of New York and Connecticut, as well as to the bars of the Southern District of New York, Eastern District of New York, and the Court of Appeals for the 2<sup>nd</sup> and 5<sup>th</sup> Circuits. He is an active member of the Professional Discipline Committee of the City Bar, the Network of Bar Leaders, as well as the Federal Bar Association of the Southern District of New York. Mr. Dahill received his J.D. from Fordham University School of Law,

*cum laude*, in 1991, where he served as Managing Editor of the Moot Court Board. Mr. Dahill received his B.A. in Architecture from Columbia University in 1984.

### Ralph C. Dawson

Mr. Dawson, of counsel at Norton Rose Fulbright, US LLP, is engaged in the practice of labor and employment law and civil litigation in the New York office. His practice involves the representation of employers in proceedings before the courts and administrative agencies. He also represents employers in collective bargaining negotiations and in grievance and arbitration proceedings under labor contracts. In the broader employment law area, Mr. Dawson represents employers in courts and in administrative proceedings involving claims of wrongful discharge and claims of employment discrimination brought under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act and related federal and state statutes. He has also represented clients in a variety of commercial disputes involving non-competition, other restrictive covenants, breach of contract and tort claims. He also provides counseling and training to various companies in the securities industry and other industries. Mr. Dawson's interest in public policy matters has led him to collaborate with our Public Finance Department of which he is now a part. In this capacity he has been part of the our teams acting as underwriter's counsel for various financial institutions. A graduate of Yale University and the Columbia University School of Law, Mr. Dawson was licensed to practice law in New York in 1977, is also a member of the Washington, D.C. Bar, and is admitted to practice before the United States Supreme Court, various federal district courts and the Courts of Appeal for the Second and Fifth Circuits. He is also a member of American Bar Association, New York City Bar Association, and Metropolitan Black Bar Association of New York, and serves on the Court Appointed Merit Selection Panel for Magistrate Judges in the United States District Court for the Southern District of New York. He has been recognized as a *New York Metro Super Lawyers* in the area of employment & labor from 2012-2020..

### Peter G. Eikenberry

Mr. Eikenberry is a sole practitioner in New York City specializing in complex commercial litigation in the State and Federal courts, including employment, art law, contract, fraud, international, securities, and bankruptcy adversary disputes. Previously, *inter alia*, he had been an associate at White & Case and a partner at Seyfarth Shaw. He was educated at The Ohio State University (B.A. and LL.B.), where he was Note Editor of the Law Journal and where he is a member of its National Council. He is a member of the NYCBA Committee

on International Human Rights (2015- ), and has been a member of its committees to Encourage Judicial Service (Founding Chair 1989-1992), Orison Marden Lecture Committee (Chair 2005-2009), Federal Courts, Judiciary, State Courts of Superior Jurisdiction, Litigation and the Council on Judicial Administration. In 1998 he led an NYCBA Human Rights Mission to Northern Ireland. Mr. Eikenberry was a volunteer lawyer in the Dilley, Texas U.S. Detention Center in summer 2014 and a NYCBA impartial observer at the Guantanamo Bay criminal proceedings in fall 2017. He has been a member of NYSBA Committees on Courts of Appellate Jurisdiction and Federal Courts, a Vice President of the Federal Bar Council, and has served on FBC Committees on Courts of the Second Circuit (Chair 2000-2003) and Public Service (Founding Chair 1991-1994). He was Editor in Chief of the FBC Quarterly (2007-2010) and was a co-author of the FBC's Proposed Deposition Rules for the Second Circuit, 131 F.R.D. 613 (1990). Mr. Eikenberry was the Convenor and is a member of the Steering Committee of the New York Conference on Immigration Representation led by Chief Judge Robert Katzmann of the Second Circuit Court of Appeals. He is a Fellow of the New York Bar Foundation. He is author of Chapter 9, *Specific Performance and Rescission* in Haig, Commercial Litigation in New York State Courts (West 2015). He received the American Inns of Court Professionalism Award in 2016, and the Moritz College of Law at Ohio State University in 2017. He is President of Friends of Marcy Houses, Inc.

#### Virginia Goodman Futterman

Ms. Futterman is a Senior Partner at London Fischer, LLP, where she heads up a litigation team dedicated to defending complex and high-profile Labor Law/Construction and Premises Liability matters involving large commercial and residential construction projects. She began her career as a litigator over 30 years ago as a first-year associate at Bower & Gardner where she rose to equity partner before becoming a founder member of Bower, Sanger & Futterman. Ms. Futterman has also served as appointed Federal Court mediator for almost 20 years in the Southern and Eastern Districts of New York with primary focus on EPL cases. Outside the legal area, Ms. Futterman currently serves as President of her Co-op board, continuing a long history of commitment, including 20 years as an active volunteer at New York Junior League.

#### Mark S. Gottlieb

Mr. Gottlieb is the business valuation and forensic accounting practice leader at MSG located in New York City. As a recognized expert, Mr. Gottlieb's practice is related to various

financial issues and litigation. He has over 30 years of experience. Mr. Gottlieb is also frequently appointed by the court as a neutral expert and a current Adjunct Professor at Fordham Law School.

Keisha-Ann G. Gray

Ms. Gray is a distinguished trial lawyer who has secured significant victories in both federal and state courts. As a partner in the Proskauer Rose, LLP's Labor & Employment Law Department, she focuses her practice on civil law with an emphasis on litigating highly-sensitive employment discrimination claims and conducting sensitive high-profile investigations. Because of the nature of Ms. Gray's practice, many of her successful matters have resulted in non-public resolutions and remain confidential. Counseling is another cornerstone of her practice. As a seasoned trial counsel and litigator, Ms. Gray draws from her experiences in the courtroom before juries to help inform her clients, including many Fortune 500 companies, on issues pertinent to employment law and complaint prevention. Ms. Gray frequently speaks and writes on trial practice and employment discrimination defense matters. Ms. Gray has been recognized by *The Network Journal*, *The New York Law Journal's Rising Stars* and YWCA of New York's Academy of Women Leaders. Prior to joining Proskauer in 2007, Ms. Gray was an Assistant U.S. Attorney in the Eastern District of New York and a former federal law clerk, having served two years in the Chambers of the Honorable Jaime Pieras Jr., Senior Judge in the District Court for the District of Puerto Rico.

Jaipat S. Jain

Mr. Jain is a Partner at Lazare Potter Giavocas & Moyle, LLP, in New York City. His practice focuses on mergers and acquisitions, privacy and other transactional work. Mr. Jain also supervises litigations involving his clients. Immediately prior to practicing law, Mr. Jain was a business executive in New York City for a large international trading corporation. Mr. Jain acquired his primary degree in law from Delhi University, India, and L.L.M. from Fordham University, New York and is admitted in New York, India, and Senior Courts of England and Wales (non-practicing solicitor).

Amy L. Legow

Ms. Legow graduated with honors from Tufts University in 1980 with a B.A. in Social Psychology. After graduating from Cardozo Law School in 1983, she spent two years as an associate at the O'Melveny & Myers Law Firm in LA. Upon returning to New York in 1985, Ms. Legow joined the Manhattan District Attorney's Office, where she was assigned to the



Special Narcotics Prosecutor's Office. There, Ms. Legow specialized in long term investigations, rising to the position of Senior Investigative Counsel. Ms. Legow left the District Attorney's Office in 1994, after which she served as a real estate manager from 1996-1997. In 1997, she became the Principal Court Attorney to the Honorable Leslie Crocker Snyder, where she remained until 1999, at which point Ms. Legow joined the New York State Organized Crime Task Force as Investigative Counsel. As an expert in long term investigations and electronic surveillance, Amy spent 12 years at the Organized Crime Task Force, from 2008-2011 as its Counsel. In 2011, Ms. Legow was appointed to the position of Chief of the Investigations Bureau at the Richmond County District Attorney's Office, where she remained until retiring in 2016. Currently, Ms. Legow serves on the New York Board of the American Jewish Committee, and on the Board of the Tri-State Maxed Out Women's PAC.

#### Danielle C. Lesser

Ms. Lesser is the Chair of Morrison Cohen LLP's Business Litigation Department and a member of its executive committee. She is an experienced trial attorney and litigates in state and federal courts and in arbitrations. Ms. Lesser is a frequent speaker on panels and involved in programs which support women in the law. She is involved in many bar association committees and is Vice Chair of the Judiciary Committee of the New York City Bar Association. Ms. Lesser graduated *cum laude* from Cornell University and from Fordham University School of Law.

#### Lisa A. Linsky

Ms. Linsky is a Partner in the international law firm McDermott Will & Emery, LLP, and a resident in the New York City office. As a member of the Trial Group, Lisa focuses her practice on complex litigation, including sexual assault, abuse and harassment investigations, commercial, products liability, trusts and estates and LGBT civil rights litigation. Ms. Linsky comes to McDermott with extensive trial and public speaking experience. She was formerly with the Westchester County District Attorney's Office, where she ran the Special Prosecutions Division, which included Child Abuse, Elder Abuse and Sex Crimes Bureaus. She is a skilled and effective investigator and trial attorney, and has trained countless attorneys, judges, mandated reporters, victims' advocates, members of the public and others on issues such as criminal and civil sex offense and misconduct investigations, diversity and inclusion, civil rights issues and other topics related to her professional skills. In 2015, Lisa co-led a team of McDermott lawyers that submitted an amicus brief to the United States

Supreme Court in the *Obergefell* consolidated marriage cases. The brief has been referred to by a member of the media as the “Animus Amicus” and was submitted on behalf of McDermott client, The Mattachine Society of Washington, D.C. The partnership between the Mattachine Society and McDermott entails “archive activism,” and the rescue of historic governmental documents which establish a paper trail of animus and discrimination exhibited against LGBT Americans dating back to the 1940s. Ms. Linsky was McDermott’s first Partner-in-Charge of Firm-wide Diversity, and created and chaired the Firm-wide Lesbian, Gay, Bisexual and Transgender (LGBT) Diversity and Inclusion Committee from 2006-2014 and remains an active member of the Committee. For seven years, Lisa was also a member and Officer of the Board of Directors for Lambda Legal, the leading LGBT civil rights legal organization in the United States and is now a member of Lambda Legal’s National Leadership Council. In 2014 Lisa became a member of the Board of Directors for the LGBT Community Center of NYC, and is now a member of the Executive Committee. She co-chairs The Center’s annual which has raised hundreds of thousands of dollars for the organization. Ms. Linsky is the recipient of the New York City Bar Association’s 2019 Diversity & Inclusion Champion Award for her work supporting diversity and inclusion both within her Firm and in the broader community. She also received the 2019 City & State of New York “Above&Beyond” Award for her leadership in the LGBT civil rights work.

#### Arthur M. Luxenberg

Mr. Luxenberg is a founding partner of the plaintiff’s law firm Weitz & Luxenberg, trailblazers in the practice of mass torts law. The firm has secured over \$17 billion in verdicts and settlements for more than 56,000 clients representing all 50 states in such diverse litigations as asbestos/mesothelioma, defective medicines and medical devices, environmental torts and consumer fraud. Among many peer distinctions, he was named as the Best Lawyers 2013 Mass Tort Litigation (Plaintiff’s) Lawyer of the Year in New York City. Mr. Luxenberg is a graduate of Yeshiva University’s Benjamin N. Cardozo School of Law, and was feted as Alumnus of the Year in 2014. An appellate law innovator who opened New York State to the application of mass torts actions, he is an active member and officer of the New York State Trial Lawyers Association, the Association of Trial Lawyers of the City of New York, the Jewish Lawyers Guild, and the Public Justice Foundation. He is admitted to practice in New York State, New York District Courts (Eastern and Southern Districts), United States District Court, and the United States Court of Appeals. He has served on both the Departmental Disciplinary and Judicial Screening Committees of the Supreme Court, Appellate Division of the First Judicial Department. Philanthropy is an

essential ingredient of Mr. Luxenberg's life, and, as such, he serves as Chairman of both the United Soup Kitchens humanitarian organization, and the Souls to Soles Charitable Trust. He was formerly the President of the North Shore Hebrew Academy in Great Neck, New York and serves on the executive board of Yeshiva University. Additionally, he created, curated, and produced the *Days of Shame* exhibit and symposium, in conjunction with the Jewish Lawyers Guild, which commemorated the infamous 1933 German edict which disbarred all German Jewish attorneys and judges, granting surviving jurists a deserved measure of justice and dignity.

#### Eve Rachel Markewich

Ms. Markewich is a member of Markewich and Rosenstock, LLP, a Manhattan law firm. Ms. Markewich's practice is devoted solely to litigation, including business litigation and trusts and estates litigation. Markewich and Rosenstock has been recognized in *Best Law Firms*, and Ms. Markewich has been designated by *Super Lawyers* and *Best Lawyers*; she is AV rated by Martindale-Hubbell. Ms. Markewich was educated at the Dalton School, Harvard College and Columbia Law School.

#### Charles G. Moerdler

Mr. Moerdler is the Co-Chair of Stroock & Stroock & Lavan's Litigation Practice Group. His practice is broad-based, including concentrations in real estate and land use, health care, international law, labor and administrative law, as well as state and federal appellate practice. Mr. Moerdler's public service career includes current service as a Board Member of the Metropolitan Transportation Authority, the New York City Housing Development Corp., and as a Member of the New York City Board of Collective Bargaining, as well as Commissioner of Housing and Buildings under Mayor John V. Lindsay. Mr. Moerdler has represented many of New York's leading real estate developers and owners, as well as real estate trade organizations, in a variety of contexts ranging from antitrust, to land use and zoning, to brokerage and contract disputes. Among the many organizations that have retained Mr. Moerdler as outside general counsel are one of the largest hospitals in the country, one of the nation's largest health maintenance organizations and a major New York City daily newspaper, for which he also has served as a director. He regularly counsels Austria's largest bank in international litigation and served as board chairman of its U.S. subsidiary. He also acts for Austria's largest electricity and power enterprise, one of its largest realtors and has represented other major European companies. Mr. Moerdler represents the American Federation of Teachers and has served as lead negotiator for numerous municipal labor

unions, including the United Federation of Teachers and the Patrolmen's Benevolent Association. Mr. Moerdler is the Vice Chair of the Character & Fitness Committee. Mr. Moerdler was admitted to the New York Bar 1956. He holds an LLB from Fordham Law School and a BA from Long Island University.

### Scott Mollen

Mr. Mollen is a highly experienced commercial litigation partner at Herrick, Feinstein, LLP. He regularly advises prominent corporations, financial institutions, public officials and real estate investors and lenders in litigation, mediation, arbitration and negotiations. Mr. Mollen has also been a court-appointed receiver for properties in and outside of New York City and has served as a Special Master in the NYS Supreme Court. He was appointed by the Chief Judge of the NY Court of Appeals to the NYS Supreme Court Commercial Division Advisory Council. He has also served on the Mayor's Advisory Committee on the Judiciary and currently serves on the NYC Bar Association Judiciary Committee. Mr. Mollen has helped lead the Anti-Defamation League's lobbying effort to get New York State's Hate Crimes Law enacted. For more than three decades, he has authored *Realty Law Digest*, a weekly column in the *New York Law Journal* that analyzes real estate case law. Over that span, Mr. Mollen has authored more than 1,500 articles on issues such as development, construction, finance, joint ventures, condominiums, cooperatives, brokerage, zoning, foreclosure, condemnation, environmental issues and landlord/tenant law.

### Elliot Moskowitz

Mr. Moskowitz is a Partner in Davis Polk's Litigation Department, representing major financial institutions and creditors in connection with complex bankruptcies and reorganizations. He has played a key role in some of the most contentious proceedings in recent years with significant victories at both the trial and appellate level in courts around the country. He also has extensive experience representing corporate clients and professional firms in connection with a wide range of state and federal regulatory inquiries and civil litigation, including securities litigation and professional malpractice claims. Mr. Moskowitz has been recognized as a leading lawyer by numerous industry publications, including *Law360* (Rising Star), *Benchmark Litigation* (Future Star / New York) and *Turnarounds & Workouts* (Outstanding Young Restructuring Lawyer).

### Virginia A. Reilly

A life-long New Yorker, Ms. Reilly practices with the Law Offices of Neal Brickman, P.C., focusing primarily on real estate work and litigation support. Ms. Reilly received a B.A. from Fordham University (1976) and her J.D. from Washington Lee University (1981). From 1981 to 1986, Ms. Reilly was an Assistant District Attorney for New York County under District Attorney Robert Morgenthau. During her tenure as an A.D.A., Ms. Reilly was part of the Sex Crimes Unit under A.D.A. Linda Fairstein. Since moving to private practice, Ms. Reilly has also served as an Arbitrator (Small Claims Court), a Guardian *Ad Litem* (Surrogate's Court), and has served on various local municipal and educational committees in northern Westchester County. Ms. Reilly is admitted to practice in New York State and the Southern District of New York.

### Lee S. Richards, III

Mr. Richards is a founding partner of Richards Kibbe & Orbe. He concentrates his practice in white-collar criminal, securities enforcement, regulatory proceedings, internal investigations and complex commercial litigations. He regularly represents investment banks, hedge funds, public companies, investment advisers, corporate officers and directors, and other professionals in investigations and proceedings by the DOJ, SEC, FINRA and other governmental entities and SROs. He received his B.A., *summa cum laude*, from Amherst College in 1972, where he was a member of Phi Beta Kappa, and his J.D. from Columbia University School of Law in 1975, where he was a Harlan Fiske Stone Scholar and a Parkhurst Fellow. Mr. Richards was a law clerk to the Honorable Milton Pollack, United States District Judge for the Southern District of New York, from 1975 to 1976. Prior to forming RK&O, Mr. Richards was an Assistant United States Attorney for the Southern District of New York, where he handled major prosecutions of securities fraud, including the first successful criminal prosecution of an insider trading case in U.S. history. Mr. Richards is frequently recognized as one of the top white collar lawyers in New York by Chambers, Legal 500 and others. He received the American Inns of Court Professionalism Award for the Second Circuit, and the New York Law Journal's Lifetime Achievement Award.

### Michael Roberts

Mr. Roberts is a Partner of the law firm Roberts & Roberts, a firm which he started with his father upon graduation from law school. Mr. Roberts represents clients in State and Federal matters with a focus on commercial litigation, employment litigation, Landlord and Tenant Practice as well as transactional real estate. Mr. Roberts is a graduate of Cardozo Law

School in 1979 and Columbia University.

#### Darren Rosenbaum

Professor Darren Rosenbaum joined the Pace Law faculty in 2004 where he teaches Contracts, Corporations and International Business Transactions, and serves the Faculty Director of the Institute for International and Commercial Law. His scholarship focuses on corporate governance, in particular on diversity initiatives and remedies for sex inequality. Previously, Professor Rosenbaum clerked in the U.S. District Court of Puerto Rico (1996-1998) and practiced international arbitration at Clifford Chance and Skadden, Arps, Slate Meagher & Flom (1998-2004). Professor Rosenbaum has served as a visiting professor at Sciences Po Law School in Paris, Brooklyn Law School, American University and Seattle University. He has presented his pioneering work on corporate board quotas in English, French, Spanish and Portuguese. In 2018, he served as a Wainwright Fellow at the Faculty of Law at McGill University. In 2011, as a Fulbright Research Scholar in France,, he performed a qualitative study on the French quota for women on corporate boards, which he presented at the French National Assembly. Professor Rosenbaum received his B.A. in 1991 from the University of Pennsylvania, his J.D. in 1995, from the University of Pennsylvania Law School and his MIA in 2005 from Columbia University.

#### Joanna Rotgers

Ms. Rotgers is a Senior Assistant General Counsel serving the Marsh operating company of Marsh & McLennan Companies, Inc. She works in MMC's New York headquarters handling the company's large and complex litigation docket, with a focus on defending against professional liability/errors and omissions claims in the US, Canada and other geographies globally. Ms. Rotgers has more than 15 years of experience including in private practice as a commercial litigator. Ms. Rotgers also serves on the New York City Bar's Professional Discipline Committee. She holds a J.D. from the University of Iowa and a B.A. from Loyola University Chicago.

#### Joe Tarver

Mr. Tarver is Vice President of Operations and Risk Management at Educational Alliance, a non-profit agency that has been serving communities in Lower Manhattan for over 130 years. Before joining Educational Alliance, he held a variety of positions in the non-profit, public and private sectors. In New York City, these include Bend the Arc: A Jewish Partnership for Justice where he was a Managing Director of Operations; the Office of the

New York City Comptroller where he worked with the Deputy Comptroller of Public Affairs and managed the Division of Community and Government Relations; New York States' LGBT civil rights organization Empire State Pride Agenda where he was Communications Director and later Managing Director of Operations; and Organic, an internet professional services firm, where he was a Business Development Manager. In Washington, DC, Mr. Tarver was Director of the Office of White House Liaison at the U.S. Department of State, Assistant to the Deputy Director of the 1992 Clinton Gore Presidential Transition, and a member of Senior Finance Staff on the 1992 Clinton-Gore Presidential Campaign. He worked at public affairs companies, Cassidy & Associates and Arnold & Porter Consulting, and was Legislative Assistant to Congressman Solomon P. Ortiz in the U.S. House of Representatives. Mr. Tarver has a M. Philosophy from University of Glasgow, Scotland, and a B. Architecture and BS Architectural Engineering from University of Texas at Austin.

#### Hon. Milton A. Tingling

Justice Tingling received his Bachelor of Arts degree from Brown University. He received his Juris Doctorate, *Cum Laude* from North Carolina Central University School of Law in 1982, the same year his father, the Honorable Milton F. Tingling, was elected to Civil Court. After law school, he returned to New York, where he was admitted to the Bar in 1983 and clerked for three Harlem Judges. Thereafter, Justice Tingling established a solo practice at 271 West 125<sup>th</sup> Street, Harlem New York. In 1996, he became the first Black ever elected to a judgeship from the 7<sup>th</sup> Municipal Court District. The District, which encompasses Harlem and Washington Heights, is the largest non-county-wide District in the State. His assignments included presiding in both Criminal and Civil Court. In 2000, he became the first North Carolina Central University School of Law Graduate elected to New York State Supreme Court. His most famous decision was striking down Mayor Bloomberg's so-called soda ban law. His best decision was permanently enjoining the statewide policy of shackling youths being transported to Family Courts. Justice Tingling re-established the Special Election Court in Harlem in 2001 and presided over every primary and election for the next 13 years. In November 2014, he was re-elected to Supreme Court. In December 2014, he retired to accept an appointment by the New York State Appellate Division, First Department, as New York County Clerk, Commissioner of Jurors and Clerk of the Supreme Court. New York State has 62 counties and is 230 years old. He is the only Black County Clerk and the first Black Commissioner of Jurors in the history of New York State. Justice Tingling is Chair of the Boards of The West Harlem Development Corporation and The Community League of The Heights, both of which are not-for-profit community-based

organizations. He also sits on the boards of The Greater Harlem Chamber of Commerce, The New York Theological Seminary, Not On My Watch (an organization dedicated to fighting sex and human trafficking) and The Board of Visitors of NCCU School of Law. He is a member of New York County Lawyers Association, the New York City Bar Association, The Metropolitan Black Bar Association, The Judicial Friends and The Tribune Society. Justice Tingling is the founder of “The Initiative,” a volunteer project in collaboration with New York County Lawyers Association. “The Initiative” educates, facilitates and assists formerly incarcerated individuals in obtaining Certificates of Relief and Certificates of Good Conduct. The project also educates the formerly incarcerated on voting rights and registers eligible individuals to vote. With the election of his daughter, Aija Tingling (NCCU School of Law), to the Civil Court of the City of New York, the Tingles became the first three-generation family of Black Judges in the nation.

#### Anne C. Vladeck

Ms. Vladeck is a partner at Vladeck Waldman Elias & Engelhard, P.C., a firm which concentrates on representation of individuals in employment matters, including discrimination, harassment, defamation, and litigation. She graduated from the University of Pennsylvania (B.A., *magna cum laude*, 1975) and Columbia Law School (J.D., 1978). She is an Adjunct Faculty member at Columbia Law School and previously taught at Fordham and Cardozo Law Schools. She is a trustee of the Federal Bar Council, and is on the Executive Committee of the Federal Bar Council Inn of Court (President-Emeritus). Ms. Vladeck is a Fellow of the American College of Trial Lawyers, and is on the Board of the Arthur Ashe Institute for Urban Health.

#### Tina M. Wells

Ms. Wells joined the law firm of Trolman Glaser Corley & Lichtman, P.C., in 2002 where she is a Partner and manages all aspects of personal injury, labor law, nursing home liability and automobile accident cases from inception to completion including investigation, discovery, depositions, Court appearances, settlement and/or trial. She attends mediations, arbitrations, prepares and writes appeals and presentation of oral argument in the Appellate Division. Prior to joining TGC&L, she was an Associate with the law firms of Yoeli & Gottlieb, P.C. (1999-2002), and Gordon & Silber, P.C. (1996-1999). Ms. Wells is admitted in New York, Massachusetts, U.S. District Court, Eastern District of New York and U.S. District Court, Southern District of New York. She was President of the Bronx Bar Association (2018-2019) and currently Chairperson of the Board (2019-2021). Ms. Wells



received her B.A. from Syracuse University in 1992 and her J.D. from Western New England, College of School of Law in 1996.

### Judith E. White

Before becoming a partner at Lee Anav Chung White Kim Ruger & Richter, LLP, where she founded the Matrimonial Department, Ms. White was a founding Member of Garr & White, P.C., which was listed as one of law firms in the country by US News and World Report (2010-2013 editions). Ms. White also worked as the Principal Court Attorney to one of the Justices to the New York State Supreme Court, Matrimonial Part, for nine years. As a court attorney she had the unique opportunity to learn the practice of matrimonial law from the inside. Ms. White assisted in keeping abreast of all developments in the law, drafting decisions and negotiating settlements. Following her tenure in the courts it was a natural progression for Ms. White to include mediation in her practice. She has successfully mediated countless divorce and separation agreements. She is listed as one of the Best Lawyers of America since 2010 and has been recognized as one of the Top Lawyers in the New York, New Jersey and Connecticut areas, for 2010 to the present, one of the top ten women lawyers in the New York Metro Area since 2018, and Top 50 Women Attorneys in NY since 2014 -18 by both The New York Times and New York Magazine. She has received an AV Rating for Legal Abilities and Ethical Standards in the Martindale Hubbell Listing. She has also served as a moot court judge for New York Law School. While Ms. White enjoys her work with private clients, she has maintained a strong commitment to public service. In 2007, under the auspices of the NY CO Women's Bar Association, she co-founded "The Matrimonial Project," the only completely *pro bono* matrimonial legal service in New York State. She and co-chair were awarded the Hannah Cohen award for *pro bono* work in 2016. Before attending law school she interned as a legislative assistant to a United States Congressman and worked for the Environmental Protection Agency. While in law school Ms. White continued her dedication to public service by working *pro bono* with the Vietnam Veterans of America Legal Services, representing former servicemen and women in Administrative Hearings. Following law school she worked as a staff attorney for the New York City Legal Aid Society in the Criminal Defense Division where she tried over fifty felony and misdemeanor cases.

### Toby R. Winer

Ms. Winer is a Financial Consultant. She has held CFO and senior administrative positions for multiple organizations including the ACLU, Yeshiva University, International Planned

Parenthood/Western Hemisphere Region, and Al Jazeera America. Prior to consulting, Ms. Winer was the Executive Vice President and CFO of Pace University. Before joining Pace, she held key financial leadership roles at Baruch College, the University of California, Vanderbilt University and Comp-U-Card International, Inc., where she successfully transitioned the firm from a privately-held to a publicly-traded company. She began her career as a Senior Consultant, Management Advisory Services Division at Price Waterhouse & Co. Ms. Winer is a Certified Public Accountant and received her M.B.A. from Columbia University Graduate School of Business and her B.A. in Mathematics at Carnegie Mellon University.

### Mark C. Zauderer

Mr. Zauderer, a partner in Ganfer Shore Leeds & Zauderer LLP, is a New York trial and appellate lawyer who has represented major corporations, prominent individuals, and a Presidential cabinet secretary in significant business, financial and commercial litigation in federal and state courts throughout the United States. Subject matters have included contracts, business torts, securities, real estate, legal malpractice, shareholder rights, limited partnerships, defamation and fiduciary relationships in business, law firm and estate matters. Mr. Zauderer frequently serves as an arbitrator and private mediator of significant disputes and is a member of the national roster of commercial arbitrators of the American Arbitration Association and its International Centre for Dispute Resolution. He is a past President of the Federal Bar Council and is a member of the Board of Editors of the New York Law Journal. In 2003, Mr. Zauderer was appointed by Chief Judge Judith S. Kaye as Chair of New York's Commission on the Jury, a blue ribbon panel of lawyers and judges charged with finding ways to improve New York's jury system. He also served as a member of the Chief Judge's Commercial Courts Task Force, which implemented the establishment of the New York State Court System's Commercial Division and as member of the Office of Court Administration's Program on the Profession and the Courts, which drafted New York's current sanction rules. Mr. Zauderer is a past chair of the Commercial and Federal Litigation Section of the New York State Bar Association, served as a delegate to its House of Delegates, as a member of the Special Committee on Cameras in the Courts, and chaired the Association's Steering Committee on Commerce and Industry. He also served as a member of the Committee on the Judiciary, the Committee on Professional Responsibility, and the Committee on State Courts of Superior Jurisdiction of the Association of the Bar of the City of New York. Mr. Zauderer currently serves as a member of the New York Governor's Judicial Screening Committee for the Appellate Division, First Department, and a member of the Chief Administrative Judge's

Advisory Committee on Civil Practice. In 2016, Mr. Zauderer delivered the commencement address at Touro Law School and was awarded an honorary Doctor of Laws. In 2012, Mr. Zauderer was appointed by Chief Judge Jonathan Lippman as a member of the Task Force on Commercial Litigation in the 21<sup>st</sup> Century. In 2013, he was appointed by Chief Judge Lippman as a member of the permanent Advisory Committee of the Commercial Division. In 2015, Mr. Zauderer was appointed a Member of the Chief Judge's Commission on Statewide Attorney Discipline, which made recommendations for the revisions of New York's attorney discipline system. In 2015 he was honored by the *New York Law Journal* with its award for "*Lawyers Who Lead By Example*" for his contributions to public service. In 2004, Mr. Zauderer served as a member of a four person delegation to the Chief Justice on the Supreme Court of the Organization of Eastern Caribbean States to advise on the establishment of a commercial court. Mr. Zauderer is listed in *Who's Who in the World*, *Who's Who in America*, *New York Super Lawyers* and *New York Magazine's "The New York Areas Best Lawyers."* In 2007, he was awarded the Eliphalet Nott Medal for distinction in field by the Union College Board of Trustees.

## THE DISCIPLINARY PROCESS

### Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint with the AGC against an attorney, who is referred to as a “respondent.” Complaints typically come from clients, but may also come from other attorneys and members of the public at large. The Committee can also open *sua sponte* investigations based on information obtained from judicial opinions, professional journals, referrals from the judiciary, newspaper accounts and other sources. All disciplinary investigations and proceedings are confidential, pursuant to Judiciary Law 90(10), until the Court publicly disciplines a respondent or issues an unsealing order, upon “good cause being shown.”

All complaints are date-stamped, numbered and entered into the AGC’s database system, which generates a printout of the respondent’s disciplinary history. Each matter is screened by a staff attorney (screening attorney), who makes a preliminary recommendation regarding jurisdiction to determine if the complaint should be referred to another public agency or grievance committee. If it appears that there is no substantial misconduct, but there has been a breakdown in communication between the lawyer and the client, the AGC may refer the matter for mediation to a mediation panel of the New York County Lawyers’ Association, the Association of the Bar of the City of New York, or the Bronx County Bar Association.

The screening attorney may also recommend rejection of a complaint for any one of several reasons, *e.g.*, the complaint lacks merit, seeks legal advice, is an attempt to collect a debt, or involves a fee dispute. A mandatory mediation/arbitration program exists to deal with fee disputes in civil and matrimonial matters, where the amount in dispute is more than \$1,000 and less than \$50,000.

If the complaint involves the same substantial and material allegations that will be decided in pending litigation, the AGC may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. If the complaint alleges serious misconduct by an attorney, such as conversion of client funds, the AGC will immediately pursue an investigation.

If it appears from the complaint that a respondent may have engaged in serious professional misconduct, the screening attorney brings the matter to the attention of the Chief Attorney

for direct assignment to a staff attorney. If the misconduct appears to be very serious, *e.g.*, conversion of escrow funds, investigation of the matter is expedited. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

The Chief Attorney approves all “first screening” dismissal recommendations made by the screening attorney. If a matter is not dismissed following the initial screening, a paralegal forwards the complaint to the respondent for an answer to the allegations. Thereafter, the paralegal may forward the answer to the complainant for a reply. The paralegal then prepares a summary of the allegations and defenses and refers the file to the initial screening attorney who performs a “second screening” or further evaluation of the complaint, answer and reply. On second screening, the screening attorney may recommend dismissal of the complaint for a variety of reasons, or may recommend referral of the matter to a fee dispute arbitrator or to mediator.

A matter that warrants additional investigation is forwarded by the screening attorney to the Chief Attorney for review and assignment to a staff attorney. The assigned staff attorney may obtain further documentation using subpoenas when necessary, may interview witnesses including the complainant, and may question the respondent on the record and under oath (examination under oath, deposition).

When the investigation is complete, the staff attorney makes a recommendation to the Committee members for dismissal, or the imposition of a Letter of Advisement (non-disciplinary), Letter of Admonition (private discipline), or formal disciplinary proceedings against the respondent which could result in public discipline. The staff attorney’s supervisor (a Deputy Chief Attorney) and the Chief Attorney review all recommendations before they are submitted to the Committee members. One of the volunteer Committees must approve all post-investigation recommendations by a majority vote of those present at a monthly meeting (a quorum of two-thirds of the members is required to conduct business). When matters are dismissed on the merits, the closing letter to the complainant includes an explanation of the reason for the dismissal and indicates the complainant’s right to request reconsideration of the dismissal within 30 days.

#### Letters of Advisement [22 NYCRR 1240.2(I)]

The Committee issues a Letter of Advisement (Advisement) when an investigation reveals

that a respondent has engaged in conduct requiring comment that, under the facts of the case, does not warrant the imposition of discipline. An Advisement is confidential and does not in itself constitute discipline, but may be considered by the Committee or the Court in determining the action to be taken or the discipline to be imposed upon a subsequent finding of misconduct.

#### Letters of Admonition [22 NYCRR 1240.2(b)]

The Committee issues a Letter of Admonition (Admonition) when an investigation reveals that a respondent has violated New York's Rules of Professional Conduct (Rules<sup>1</sup>), but not seriously enough to warrant a formal disciplinary proceeding, pursuant to 22 NYCRR 1240.7(d)(2)(v). For example, an Admonition may be issued if a respondent neglected only one legal matter and there were mitigating factors, whereas formal disciplinary proceedings would likely be commenced if multiple issues of neglect are alleged.

Although it is private and remains confidential, an Admonition is a finding of professional misconduct and becomes a part of the respondent's permanent disciplinary record. The Admonition may be considered in determining the action to be taken or the discipline to be imposed upon a subsequent finding of misconduct against a respondent. When the Committee proposes to issue an Admonition, the respondent is afforded an opportunity to make a brief personal appearance before the Committee to seek reconsideration. After an Admonition is issued, the respondent may file a motion with the Court to vacate it.

#### Applications to the Appellate Division

Public discipline requires an order of the Court. The AGC applies to the Court by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court determines to impose a public sanction, it issues an order and a written opinion which is almost always published in the *New York Law Journal* and is otherwise public.<sup>2</sup> The order imposes a public sanction ranging from a public censure (no

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<sup>1</sup> The Rules, which became effective April 1, 2009, were promulgated by a Joint Order of the Appellate Divisions of the State of New York, dated December 30, 2008, and signed by the Presiding Justice of each of the four departments. These Rules replaced the Lawyer's Code of Professional Responsibility, previously referred to as the "Disciplinary Rules."

<sup>2</sup> If the Court imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness located at 41 Madison Avenue, 26<sup>th</sup> Floor, New York, New York 10010.

suspension) or short suspension to disbarment (seven year bar from practicing). The Court may also impose a private sanction, dismiss a matter or remand it back to the AGC for further proceedings.

#### Formal Disciplinary Proceedings [22 NYCRR 1240.7(d)(2)(vi)]

The Committee members authorize a formal disciplinary proceeding when there is probable cause that a respondent engaged in professional misconduct warranting the imposition of public discipline, and that such discipline is appropriate to protect the public, maintain the integrity and honor of the profession, or deter others from committing similar misconduct.

A staff attorney's recommendation that formal proceedings be filed against a respondent must be based on a demonstration of professional misconduct reviewed by a deputy chief attorney, and approved by the Chief Attorney and the Committee members. Upon approval, the AGC serves the respondent with a petition in which it requests that the Court sustain the charges or, if there are factual or legal issues in dispute, to appoint a Referee to hear the charges.<sup>3</sup> Within 20 days after service of the respondent's answer or, if applicable, a reply, the AGC must file with the Court a statement of disputed and undisputed facts. The respondent has 20 days to respond. In the alternative, within 30 days after service of the answer or, if applicable, a reply, the parties may file a joint Statement of Disputed and Undisputed Facts or a statement that the pleadings raise no issue of fact requiring a hearing, pursuant to 22 NYCRR 1240.8(a)(2). At any time after the filing of the petition, the parties may file a joint motion with the Court requesting the imposition of "Discipline by Consent," in order to avoid a hearing, pursuant to 22 NYCRR 1240.8(a)(5). The motion must outline the agreed upon discipline to be imposed, which may include monetary restitution authorized by Judiciary Law 90(6-a), and the respondent's affidavit conditionally admitting the acts of professional misconduct.

Under the Court's rules, respondents have the right to appear, to be represented by counsel, to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two separate parts, liability hearing and sanction (mitigation and aggravation evidence) hearing. A Referee

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<sup>3</sup> Hearings before Referees are normally closed to the public, except in rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials, taking testimony and receiving exhibits in accordance with the rules of evidence. The Referees have broad discretion as to what is considered relevant and admissible evidence. A transcript is made of the entire proceeding.

cannot proceed with a sanction hearing until the Referee indicates that at least one charge will be sustained. A Referee makes a finding on the charges shortly after the end of the liability hearing. The Referee almost always asks the parties to submit memoranda regarding liability and sanction. When the hearing (liability and sanction) is concluded, the Referee is required to file with the Court a written Report and Recommendation containing findings of facts, conclusions of law, charges sustained or dismissed, and a recommendation as to sanction (Referee's Report). The AGC or the respondent may file a motion with the Court to confirm or disaffirm the Referee's Report. *See* NYCRR 1240.8(b).

### Collateral Estoppel

Rather than pursue formal charges, in an appropriate case, the AGC may file a motion with the Court applying the doctrine of collateral estoppel, seeking an order finding a lawyer guilty of violating the Rules solely on the basis of prior civil or criminal court decisions without a further hearing. The Court may grant such a motion where the findings and issues in the prior action are identical to the disciplinary issues against the respondent and where a respondent has had a full and fair opportunity to litigate in the prior proceeding. In such cases, a hearing is held before a Referee on the issue of sanction only and the AGC or the respondent files a motion with the Court to confirm or disaffirm the Referee's Report.

### Interim Suspensions [22 NYCRR 1240.9]

Under certain circumstances, the Court may suspend a respondent from practice on an interim basis upon the AGC's motion. Such a finding may be based upon the respondent's default in responding to a petition or subpoena to appear for a formal interview, the respondent's admissions under oath of professional misconduct, the respondent's failure to comply with a lawful demand of the Court or the AGC, the respondent's willful failure to pay money owed to a client (which debt is demonstrated by an admission, judgment, or other clear and convincing evidence), or other uncontroverted evidence of professional misconduct.

### Resignations [22 NYCRR 1240.10]

A respondent may apply to resign from the practice of law, while an investigation or proceeding is pending, by submitting to the Court an application admitting the nature of the charges or the allegations under investigation. When the matter includes allegations that the respondent has willfully misappropriated or misapplied money or property in the practice of law, the respondent must consent to the entry of an order to make monetary restitution



pursuant to Judiciary Law §90(6-a). If the Court accepts the resignation, the respondent is disbarred from practicing law for seven years pursuant to Judiciary Law 90(2).

Diversion [22 NYCRR 1240.11]

When in defense or as a mitigating factor in an investigation or formal disciplinary charges, the respondent raises a claim of impairment based on alcohol or substance abuse, or other mental or physical health issues, the Court, upon application of any person or on its own motion, may stay the investigation or proceeding and direct the respondent to complete an appropriate treatment and monitoring program approved by the Court. When the Court considers diversion to a monitoring program, it takes into account the nature of the alleged misconduct; whether the alleged misconduct occurred during a time period when the respondent suffered from the claimed impairment; and, whether diverting the respondent to a program is in the public interest.

Convictions [22 NYCRR 1240.12]

If an attorney is found guilty of any crime, the attorney must notify the grievance committee having jurisdiction within 30 days pursuant to 22 NYCRR 1240.7(a)(2). The AGC must file a motion directly with the Court when an attorney has been convicted of a felony or “serious crime.” An attorney who is convicted of a felony in New York, or an analogous felony in another state or federal jurisdiction, ceases to be an attorney by operation of law pursuant to Judiciary Law 90(4-a) and the AGC must apply to the Court to have the attorney’s name stricken from the roll of attorneys in New York. In cases where the Court, on the AGC’s motion, has determined that a lawyer has been convicted of a crime which is not analogous to a New York felony, but is a serious crime under New York’s Judiciary Law 90(4)(d), the Court assigns the case to a Referee to hear the matter. Thereafter, the AGC or the respondent files a motion with the Court to confirm or disaffirm the Referee’s Report. Serious crime cases result in the same range of sanctions imposed in other formal disciplinary proceedings.

Reciprocal Discipline [22 NYCRR 1240.13]

The AGC is required to file an application with the Court if an attorney has been found guilty of an ethical violation in another jurisdiction and "reciprocal discipline" is warranted. An attorney that is subject to the jurisdiction of the First Department pursuant to 22 NYCRR 1240.7(a)(2), is required to notify the Court and the AGC if discipline is imposed on the attorney by a foreign jurisdiction. The Court may discipline the attorney for the misconduct committed in the other jurisdiction unless it finds that the procedure in the foreign

jurisdiction deprived the respondent of due process of law, that there was insufficient proof that the respondent committed the misconduct, or that the imposition of discipline would be unjust.

Incapacity [22 NYCRR 1240.14]

If an attorney suffers from a mental disability or condition, alcohol or substance abuse, or any other condition that renders him/her incapacitated from practicing law, the AGC or the attorney may apply to the Court for a determination that the attorney is incapacitated from practicing law. Applications by the attorney must include medical proof demonstrating the incapacity. In such cases, the Court may appoint a medical expert to examine the attorney and render a report. When the Court finds that an attorney is incapacitated, it enters an order immediately suspending the attorney from practicing and may stay the pending disciplinary proceeding or investigation.

Upon application by the AGC that includes a judicial determination that an attorney is in need of involuntary care or treatment in a facility for the mentally disabled, or is the subject of an order of incapacity, retention, commitment or treatment pursuant to the Mental Hygiene Law, the Court may enter an order immediately suspending the attorney from the practice of law.

Reinstatements [22 NYCRR 1240.16, 1240.17]

Upon motion of a respondent who has been disbarred or suspended, the Court may issue an order reinstating such respondent upon a showing, by clear and convincing evidence, that: the respondent has complied with the order of disbarment, suspension or the order removing the respondent from the roll of attorneys; the respondent has complied with the rules of the Court; the respondent has the requisite character and fitness to practice law; and it would be in the public interest to reinstate the respondent to the practice of law. A suspended respondent may apply for reinstatement after the expiration of the period of suspension or as otherwise directed by the Court; except that respondents suspended for a fixed term of six months or less, may apply for reinstatement 30 days prior to the expiration of the term of suspension. A disbarred respondent may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment.

## REPRESENTATIVE CASES

Although the AGC, in conjunction with the Committee, engages in multiple functions in a confidential manner that do not result in public discipline, many matters become public when the Court acts on motions made by the AGC. In 2019, the Appellate Division, First Judicial Department, publicly disciplined 69 lawyers as follows: 14 disbarments, 10 resignations by attorneys facing charges (equivalent to disbarment), 36 suspensions and nine public censures.

### Interim Suspensions

The Court's rules provide that an attorney may be suspended from the practice of law pending consideration of charges against the attorney for: (1) a default in responding to pending charges of professional misconduct or failure to comply with lawful demands made in connection with an investigation; (2) a substantial admission under oath that the attorney has committed an act of professional misconduct; (3) other uncontested evidence of professional misconduct; or (4) willful failure to pay money owed to a client evidenced by a judgment or other clear and convincing evidence.

The most serious misconduct involves the theft or misappropriation of money belonging to clients. The Court has repeatedly stated that the intentional conversion of money that an attorney holds as a fiduciary or for a client requires disbarment, except when there are exceptional mitigating circumstances which are rarely found. In such cases, the AGC will seek an immediate suspension of an attorney if there is sufficient evidence to justify the motion because such misconduct immediately threatens the public interest. In addition, the AGC will seek the suspension of an attorney who fails to cooperate in answering a complaint or does not comply with lawful demands for information or records. In 2019, the Court suspended 11 attorneys on an interim basis pending resolution of the charges against them in the following cases: *Matter of Harold Levine*, 168 AD3d 91; *Matter of I. Frederick Shotkin*, 168 AD3d 99; *Matter of Mayne Miller*, 170 AD3d 1; *Matter of David E. Thomas*, 171 AD3d 93; *Matter of Kavin L. Edwards*, 171 AD3d 221; *Matter of Donald R. Dunn*, 174 AD3d 175; *Matter of Alexander L. Shapiro*, 177 AD3d 28; *Matter of Sidney Baumgarten*, 177 AD3d 145; *Matter of Mychel K. Russell-Ward*, 179 AD3d 11; *Matter of Laurence M. Savedoff*, 179 AD3d 19; and, *Matter of Gordon R. Caplan*, 179 AD3d 157.

### Disbarments

In 2019, the Court disbarred four attorneys: *Matter of Melissa P. Bernier*, 177 AD3d 37;

*Matter of Jeffrey A. Miller*, 178 AD3d 1; *Matter of Bibi B. Musafiri*, 178 AD3d 32; and, *Matter of Robert E. Arnold, III*, 180 AD3d 72. Further, the Court, pursuant to 22 NYCRR 1240.9(b), disbarred four interimsly suspended attorneys who failed to apply in writing to the Committee or Court to request a hearing, or reinstatement, within six months of the interim suspension: *Matter of Matthew H. Goldsmith*, 168 AD3d 105; *Matter of Joram J. Aris*, 169 AD3d 70; *Richard D. Borzouye*, 169 AD3d 96; and, *Matter of Jessica E. Matic*, 173 AD3d 83.

Finally, the Court granted six motions to strike the names of attorneys convicted of felonies: *Matter of John S. Chambers*, 169 AD3d 100; *Matter of Michael D. Cohen*, 170 AD3d 30; *Matter of Barlow Smith*, 173 AD3d 99; *Matter of Meighan M. McSherry*, 174 AD3d 61; *Matter of Jaime T. Zeas*, 178 AD3d 66; and, *Matter of Craig A. Hanlon*, 180 AD3d 51.

### Disciplinary Resignations

An attorney is permitted to resign from the bar during an investigation by the AGC, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR 1240.10, acknowledging that the attorney knows the nature of the potential charges and cannot defend against them. A resignation is the equivalent of disbarment. In 2019, the Court accepted resignations under 22 NYCRR 1240.10 from 10 attorneys and ordered their names stricken from the roll of attorneys: *Matter of Steven D. Hamburg*, 168 AD3d 112; *Matter of Edgar H. Paltzer*, 168 AD3d 160; *Matter of Kendrick D. Harris*, 170 AD3d 17; *Matter of David R. Hock*, 171 AD3d 173; *Matter of Anthony L. Roccamo*, 175 AD3d 46; *Matter of David E. Thomas*, 178 AD3d 58; *Matter of Frederick M. Mintz*, 179 AD3d 1; *Matter of Alan P. Fraade*, 179 AD3d 6; *Matter of Leah Larsen*, 179 AD3d 84; and, *Matter of Harold Levine*, 179 AD3d 172.

### Suspensions as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public. The Court imposes suspension for conviction of “serious crimes,” as defined in Judiciary Law 90(4)(d), for reciprocal discipline and for misconduct. In 2019, the Court suspended 22 attorneys for periods ranging from 3 months to 5 years: *Matter of Maria L. Stein*, 168 AD3d 116; *Matter of Dennis H. McCoobery*, 169 AD3d 74; *Matter of Marshall S. Vayer*, 169 AD3d 78; *Matter of Kathleen R. Bradshaw*, 169 AD3d 200; *Matter of Richard P. Savitt*, 170 AD3d 24; *Matter of Marilynn W. Pierre*, 170 AD3d 36; *Matter of Aileen M. Schlissel*, 170 AD3d 64; *Matter of Leigh W. Bernstein*, 170 AD3d 77; *Matter of Errol J. Tabacco*, 171 AD

163; *Matter of Adam L. Bailey*, 171 AD3d 184; *Matter of Maive R. Giovati*, 171 AD3d 214; *Matter of Peter A. Mertz*, 171 AD3d 225; *Matter of Emily A. Tran*, 173 AD3d 1; *Matter of David G. Scudieri*, 174 AD3d 168; *Matter of James P. Byrne*, 174 AD3d 180; *Matter of Raul I. Jauregui*, 175 AD3d 34; *Matter of Wayne A. Autry*, 177 AD3d 44; *Matter of Edward P. McKenzie*, 177 AD3d 134; *Matter of Benjamin P. Bratter*, 178 AD3d 22; *Herbert G. Lindenbaum*, 178 AD3d 26; *Matter of Michael I. Braverman*, 178 AD3d 35; and, *Matter of Elizabeth S. Kreis*, 180 AD3d 5.

#### Suspensions for Medical Disability

The Court's rules provide that an attorney may be suspended if judicially declared incompetent or if the Court concludes that the attorney is incapacitated from continuing to practice law. Pursuant to 22 NYCRR 1240.14(b), any pending disciplinary proceedings against the attorney shall be held in abeyance after the Court makes a determination of the attorney's incapacity to continue the practice of law. In 2019, the Court suspended three attorneys on these grounds: *Matter of Frederick I. Shotkin*, 174 AD3d 146; *Matter of Lara C. Bakshi*, 175 AD3d 20; and, *Matter of Lana E. Cantrell*, 176 AD3d 38.

#### Public Censures

The least severe form of public discipline that the Court may impose is a censure (*see* 22 NYCRR 1240.2[c]). In 2019, the Court issued public censures in nine cases: *Matter of Peter A. Cook*, 168 AD3d 108; *Matter of Marc S. Koplik*, 168 AD3d 163; *Matter of Joshua S. Androphy*, 169 AD3d 15; *Matter of William S. Papazian*, 170 AD3d 56; *Matter of Marcus R. Mumford*, 171 AD3d 180; *Matter of Richard S. Peskin*, 173 AD3d 47; *Matter of Howard Z. Myerowitz*, 173 AD3d 155; *Matter of Devon M. Wilt*, 178 AD3d 61; and, *Matter of Carlos A. Martir*, 180 AD3d 67.

#### Reinstatements

Judiciary Law 90 and Court Rule 22 NYCRR 603.14 (rescinded October 1, 2016), and 22 NYCRR 1240.16 (effective October 1, 2016), permit attorneys to apply for reinstatement to the practice of law after a period of suspension, or seven years after disbarment. Attorneys who are suspended for six months or less, may file an application for reinstatement pursuant to 22 NYCRR 1240.16(d). An attorney who has been suspended for a period of more than six months may apply to the Court for reinstatement upon the expiration of the period of suspension. An attorney who has been disbarred, or stricken from the roll of attorneys, may not apply for reinstatement until the expiration of seven years from the effective date of

disbarment. In 2019, the Court granted 10 petitions for reinstatement and denied seven.

#### Dishonored Check Investigations

Staff attorney Kevin P. Culley screens all complaints which the Committee receives pursuant to the dishonored check reporting Rule 22 NYCRR 1300. Mr. Culley coordinates all necessary contacts with banking institutions and the Lawyers' Fund for Client Protection in processing the dishonored check matters. Mr. Culley also supervises staff investigators in obtaining required banking and bookkeeping records and recommends disposition of matters or further investigation. He has spoken at Continuing Legal Education courses on the subject of proper escrow account management.

#### Immigration Complaints

Staff attorney Jun Hwa Lee screens all immigration matters. Ms. Lee also coordinates our efforts with many other agencies and prosecutors who target immigration fraud. Ms. Lee supervises the AGC's use of immigration Special Counsel approved by the Court to assist the AGC in its investigations. Ms. Lee participates in a task force aimed at Protecting New York Immigrants (PINY), and speaks before various groups, including community organizations and federal agencies, or involved, in immigration matters.

## PUBLIC DISCIPLINE CASES

Several of the cases prosecuted by staff attorneys that became a matter of public discipline in 2019 are reviewed below:

*Matter of Howard Z. Myerowitz*, 173 AD3d 155 (1<sup>st</sup> Dept 2019)

On May 30, 2019, pursuant to Judiciary Law 90(2) and Rules for Attorney Disciplinary Matters 22 NYCRR 1240.13, the Court imposed reciprocal discipline on Myerowitz in the form of a public censure based upon discipline imposed by the United States District Court for the Southern District of New York (SDNY) and the Supreme Court of New Jersey. In March 2017, the SDNY sustained charges against Myerowitz in connection with his misconduct in 2014 as defense counsel in a civil case before the SDNY. In that case, USDJ Denise Cote found that Myerowitz knowingly made misrepresentations to the Court and sanctioned him in the amount of \$10,000 for his conduct. The matter was then referred to the SDNY Committee on Grievances. When Myerowitz failed to reply to two orders of the SDNY Committee on Grievances, it suspended him indefinitely. The SDNY found that Myerowitz had violated New York's Rules of Professional Conduct (22 NYCRR 1200.0), Rules 3.3(a) (false statements to a tribunal); 3.4(c) (disregard of a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding; 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation); 8.4(d) (conduct that is prejudicial to the administration of justice) and 8.4(h) (conduct that adversely reflects on the lawyer's fitness as a lawyer). In January 2018, the SDNY issued an order suspending Myerowitz for two years, *nunc pro tunc* to his January 2016 interim suspension. In April 2018, the New Jersey Disciplinary Review Board concluded that the record supported a finding of the rule violations before the SDNY, but determined that Myerowitz's lack of a prior disciplinary history warranted a departure in discipline and, therefore, recommended a censure. In November 2018, the Supreme Court of New Jersey issued a decision censuring Myerowitz. While the SDNY suspended Myerowitz for two years, New Jersey censured him. Based on his lack of prior disciplinary history, the Court, consistent with the AGC's recommendation, found that a departure in discipline from the SDNY was warranted and therefore a public censure is appropriate. (Staff Attorney Sinan Aydiner)

*Matter of Edward P. McKenzie*, 177 AD3d 134 (1<sup>st</sup> Dept 2019)

On September 24, 2019, the Court granted a motion from the AGC seeking reciprocal discipline against McKenzie and suspended him from the practice of law for a period of one

year, pursuant to 22 NYCRR 1240.13. The Court's imposition of discipline in this matter was premised upon a December 6, 2018 order from the Supreme Court of New Jersey (N.J. Supreme Court) which suspended McKenzie from the practice of law in that state, effective January 9, 2019. McKenzie's New Jersey suspension, in turn, stemmed from his conviction of a single count of Compounding a Crime, a misdemeanor, in violation of 14 V.I.C. §521(a)(3), by dint of his entry of an Alford plea to that crime before the Supreme Court of the Virgin Islands Division of St. Thomas and St. John on March 17, 2017. In its suspension order the NJ Supreme Court confirmed a decision from the New Jersey Disciplinary Review Board (DRB) which found that McKenzie's misconduct came from his participation in a scheme to manipulate the outcome of an August 30, 2012 government-administered real estate auction held in the Virgin Islands with at least three other individuals. The group's plan required *inter alia* McKenzie to place an intentionally inflated bid with the intent to win the auction but never ultimately purchase the subject property. Once the auction was completed and McKenzie's inflated bid was declared the winner, McKenzie failed to finalize the purchase of the property at the bid price, consequently allowing one of his partners to buy the auctioned property at an artificially deflated price. For his participation in this undertaking, McKenzie was sentenced *inter alia* to 90 days suspended sentence of imprisonment with credit for one day served, one year of supervised probation, and 100 hours of community service. (Staff Attorney Sean A. Brandveen)

*Matter of Elizabeth S. Kreis*, 180 AD3d 5 (1<sup>st</sup> Dept 2019)

On December 19, 2019, the Court granted a motion from the AGC seeking reciprocal discipline against Kreis and suspended her from the practice of law in New York for a period of three months, pursuant to 22 NYCRR 1240.13. The Court's imposition of discipline in this matter was premised upon a November 27, 2017 order from the Supreme Court of Colorado (CO Supreme Court) which suspended Kreis from the practice of law in that state for a period of six months, with 90 days to be served and the remainder to be stayed upon her successful completion of an 18-month period of probation, effective January 2, 2018, based on her, *inter alia*, charging an excessive fee and failing to communicate with a client in a matrimonial matter. The Court's reciprocal three-month suspension was made *nunc pro tunc* to the date of suspension by the CO Supreme Court. (Staff Attorney Sean A. Brandveen)

*Matter of Richard S. Peskin*, 173 AD3d 47 (1<sup>st</sup> Dept 2019)

On April 30, 2019, the Court publicly censured Peskin. Peskin's censure arises from an investigation following a notification from the Lawyers' Fund for Client Protection that a



check from Peskin's IOLA account had been dishonored in October 2015 due to insufficient funds. Peskin was charged with 18 counts of misconduct involving the misuse of his IOLA account, entering into business transactions with a client without written agreements, lying to the Committee, failing to provide a retainer agreement and failing to maintain required bookkeeping records. In his answer, Peskin denied the charges and raised affirmative defenses and factors in mitigation. Peskin claimed that any alleged misconduct was negligent not intentional and no client was harmed or lost money. The Court appointed Referee sustained the 18 charges of misconduct and recommended that Peskin be suspended for a term of six months. The Court deemed a public censure to be appropriate. The Court considered in mitigation that Peskin is a 64 year old busy solo practitioner attempting to manage a sizeable general practice without support. In his more than 40 years of practice, Peskin never had a complaint filed against him and had never bounced a check until the one that led to this proceeding. Peskin admitted his inadvertent mistakes, he was under the care of a psychiatrist and neurologist and was being medicated for stress, anxiety, ADD and depression. Peskin fully cooperated with the Committee's investigation. (Staff Attorney Sherine F. Cummings)

*Matter of David Ronald Hock*, 171 AD3d 173 (1<sup>st</sup> Dept 2019)

Hock sought an order pursuant to 22 NYCRR §1240.10, accepting his resignation as an attorney and counselor-at-law. Hock acknowledged that he was the subject of an investigation by the AGC involving multiple allegations including giving delayed responses to discovery requests, failing to update clients regarding pending matters, reporting to clients that actions had been undertaken when they had not, failing to take prompt actions to collect on judgments, and preparing but failing to file complaints. Hock acknowledged that he cannot defend himself against the allegations. The Court accepted Hock's resignation from the practice of law in the State of New York and struck his name from the roll of attorneys, effective *nunc pro tunc* to December 19, 2018. (Staff Attorney Sherine F. Cummings)

*Matter of John Skylar Chambers*, 169 AD3d 100 (1<sup>st</sup> Dept 2019)

On April 24, 2018, Chambers was found guilty, after a jury trial, in the United States District Court for the Southern District of New York, of bribery in violation of 18 USC §666; conspiracy to commit bribery in violation of 18 USC §371; honest services wire fraud in violation of 18 USC §§1343 and 1346; and conspiracy to commit honest services wire fraud in violation of 18 USC §1849, all felonies. Chambers' convictions stemmed from his offering and giving monetary and non-monetary bribes to a sergeant of the New York City Police

Department (NYPD) assigned to the NYPD's License Division in exchange for expedited or other favorable treatment in gun license related matters pending before the NYPD's Pistol Section. Chambers' conviction of a felony resulted in automatic disbarment pursuant to Judiciary Law 90(4)(a) and (b). On January 29, 2019, the Court struck Chambers' name from the roll of attorneys and counselors-at-law, effective *nunc pro tunc* to April 24, 2018. (Staff Attorney Sherine F. Cummings)

*Matter of Sidney Baumgarten*, 177 AD3d 145 (1<sup>st</sup> Dept 2019)

On September 26, 2019, the Court interinely suspended Baumgarten from the practice of law pursuant to 22 NYCRR 1240.9(a)(3). Baumgarten's interim suspension arises from his representation of an estate in the sale of a cooperative apartment. Baumgarten received a down payment of \$8,000 from the buyer, which he deposited into his escrow account. Because of issues concerning the title, the transaction never closed and Baumgarten refunded the buyer's \$8,000 deposit on July 7, 2017 three years after he first deposited the funds. The AGC learned that during the three-year period, the balance in Baumgarten's escrow account repeatedly fell below \$8,000. The AGC maintained that Baumgarten's repeated invasions of the \$8,000 down payment constituted conversion and/or misappropriation of third-party funds (including his unauthorized disbursement of funds for the investigative and secretarial work on behalf of the seller-estate), in addition to which he improperly made cash withdrawals from his escrow account and engaged in commingling at least two occasions. The AGC argued that Baumgarten's conversion and/or misappropriation of third-party funds evidenced professional misconduct that immediately threatened the public interest for which his interim suspension was warranted. Baumgarten asked the Court to take into account his prior public service; his military service; and his community service. Baumgarten maintained that as he has no pension, savings, or investments to which to rely, an interim suspension would leave him and his wife (who is unable to work due to health issues) without a means of financial support. He further maintained that he was presently working on time-sensitive legal matters with deadlines and statutes of limitations that were running. The Court ruled that despite the fact that Baumgarten ultimately returned the \$8,000 down payment is not sufficient to avoid an interim suspension, nor are his personal circumstances. The Court further found that Baumgarten's claims that an interim suspension would impose a great financial hardship upon him and his wife and would unfairly prejudice his clients are unavailing. Baumgarten's interim suspension was effective immediately. (Staff Attorney Sherine F. Cummings)

*Matter of Joram Jehudah Aris*, 169 AD3d 70 (1<sup>st</sup> Dept 2019)

The Court disbarred Aris pursuant to 22 NYCRR 1240.9(b) since more than six months had elapsed since the May 10, 2018 suspension order and Aris neither responded to nor appeared for further investigatory or disciplinary proceedings. The AGC had previously sought Aris' immediate suspension from the practice of law pursuant to 22 NYCRR 1240.9(a)(3) and (5) based upon his failure to comply with a lawful demand of the Committee and other uncontroverted evidence of professional misconduct detailing his repeated use of estate funds for his own personal purposes over the course of five years. Specifically, the AGC alleged that Aris had failed to comply with its demands to produce bank and tax records for the estates of three deceased clients and he failed to respond to questions regarding his repeated violations of his fiduciary obligations as co-administrator of one of the estates by misappropriating hundreds of thousands of dollars for his own personal purposes, tens of thousands which passed through his attorney trust account. (Special Trial Attorney Jeremy S. Garber)

*Matter of I. Frederick Shotkin*, 168 AD3d 99 (1<sup>st</sup> Dept 2019)

The Court interinely suspended Shotkin from the practice of law, pursuant to 22 NYCRR 1240.9(a)(1) and (3) based upon his willful noncompliance with the AGC's investigation of two complaints. Shotkin repeatedly failed to comply with subpoenas directing him to appear for a deposition in connection with the AGC's investigation, despite his being granted multiple adjournments over a five-month period. (Special Trial Attorney Jeremy S. Garber)

*Matter of I. Frederick Shotkin*, 174 AD3d 146 (1<sup>st</sup> Dept 2019)

Shotkin, who is 91 years old, sought an order, accepting his non-disciplinary resignation from the practice of law, pursuant to 22 NYCRR 1240.22(a), due to his advanced age and poor health. The AGC opposed Shotkin's resignation because he was the subject of a pending investigation into his professional misconduct and was not eligible for a non-disciplinary resignation. The AGC further argued that Shotkin persistently and repeatedly failed to cooperate with the AGC's investigation. The Court denied Shotkin's motion to resign. Alternatively, the Court continued Shotkin's interim suspension as a medical suspension based on the opinion of his medical doctor. The suspension was not made *nunc pro tunc* to his January 10, 2019 suspension due to his failure to cooperate with the AGC. (Special Trial Attorney Jeremy S. Garber)

*Matter of Peter Alan Mertz*, 171 AD3d 225 (1<sup>st</sup> Dept 2019)

The Court granted the joint motion of the AGC and Mertz, suspending him from the practice of law for a period of two years, effective May 28, 2019. Mertz's misconduct arises from conduct prejudicial to the administration of justice, which adversely reflected on his fitness as a lawyer. The most serious charges involving Mertz's failure to supervise employees of his law firms who vicariously commingled and misappropriated client funds and wrongfully retaliated against disciplinary complainants by filing frivolous lawsuits and betraying client confidences. Aggravating factors included that Mertz was issued an Admonition in 2012 based on a 2006 conviction for criminal facilitation in the fourth degree, a Class A misdemeanor, which he failed to promptly report to the AGC and that while working as an accountant, Mertz filed tax returns for a client who was operating an illegal prostitution business, that he characterized as an "employment agency" on the returns. The AGC and Mertz stipulated that since his admission in 1979, he had no prior disciplinary history other than the 2012 Admonition; his misconduct was not motivated by dishonesty but instead represented faulty judgment and an inexcusable failure to safeguard his law license against misuse by others; during the period at issue, Mertz's judgment and mental focus were clouded by his overuse of prescribed painkillers following back surgery; and Mertz expressed remorse for his misconduct. (Special Trial Attorney Jeremy S. Garber)

*Matter of Joshua S. Androphy*, 169 AD3d 15 (1<sup>st</sup> Dept 2019)

Pursuant to Judiciary Law 90(2) and Rules for Attorney Disciplinary Matters 22 NYCRR 1240.13, on January 24, 2019, the Court imposed reciprocal discipline on Androphy in the form of a public censure, based upon discipline imposed by the United States District Court for the Southern District of New York. Androphy's public censure stems from his improper remittal of an erroneously issued settlement check to his client, which his client was not entitled to receive. Androphy submitted a declaration admitting that his actions violated Rule 1.15(c)(4) but claimed that he did so mistakenly. Androphy believed that he had an ethical obligation to remit the check to his client although he knew that the check was issued in error. The mitigating circumstances include the absence of a prior disciplinary record, the absence of a dishonest or selfish motive and Androphy's candor and cooperation. The Southern District of New York censured Androphy for violating Rule 1.15(c)(4) of the Rules, misconduct as well as New York. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Mayne Miller*, 170 AD3d 1 (1<sup>st</sup> Dept 2019)

On February 19, 2019, the Court interinely suspended Miller from the practice of law

pursuant to 22 NYCRR 1240.9(a)(3), based on his failure to comply with a lawful demand of the Court or the Committee in an investigation or proceeding. On March 30, 2017, the Committee received a complaint from Miller's former client who had retained Miller to represent him in a holdover proceeding involving a rent-stabilized apartment. The client alleged that in 2015, pursuant to Miller's directions, he deposited a total of \$7,656.12 into Miller's bank account to be surrendered to the court to satisfy a use and occupancy order, but Miller never transmitted the money to the court. Subsequently, the client hired new counsel and settled the matter. The client repeatedly requested a refund from Miller, but Miller did not comply. On April 17, 2017, the Committee provided Miller with a copy of the complaint and requested an answer in 20 days. He was also asked to provide complete bank records. When no answer was received, the Committee wrote Miller again, advising that, if he did not provide an answer within 10 days, it would "have no alternative but to make an appropriate application to the Appellate Division." On June 12, 2017, the Committee received a handwritten letter from Miller indicating that he had recently lost many files and 15 years worth of emails but anticipated filing a "preliminary" response to the complaint after the July 4<sup>th</sup> holiday. He did not. On November 30, 2017, Miller was personally served with a judicial subpoena directing his appearance on December 27, 2017. Miller appeared *pro se* at the deposition and testified that he had not filed an answer because he was too busy with a client, he had retrieved partial bank records but only had a "cursory" look at them and did not want to send copies of them to the Committee with a partial answer. The Committee argued that Miller has disregarded the Committee's requests to submit an appropriate documented response to the complaint for over a year. Although Miller offered excuses for his noncompliance, the Court found those excuses unconvincing in light of his lengthy noncompliance. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Lana E. Cantrell*, 176 AD3d 38 (1<sup>st</sup> Dept 2019)

On September 3, 2019, the Court suspended Cantrell from the practice of law pursuant to 22 NYCRR 1240.14(b), based on the ground that she is currently incapacitated from practicing law by reason of a medical condition. On September 24, 2018, the Committee received a complaint from one of the parties in a matrimonial matter, alleging that Cantrell improperly distributed monies from an escrow account. The Committee sent several letters and an email to Cantrell directing her to answer the complaint. She did not submit an answer. On March 27, 2019, Thomas F. Farley, Esq., contacted the Committee and identified himself as a longtime friend of Cantrell. Mr. Farley explained in detail Cantrell's medical conditions and forwarded a letter from her medical doctor stating that Cantrell is presently unable to handle

the affairs of others. Mr. Farley also informed the Committee that Cantrell had recently registered with OCA as a retired attorney. The Committee's pending investigation was stayed until further order of the Court. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Michael I. Braverman*, 178 AD3d 35 (1<sup>st</sup> Dept 2019)

The AGC commenced a proceeding by petition alleging that Braverman was guilty of misconduct in violation of the Rules of Professional Conduct by, *inter alia*, aiding a non-lawyer in the unauthorized practice of law. Braverman permitted an unlicensed law school graduate employed by his office to attend various preliminary conferences, and to sign preliminary conference orders and stipulations as "attorney for plaintiff," and to appear for a client at a deposition. Braverman has no disciplinary history during his over 25 years of practicing law and fully cooperated with the Committee. By joint motion, the Committee and Braverman moved, pursuant to 22 NYCRR 1240.8(a)(5), for discipline by consent and requested that Braverman be suspended from the practice of law for a period of three months. On October 1, 2019, the Court granted the Committee and Braverman's petition for discipline by consent and the Committee's separately filed petition for charges was denied as moot. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Leah Larsen*, 179 AD3d 84 (1<sup>st</sup> Dept 2019)

By order dated January 31, 2008, this Court suspended Larsen for two and one half years effective February 29, 2008, for misconduct which included false notarization, misappropriation of escrow funds, commingling, charging an excessive legal fee, and pressuring her client to withdraw his fee complaint. On February 4, 2009, the Board of Immigration Appeals suspended Larsen from the practice of law before immigration tribunals for 30 months, retroactive to December 22, 2008. Larsen was never reinstated by the Court or the Board of Immigration Appeals. In 2018 the Committee received two complaints against Larsen. Our investigation revealed that between 2012 and 2018, under the pretense of acting as a paralegal for her brother, attorney Daniel P. Moskowitz, but without his supervision, Larsen operated an immigration practice under her brother's name out of her former office. On December 12, 2019, the Court accepted Larsen's resignation affidavit and entered an order striking her name from the roll of attorneys in New York. Larsen attested in her affidavit that she could not successfully defend against the allegations of the unlawful practice of law. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Frederick M. Mintz*, 179 AD3d 1 (1<sup>st</sup> Dept 2019) and  
*Matter of Alan P. Fraade*, 179 AD3d 6 (1<sup>st</sup> Dept 2019)

Frederick Mintz and Alan P. Fraade were long-time law partners. In the midst of investigations by the Committee into allegations of serious misconduct by these attorneys they each filed affidavits of resignation. On November 14, 2019, the Court accepted their resignations from the practice of law effective *nunc pro tunc* to July 22, 2019, and struck their names from the roll of attorneys in New York. Mintz and Fraade each acknowledged in their respective affidavits being subject of an investigation by the AGC involving allegations of professional misconduct against which they could not successfully defend, that included the following acts of professional misconduct: while retained to represent the fiduciary of an estate and a trust, the law partners willfully misappropriated \$125,000 by transferring such funds from an estate into their law firm's escrow accounts, and then transforming \$70,000 of those funds into the firm's operating account and using them to pay the firm's operating expenses. On April 11, 2017, when the Surrogate's Court issued a decision pursuant to petitions to settle the accounts of the executor and trustee, \$487,014.50 representing the balance of funds belonging to the estate/trust were not kept in an attorney trust account. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Mychel K. Russell-Ward*, 179 AD3d 11 (1<sup>st</sup> Dept 2019)

On November 14, 2019, the Court interimly suspended Russell-Ward from the practice of law pursuant to 22 NYCRR 1240.9(a)(3), effective the date hereof, without prejudice to Russell-Ward seeking to convert this to a medical suspension pursuant to 22 NYCRR 1240.14(b), if she is so advised. Russell-Ward's interim suspension arose from her willful refusal to comply with lawful demands of the Court or the AGC in its investigation into allegations of professional misconduct which immediately threatens the public interest. The AGC asserted that Russell-Ward was given ample opportunity to cooperate with its investigation, noting that over the course of eight months the AGC sent respondent five letters directing her to submit an answer to allegations in the complaint specifically explaining certain disturbing emails to the New York City Bar Association, but Russell-Ward disregarded these repeated requests. Russell-Ward's purported "answer" was not only untimely, but failed to adequately explain the content of the emails she sent to the City Bar, and therefore, an immediate suspension was warranted. (Deputy Chief Naomi F. Goldstein)

*Matter of Kathleen R. Bradshaw*, 169 AD3d 200 (1<sup>st</sup> Dept 2019)

On February 19, 2019, the Court granted the joint motion of the AGC and Bradshaw for

discipline by consent pursuant to 22 NYCRR 1240.8(a)(5)(I) and (iii), suspended Bradshaw from the practice of law for a period of three months, effective March 21, 2019. Bradshaw's misconduct arose from her guilty plea in Supreme Court, Bronx County, to *inter alia*, criminal tax fraud in the fifth degree in violation of Tax Law §1802, a class A misdemeanor, her intentional failure to file a personal income tax return for New York State for 2011, acknowledging that she had an unpaid tax liability that year and that, as such, she was required to file a tax return. On February 20, 2018, Bradshaw was sentenced to a one-year conditional discharge and was ordered to pay \$34,600 in restitution to the New York State Department of Taxation and Finance, which amount represented her unpaid tax debt, including interest and penalties, for the tax years 2009 through 2011. Bradshaw paid the \$34,600 at the time of her sentencing. By unpublished order entered on August 22, 2018, this Court deemed Bradshaw's tax conviction a "serious crime" under Judiciary Law 90(4)(d) and 22 NYCRR 1240.12. (Staff Attorney Kelly A. Latham)

*Matter of Richard D. Borzouye*, 168 AD3d 96 (1<sup>st</sup> Dept 2019)

On January 15, 2019, the Court disbarred Borzouye from the practice of law. Borzouye's disbarment stemmed from his suspension pursuant to 22 NYCRR 1240.9(a)(1) and (3) on January 2, 2018. Borzouye defaulted in appearing for an examination under oath pursuant to a subpoena from this Court and his failure to comply with lawful demands of the AGC, which was investigating three complaints filed against him. The AGC served Borzouye with notice of entry of this Court's order of suspension on January 10, 2018, via first class mail and certified mail, return receipt requested at his last registered address. The certified mail receipt was signed and returned to the Committee on January 2, 2018. Since more than six months have elapsed since the date of Borzouye's suspension, and he has neither responded to nor appeared for further investigatory disciplinary proceedings, the AGC's motion for an order disbaring Borzouye was granted pursuant to 22 NYCRR 1240.9(b), striking Borzouye's name from the roll of attorneys. (Staff Attorney Jun H. Lee)

*Matter of Devon M. Wilt*, 178 AD3d 61 (1<sup>st</sup> Dept 2019)

The AGC commenced a disciplinary proceeding by a petition of charges alleging that Wilt was guilty of misconduct in violation of the Rules of Professional Conduct (22 NYCRR 1200.0) for aiding a suspended attorney in the unauthorized practice of law in violation of Rule 5.5. It was alleged that Wilt affiliated herself with a suspended attorney who accepted fees to represent a criminal defendant and the suspended attorney provided legal opinions and advice. Wilt was also alleged to have engaged in conduct that adversely reflected upon her



fitness as a lawyer, a violation of rule 8.4(h). The AGC and Wilt then moved pursuant to 22 NYCRR 1240.8(a)(5) for discipline on consent and requested an imposition of public censure. On September 24, 2019, the Court granted the parties' joint-motion for discipline and Wilt was publicly censured. Public censure was agreed upon because Wilt had extensive mitigating circumstances. (Staff Attorney Jun H. Lee)

*Matter of Kendrick D. Harris*, 170 AD3d 17 (1<sup>st</sup> Dept 2019)

On February 21, 2019, the Court accepted Harris' resignation, pursuant to 22 NYCRR 1240.10, effective *nunc pro tunc* to December 7, 2018. Harris' resignation arose from a petition of charges commenced by the AGC dated January 24, 2018, alleging that he fraudulently sought to obtain ownership of a Harlem brownstone by participating in the creation of falsified documents which he filed with the New York City Register and the Court. The AGC asserted that Harris violated Rule 3.3(a)(1) (knowingly make a false statement of fact or law to a tribunal); Rule 3.3(a)(3) (knowingly offering or using evidence that the lawyer knows to be false); Rule 3.4(a)(4) (knowingly using perjured testimony or false evidence); Rule 3.4(a)(5) (participating in the creation or preservation of evidence when the lawyer knows that the evidence is false); Rule 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); Rule 8.4(d) (engaging in conduct that is prejudicial to the administration of justice); and Rule 8.4(h) (engaging in any other conduct that adversely reflects on the lawyer's fitness as a lawyer). Harris admitted to four of the charges but denied the remaining eight charges. The AGC did not oppose Harris' application to resign. The Court accepted Harris' resignation and the pending disciplinary proceedings were discontinued in light of Harris' disbarment. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Steven D. Hamburg*, 168 AD3d 112 (1<sup>st</sup> Dept 2019)

Hamburg was suspended from the practice of law by the Appellate Division, Second Department, on June 20, 2018, effective July 20, 2018, for 18 months, pursuant to discipline by consent, based upon his misappropriation of funds entrusted to him as a fiduciary in three real estate transactions in violation of Rule 1.15(a) of the Rules of Professional Conduct. Here, Hamburg sought an order, pursuant to 22 NYCRR 1240.10, accepting his resignation and striking his name from the roll of attorneys. Hamburg attested that he was the subject of an investigation by the AGC alleging that he willfully misappropriated escrow funds and he could not successfully defend himself against the allegations. On January 15, 2019, the Court accepted Hamburg's resignation, effective *nunc pro tunc* to September 12, 2018. The Court directed Hamburg, pursuant to Judiciary Law 90(6-a), to make monetary restitution to

certain former clients and to reimburse the Lawyers' Fund for Client Protection. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Dennis H. McCoobery*, 169 AD3d 74 (1<sup>st</sup> Dept 2019)

On February 5, 2019, the Court accepted the joint motion of the AGC and McCoobery for discipline by consent, pursuant to 22 NYCRR 1240.8(a)(5) and McCoobery was suspended from the practice of law for a period of three months, effective March 6, 2019. McCoobery's admitted acts of misconduct stemmed from two instances where he made intentional misrepresentations to a partner at the law firm at which he had previously worked. In mitigation, there was no harm as a result of McCoobery's misconduct, McCoobery's father was diagnosed with a terminal illness and had passed away, and he had no disciplinary history in more than 20 years of practicing law. Thus, the parties agreed that a three-month suspension was a reasonable punishment and the Court concurred with the recommendation. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Leigh W. Bernstein*, 170 AD3d 77 (1<sup>st</sup> Dept 2019)

On March 5, 2019, the Court accepted the joint motion of the AGC and Bernstein for discipline by consent, pursuant to 22 NYCRR 1240.8(a)(5) and Bernstein was suspended from the practice of law for a period of three months, effective April 5, 2019. Bernstein's misconduct stemmed from charges alleging that he prepared and submitted a fabricated summons and complaint to deceive a claims adjuster that he had timely commenced an action in the hopes of finalizing a settlement offer. Bernstein intentionally failed to disclose to the client that he had missed the statute of limitations and that the delay in the settlement was due to the claims adjuster's investigation into the false summons and complaint, in violation of Rules 1.3(a), 8.4(c) and (h). Factors in mitigation included Bernstein's cooperation, that he admitted the misconduct and his acceptance of responsibility, expressions of remorse, lack of prior discipline and the fact that the client was compensated for the full settlement amount. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Craig A. Hanlon*, 180 AD3d 51 (1<sup>st</sup> Dept 2019)

On December 26, 2019, the Court struck Hanlon's name from the roll of attorneys and counselors-at-law. Hanlon's misconduct arose from his pleading guilty on July 16, 2019, in Supreme Court, New York County, to grand larceny in the second degree, a Class C felony. At the plea proceeding, Hanlon admitted that during the period between February 2018 and February 2019, while representing a client in a divorce matter, he maintained \$100,000 in his

escrow account and, having refused to transfer the money to the wife's attorney pursuant to a stipulation, Hanlon, without permission or authority, misappropriated \$71,690.07 of that money for his personal use. As part of his plea agreement, Hanlon agreed to participate in a substance abuse treatment program, and, if after 18 months' compliance with all probation details under the agreement, be permitted to re-plead to the misdemeanor of petit larceny. Hanlon also agreed to the entry of a judgment order against him in the amount of the stolen funds and to the transfer of \$28,309.93 of funds seized from his escrow account to the attorney for the wife. The Court's order striking Hanlon's name was *nunc pro tunc* to July 16, 2019. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Anthony L. Roccamo*, 175 AD3d 46 (1<sup>st</sup> Dept 2019)

On July 9, 2019, the Court accepted Roccamo's resignation from the practice of law pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.10, effective *nunc pro tunc* to May 14, 2019. Roccamo acknowledged that the AGC's investigation was based on his alleged misappropriation or misapplication of client funds in connection with several real estate transactions. Roccamo admitted that he could not successfully defend himself against the allegations under investigation by the Committee. Restitution was not applicable here because the relevant parties had been fully reimbursed. (Staff Attorney Norma I. Lopez)

*Matter of Aileen M. Schlissel*, 170 AD3d 64 (1<sup>st</sup> Dept 2019)

On March 5, 2019, the Court reciprocally suspended Schlissel for four years, effective April 5, 2019, pursuant to Judiciary Law 90(2) and 22 NYCRR 1240.13. Schlissel's reciprocal suspension arose from misconduct in Nevada, wherein she was suspended for four years, *inter alia*, for lack of diligence in seven mortgage loan modification matters and failing to safeguard advance fees paid by clients for which the agreed upon services were never rendered. Schlissel admitted that she opened and operated two separate national law firms to assist clients with loan modifications and that she mailed advertisements concerning her law firms nationwide, but failed to file those advertisements with the Nevada State Bar as required. Schlissel further admitted that she employed non-attorney "recruiters" who were compensated based on the number of clients they were able to sign up for loan modification services and that some of the recruiters told potential clients to stop making mortgage payments and use those funds to pay Schlissel's fees. Both of Schlissel's law firms went out of business in mid-2015. Schlissel admitted that her actions were intentional and her professional misconduct was aggravated by the fact that there were multiple offenses that formed a pattern and the vulnerability of her victims. (Staff Attorney Norma I. Lopez)

*Matter of Jaime T. Zeas*, 178 AD3d 66 (1<sup>st</sup> Dept 2019)

On July 2, 2019, the Court disbarred Zeas from the practice of law, effective *nunc pro tunc* to February 3, 2017. On February 3, 2017, Zeas was convicted following a non-jury trial, in Circuit Court, McHenry County, Illinois, of child pornography in violation of 720 Illinois Compiled Statutes §5/11-20.1(a)(1)(vii), a class 1 felony. On June 14, 2017, Zeas was sentenced to four years imprisonment and fined \$3,000. Zeas' conviction arises from a secret video recording he made in 2009 of a 14 year old while she changed her clothes in a health club bathroom. The AGC also asserted that Zeas failed to promptly report his felony conviction as required by Judiciary Law 90(4)(c). The AGC contended that Zeas' felony conviction for child pornography is essentially similar to the New York felony conviction of unlawful surveillance in the second degree, (Penal Law §250.45[3][a] and 250.45[5][c]). The AGC's motion was granted and Zeas' name was stricken from the roll of attorneys and counselors-at-law in the State of New York. (Staff Attorney Norma I. Lopez)

*Matter of Peter A. Cook*, 168 AD3d 108 (1<sup>st</sup> Dept 2019)

On January 15, 2019, pursuant to Judiciary Law 90(2), 22 NYCRR 1240.13 and the doctrine of reciprocal discipline, the Court publicly censured Cook. In December 2012, the New Jersey District Ethics Committee (DEC) filed a formal complaint charging Cook with violating New Jersey Rules of Professional Conduct (RPC) rules 1.3 (lack of diligence and promptness in representing a client; 1.4(b) (failure to keep a client reasonably informed about the status of a matter and failure to comply with reasonable requests for information; 1.15(b) (failure to promptly notify a third-party of receipt of funds and disburse those funds; and 8.1(b) (failure to cooperate with disciplinary authorities). The DEC sustained all four charges brought against Cook. As to sanction, the DEC found that Cook's misconduct was aggravated by a 2013 admonition for similar misconduct in two separate client matters and unanimously recommended that Cook receive a reprimand for his violations of New Jersey RPC rules 1.3, 1.4(b), 8.1(b), and an admonition for his violation of New Jersey RPC rule 1.15(b). Following a *de novo* review, New Jersey's Disciplinary Review Board (DRB) affirmed the DEC's liability findings in full. As to sanction, the DRB found that since Cook's misconduct predated his 2013 admonition, the admonition should not be considered as an aggravating factor and that Cook should be censured. The New Jersey Supreme Court adopted the DRB's decision by finding Cook guilty of violating New Jersey RPC Rules 1.15(b), 1.4(b) and 8.1(b). It ordered that Cook be censured and that he be temporarily suspended from the practice of law effective July 5, 2018. Since Cook did not submit a response to the AGC's petition, his misconduct, for which he was disciplined in New Jersey,

constituted violations of parallel professional conduct rules in New York State. (Staff Attorney Norma I. Melendez)

*Matter of Richard P. Savitt*, 170 AD3d 24 (1<sup>st</sup> Dept 2019)

In 2017, the Committee commenced disciplinary proceedings against Savitt by filing a combined motion based upon collateral estoppel and a petition of charges alleging that Savitt was guilty of professional misconduct by engaging in frivolous litigation, making false statements of fact or law to a tribunal or failing to correct a false statement of material fact or law previously made to the tribunal by a lawyer, undignified or discourteous conduct before a tribunal, conduct involving dishonesty, fraud, deceit or misrepresentation, conduct prejudicial to the administration of justice, and other conduct adversely reflecting on fitness as a lawyer. Eleven of the fourteen charges brought against Savitt were based on adverse judicial findings made against him in four separate civil actions which resulted in the imposition of \$46,150 in sanctions and, thus, the AGC sought an order sustaining these charges pursuant to collateral estoppel. Savitt failed to answer the charges and motion, and in June 2017, the AGC filed a motion for default and interim suspension. Savitt, *inter alia*, opposed interim suspension and charges/collateral estoppel motion, asserting lack of service, but did not answer the charges. In a separate submission, Savitt also cross moved to dismiss the charges and motion. The AGC opposed. By orders and decision dated April 26, 2018 (one corrected from April 24, 2018), respectively, the Court granted the AGC's motion for a default motion and interim suspension and denied Savitt's cross motion to dismiss, and Savitt was interinely suspended immediately, and all of the allegations in the petition of charges and motion for collateral estoppel were deemed admitted. The Court ordered that a hearing be held before a referee on the issue of sanction only. Following a hearing, the referee recommended that Savitt be suspended for three years with his reinstatement conditioned on payment of the \$6,150.88 in court ordered sanctions. The referee found that Savitt's misconduct was aggravated by his issuance of two sets of subpoenas which sought material irrelevant to the sanction; the first set of which the Clerk rejected as infirm and the second set which were obtained through Savitt's lack of candor with this Court in that he falsely represented the "so ordered" subpoenas sought material relevant to mitigation. Further, the Referee found that Savitt's service of the second set of subpoenas "constituted unprofessional harassment of the parties served." As additional aggravation, the referee cited to Savitt's offering of exhibits and testimony which challenged this Court's prior misconduct findings, the 2004 sanction he received in a civil action for filing a premature and frivolous default motion, and his complete lack of remorse. The referee noted Savitt's failure to

present evidence of civic, religious or charitable activities as well as his failure to offer any character references. The referee found that Savitt had not demonstrated any effort to pay the sanctions imposed against him and showed no appreciation for the professional significance of the judicial findings underlying them. While Savitt claimed that he lacked funds to pay the sanctions, the referee noted that he did not offer proof as to his finances. The referee recommended that Savitt be suspended for three years. Thereafter, the AGC filed a motion to confirm that the referee's findings of fact and conclusions of law and requested that the Court should impose suspension of at least three years, with reinstatement conditioned on Savitt's payment of the outstanding sanctions and counsel fees imposed in the underlying matters. The Court granted the AGC's motion finding, among other things, that Savitt be suspended for a period of three years, *nunc pro tunc* to April 26, 2018 until further order of this Court, with reinstatement conditioned on full satisfaction of all court ordered sanctions. (Staff Attorney Elisabeth A. Palladino)

*Matter of Jeffrey A. Miller*, 178 AD3d 1 (1<sup>st</sup> Dept 2019)

By order dated December 20, 2018, the California Supreme Court disbarred Miller from the practice of law, effect January 1, 2019. In disbaring Miller, the California Supreme Court adopted the decision and order of the State Bar Court of California (California Bar Court) recommending that Miller be disbarred pursuant to Rule 5.85 of the California Rules of Procedure of the State Bar (California Rules of Procedure) for failing to appear at trial after receiving adequate notice and opportunity to be heard. Miller failed to advise the AGC of the California discipline as required by 22 NYCRR 1240.13(d). The underlying California charges contained 13 charges against Miller concerning three separate matters involving 12 clients. The charges alleged misappropriation of client funds, breach of fiduciary duty, and improper use of his attorney trust account. After the AGC discovered that Miller had been disbarred in California, the AGC filed a motion pursuant to Judiciary Law 90(2) and 22 NYCRR 1240.13 requesting that the Court issue an order finding that Miller had been disciplined by a foreign jurisdiction and directing him to demonstrate, pursuant to 22 NYCRR 1240.13(a) and (b), why discipline should not be imposed in New York for the underlying conduct. In its motion, the AGC argued that a review of the record established that Miller was afforded due process and that sufficient evidence established his misconduct. The AGC further argued that the conduct for which Miller was disciplined for in California constituted violations of parallel disciplinary provisions in New York, and therefore Miller should be disbarred. Miller failed to answer. The Court granted the motion and disbarred Miller. (Staff Attorney Elisabeth A. Palladino)

*Matter of Bibi B. Musafiri*, 178 AD3d 32 (1<sup>st</sup> Dept 2019)

The AGC sought an order immediately disbaring Musafiri for violating the Third Department's November 17, 2016 order of suspension, Judiciary Law 478 and the Rules for Attorney Disciplinary Matters (22 NYCRR 1240.15), by willfully engaging in the unauthorized practice of law. Musafiri, while under suspension, continued to hold herself out as an attorney to the court, as well as on the internet via her LinkedIn web page. Musafiri perpetrated a fraud on the court by submitting papers to the court under another attorney's name without his permission. On July 2, 2019, the Court disbarred Musafiri from the practice of law pursuant to Judiciary Law 90(2) and 486 and ordered her name stricken from the roll of attorneys and counselors-at-law, effective immediately. (Staff Attorney Kathy W. Parrino)

*Matter of Jessica E. Matic*, 173 AD3d 83 (1<sup>st</sup> Dept 2019)

By order of September 20, 2018, the Court immediately suspended Matic from the practice of law pursuant to 22 NYCRR 1240.9(a)(1) and (3) based on her failure to answer a complaint alleging her involvement in a mortgage rescue scam and to appear for a deposition. The AGC sought an order disbaring Matic, pursuant to 22 NYCRR 1240.9(b), on the ground that she has neither responded to nor appeared for further investigatory or disciplinary proceedings within six months of the date of the order of suspension. On May 30, 2019, the Court granted the AGC's motion and Matic was disbarred pursuant to 22 NYCRR 1240.9(b). (Staff Attorney Kathy W. Parrino)

*Matter of Donald R. Dunn*, 174 AD3d 175 (1<sup>st</sup> Dept 2019)

On June 11, 2019, the Court interimly suspended Dunn from the practice of law pursuant to 22 NYCRR 1240.9(a)(1) and (3). Dunn's interim suspension stemmed from his failure to answer two complaints and his failure to appear for a deposition as directed by a judicial subpoena. In August 2017, a former client of Dunn filed a complaint alleging she had retained him and paid him \$12,500 to represent her in a matrimonial appeal and to file a motion for a stay. Dunn failed to perform the tasks he was retained to do. In May 2018, the AGC issued Dunn an Admonition for his failure to act with reasonable diligence and promptness. The Admonition, which Dunn did not contest, directed him to fully refund the \$12,500 to his client within three months. The Admonition warned that if Dunn failed to do so and/or committed additional misconduct, the Committee would consider filing formal charges against him. Dunn failed to refund his client the \$12,500 as directed. In October 2018, the AGC initiated a *sua sponte* investigation for his failure to refund the \$12,500 fee

and for a \$5,143 judgment entered against Dunn by an Appellate services company. In October 2018, the AGC received a complaint from a second client of Dunn alleging that she had retained him to represent her in a private nuisance action against her landlord and neighbors and paid him \$1,300. There was no record of Dunn having commenced a lawsuit on the client's behalf. On December 26, 2018, this Court issued a judicial subpoena for Dunn to appear for a deposition and he failed to appear on February 13, 2019 for his deposition or otherwise contact the AGC about his defaults. The AGC argued that by failing to respond to complaints pending against him and by failing to respond to a judicial subpoena, Dunn has evidenced a willful failure to cooperate with the AGC's investigation, which warranted his interim suspension under 22 NYCRR 1240.9(a)(1) and (3). (Staff Attorney Kathy W. Parrino)

*Matter of Alexander L. Shapiro*, 177 AD3d 28 (1<sup>st</sup> Dept 2019)

On September 24, 2019 the Court interinely suspended Shapiro from the practice of law pursuant to 22 NYCRR 1240(9)(a)(1) and (3), based upon his failure to comply with a court-ordered subpoena and his non-cooperation with the AGC's investigation, which is conduct that immediately threatens the public interest. On October 22, 2018, the AGC received a complaint from a law firm partner reporting that Shapiro had billed 319.8 hours to a firm client during the period of June through September 2018, despite not having performed any work for the client. Shapiro allegedly admitted his misconduct to the partner and other firm personnel and he was terminated on October 1, 2018. Following Shapiro's termination, the firm discovered that he inflated his hours billed to another client matter. On December 7, 2018, the AGC sent a copy of the complaint to Shapiro at his home address on file with OCA requesting that he provide an answer to the allegations within 20 days. Thereafter, AGC made several attempts to obtain an answer to the complaint, but none was received. On May 28, 2019, the AGC served Shapiro with a judicial subpoena requesting that he appear for a deposition on May 29, 2019. Shapiro failed to appear for the deposition and also failed to reschedule his deposition. The AGC argued that Shapiro's failure to submit an answer to the complaint and his failure to comply with the judicial subpoena to appear for a deposition evince a deliberate and willful attempt to impede the AGC's investigation. (Staff Attorney Kathy W. Parrino)

*Matter of David E. Thomas*, 178 AD3d 58 (1<sup>st</sup> Dept 2019)

In July 2018, the AGC filed a petition containing 18 charges relating to two separate matters. Thomas failed to answer the petition and by order dated February 28, 2019, this Court



granted the AGC's motion for default judgment, deeming the charges alleged in the petition to be admitted and suspended Thomas immediately and ordered a hearing on sanctions. Thomas then moved to resign from the practice of law. On September 24, 2019, the Court granted Thomas's resignation pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.10. Thomas acknowledged neglect of a legal matter, failure to provide competent representation to a client, failure to properly inform a client of a material development in a matter, and knowingly making a false statement of law or fact to a tribunal, in violation of New York's Rules of Professional Conduct (22 NYCRR 1200.0), Rules 1.1(a), 1.3(a) and (b), 1.4(a)(1)(iii), 1.4(a)(3), 3.3(a)(1), 3.4(c), and 8.4(c) and (h). (Staff Attorney Kathy W. Parrino)

*Matter of Lara C. Bakshi*, 175 AD3d 20 (1<sup>st</sup> Dept 2019)

On July 2, 2019, the Court suspended Bakshi from the practice of law pursuant to 22 NYCRR 1240.14(b), concurrent with a stay of the pending disciplinary investigation due to a medical disability. Bakshi presented sufficient evidence that she is incapacitated from continuing to practice law at this time, however, she evinces the hope that she can be reinstated after she obtains sufficient mental health treatment. Bakshi appeared before the AGC on August 23, 2018 for an examination under oath in response to a disciplinary complaint. Bakshi's testimony reflected an extensive history of substance abuse, including her use of crystal methamphetamine and that she had recently relapsed. Bakshi consented to be evaluated by a forensic psychiatrist. The psychiatrist concluded that Bakshi suffers from a number of specified psychiatric disorders with accompanying behavioral manifestations and is currently incapacitated. As a condition of the stay of the disciplinary investigation, Bakshi must enroll in and successfully complete the Lawyer's Assistance Program (LAP) for one year and her LAP monitor is to submit a report to the AGC every six months during that one year period. (Staff Attorney Kathy W. Parrino)

*Matter of Marshall S. Vayer*, 169 AD3d 78 (1<sup>st</sup> Dept 2019)

By order of October 21, 2010, the Court suspended Vayer from the practice of law as part of a mass suspension proceeding for failure to file attorney registration fees in violation of Judiciary Law 468-a. On March 29, 2018, the Court continued Vayer's suspension pursuant to 22 NYCRR 1240.9(a)(5) based on his continued practice of law while under his 2010 suspension for failure to meet his registration obligations. The Court denied the AGC's request for summary disbarment but granted the Committee's alternate request for an interim suspension pending further proceedings. On February 19, 2019, the Court granted the joint

motion of the AGC and Vayer for discipline by consent and he was suspended from the practice of law for a period of 3 years, effective *nunc pro tunc* to December 15, 2017. Mitigating factors included Vayer's unblemished disciplinary history prior to his 2010 suspensions, his full cooperation with the AGC, fulfillment of his outstanding CLE requirements and payment of his delinquent registration fees. The AGC and Vayer stipulated that they were not aware of any clients harmed by his misconduct. (Staff Attorney Kathy W. Parrino)

*Matter of Maive R. Giovati*, 171 AD3d 214 (1<sup>st</sup> Dept 2019)

By order of February 3, 1998, effective March 6, 1998, the Court suspended Giovati from the practice of law as part of a mass suspension proceeding for failure to file attorney registration statements and pay biennial registration fees. By Order dated September 21, 2015, the Court denied Giovati's motion for reinstatement pending the conclusion of an investigation by the AGC. On April 9, 2019, the Court granted the joint motion of the AGC and Giovati for discipline by consent pursuant to 22 NYCRR 1240.8(a)(5), and suspended her from the practice of law for a period of five years *nunc pro tunc* to September 21, 2015, (the date of the Court's order denying her prior motion for reinstatement.) Giovati's misconduct stemmed from her failing to meet her registration obligations since her admission to the bar in 1987. Giovati engaged in the unauthorized practice of law while suspended; filed false affidavits and documents with the courts, the Office of Court Administration, and the AGC in violation of Rules 5.5(a), 8.4(c), (h), 22 NYCRR 118.1, and Judiciary Law 478. Mitigating factors included that Giovati denied being aware of the registration requirements or knowing of the suspension; had since paid all of her registration fees except for one biennial period due to financial hardship; and she was a 65 year old cancer survivor with multiple sclerosis. (Staff Attorney Kathy W. Parrino)

*Matter of Emily A. Tran*, 173 AD3d 1 (1<sup>st</sup> Dept 2019)

On May 2, 2019, the Court granted the joint motion of the AGC and Tran suspending her from the practice of law for the period of one year effective June 3, 2019, pursuant to 22 NYCRR 1240.8(a)(5). The AGC had commenced a petition containing seven charges alleging that Tran was guilty of misconduct in violation of the Rules of Professional Conduct by, *inter alia*, allowing a non-attorney to be a signatory on her escrow account; aiding another attorney, specifically her prior employer, in the unauthorized practice of law; having a misleading law firm name; making misrepresentations to opposing counsel; and failing to report another attorney's unauthorized practice of law. The Court granted the joint-motion

of the parties and suspended Tran for one-year citing Tran's admitted misconduct to all seven charges and mitigating factors including her lack of prior discipline and cooperation with the AGC's investigation of the lawyers for whom she previously worked and in her own matter. (Staff Attorney Kathy W. Parrino)

*Matter of William S. Papazian*, 170 AD3d 56 (1<sup>st</sup> Dept. 2019)

On March 5, 2019, the Court granted the AGC's motion for reciprocal discipline and publicly censured Papazian pursuant to 22 NYCRR 1240.13. Papazian's misconduct arose from a reprimand he received from the Supreme Court of Arizona. Specifically, in November 2016, the State Bar of Arizona filed a formal complaint against Papazian. In March 2017, Papazian entered into an agreement for discipline by consent in which he admitted to misconduct in connection with three separate immigration matters. In particular, in 2014 and 2015, several clients retained Papazian to represent them in immigration matters and paid him legal fees. However, during the course of representation, Papazian failed to reply to the clients' phone calls, communicate with the clients about their cases or otherwise perform work on some of their cases. Papazian also failed to supervise his legal assistant's meetings with some of the clients. Papazian returned the clients' legal fees only after each client filed a complaint against him. (Staff Attorney Lance E. Philadelphia)

*Matter of Barlow Smith*, 173 AD3d 99 (1<sup>st</sup> Dept 2019)

On May 16, 2019, the Court granted the AGC's motion striking Smith's name from the roll of attorneys and counselors-at-law pursuant to Judiciary Law 90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1), effective *nunc pro tunc* to August 12, 2015. Based on his August 12, 2015 conviction, upon his guilty plea, in the District Court, Burnet County in Texas, of fraudulent delivery of a controlled substance, in violation of Texas Health & Safety Code §481.129(c)(1), a felony in the third degree. Smith, a medical doctor as well as an attorney, pled guilty to "intentionally or knowingly delivering to an individual, by actual transfer or constructive transfer, a prescription for Phentermine, for other than a valid medical purpose in the course of his professional practice." On September 22, 2015, Smith was sentenced to five years imprisonment, which was suspended, 10 years of community supervision, which included 15 days of incarceration, and was fined \$1,000. By order dated May 2, 2017, the Supreme Court of Texas accepted Smith's resignation as an attorney *in lieu* of discipline based on his professional misconduct. By order dated February 26, 2018, the District of Columbia Court of Appeals imposed reciprocal discipline based upon Smith's resignation and suspended him for five years with a fitness requirement. The AGC asserted that Smith

failed to promptly report his conviction as required by Judiciary Law 90(4)(c) and 22 NYCRR 1240.12(a), nor did he report the resulting discipline as required by 22 NYCRR 1240.13(d). The AGC learned of both in 2018 from the D.C. Bar Counsel. The AGC contended that automatic disbarment was warranted because Smith's Texas felony conviction for fraudulent delivery of a controlled substance/prescription, if committed in New York, would constitute the felony criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist. (Staff Attorney Lance E. Philadelphia)

*Matter of Wayne A. Autry*, 177 AD3d 44 (1<sup>st</sup> Dept 2019)

On January 30, 2017, this Court suspended Autry from the practice of law as part of a mass suspension proceeding, for failure to file attorney registration statements and pay biennial registration fees. By Order filed October 1, 2018, the Supreme Court of New Jersey suspended Autry for three months, retroactive to March 17, 2017 (the date of a prior temporary suspension) and until further order of the court, based on his failure to cooperate with two separate disciplinary investigations. On September 26, 2019, the Court granted the AGC's motion for reciprocal discipline pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.13, to the extent of suspending Autry for a period of three months, with his current suspension for failure to register to continue. (Staff Attorney Orlando Reyes)

*Matter of Matthew H. Goldsmith*, 168 AD3d 105 (1<sup>st</sup> Dept 2019)

By motion dated October 4, 2017, the AGC sought Goldsmith's immediate suspension pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.9(a)(1), (3) and (5), based on his failure to appear pursuant to a subpoena and comply with lawful demands of the AGC. By order dated March 1, 2018, the Court granted the AGC's motion and suspended Goldsmith from the practice of law. On January 10, 2019, the Court disbarred Goldsmith pursuant to 22 NYCRR 1240.9, striking his name from the roll of attorneys, since he has neither responded to nor appeared for further investigatory or disciplinary proceedings within six months from the date of the order of suspension. (Staff Attorney Yvette A. Rosario)

*Matter of Melissa P. Bernier*, 177 AD3d 37 (1<sup>st</sup> Dept 2019)

On September 17, 2019, the Court disbarred Bernier pursuant to New York's Rules of Professional Conduct (22 NYCRR 1200.0), Rules 1.3(a), 1.15(a), 1.15(b), 8.4(c), and 8.4(h) when she intentionally converted, misappropriated, and commingled client and business funds; intentionally failed to carry out a contract of employment; falsely affirmed in her 2015

OCA registration that she was in full compliance with Rule 1.15, when in fact she allegedly had engaged in escrow related misconduct; did not submit documents evidencing her alleged hospitalization on the date of the liability hearing, character letters, a post-hearing memorandum, or a response to the petition of charges and showed no remorse for her misconduct. Bernier's misconduct arises from her representation of a client in September 2014 who had been charged with burglary in the second degree. Bernier had negotiated a plea agreement whereby her client pled guilty to the reduced charge of burglary in the third degree, was sentenced to time served and fined \$1,375. On July 24, 2015, Bernier's client wired her \$1,375 to pay his fine by depositing the funds in her operating/business account. Bernier failed to promptly pay the fine and instead used \$827 of her client's funds to pay for business and personal expenses unrelated to his case. Over one year later, in September 2016, when her client complained, Bernier sent a certified check for \$1,375 to the Warren County Clerk to satisfy the fine. (Staff Attorney Yvette A. Rosario)

*Matter of W. Marilyn Pierre*, 170 AD3d 36 (1<sup>st</sup> Dept 2019)

On February 21, 2019, the Court granted the joint motion of the AGC and Pierre for discipline by consent, pursuant to Rules for Attorney Disciplinary Matters 22 NYCRR 1240.8(a)(5), suspending her from the practice of law for a period of five years, *nunc pro tunc* to August 8, 2017. Pierre admitted to commingling client funds with her own; using her escrow account as an operating account and evading tax liens and uncontroverted evidence reflecting that she had converted and/or misappropriated guardianship funds and failed to satisfy a judgment entered against her in favor of a former client. Factors in mitigation include her good faith attempt to make monthly restitution payments to her former wards and clients; her misconduct occurred while she was suffering from bulimia, depression and ADD, which affected her ability to practice law effectively and her participation with the Lawyer Assistance Program (LAP) by which she voluntarily entered a one year (August 2018 - August 2019) mental health monitoring program agreement for ADD and a food disorder. Pierre expressed extreme remorse and apologized to the Court, the bar and her clients for her acknowledged misconduct. (Staff Attorney Yvette A. Rosario)

*Matter of David E. Thomas*, 171 AD3d 93 (1<sup>st</sup> Dept 2019)

The AGC commenced a disciplinary proceeding against Thomas asserting 18 charges of professional misconduct in connection with two legal matters, alleging that he had failed to provide competent representation to a client; failed to act with reasonable diligence and promptness in representing a client; failed to promptly inform his client of a material

development in the matter; neglected a legal matter; failed to keep his client reasonably informed about the status of the matter; disregarded a ruling of a tribunal made in the course of a proceeding; knowingly made a false statement of fact or law to a tribunal; engaged in conduct involving dishonesty, fraud, deceit or misrepresentation and engaged in conduct that adversely reflected on his fitness as a lawyer, in violation of Rules 1.1(a), 1.3(a) and (b), 1.4(a)(1)(iii), 1.4(a)(3), 3.3(a)(1), 3.4(c), and 8.4(c) and (h). In light of Thomas' failure to answer or otherwise respond to the petition for charges, on November 2, 2018, the AGC filed a motion to deem the charges admitted. On February 28, 2019, the Court granted the AGC's motion and suspended Thomas on an interim basis, pursuant to 22 NYCRR 1240.9(a)(1) and referred the matter to a Referee to conduct a hearing solely as to the appropriate sanction to be imposed. (Staff Attorney Remi E. Shea)

*Matter of Kavin L. Edwards*, 171 AD3d 221 (1<sup>st</sup> Dept 2019)

On April 18, 2019, the Court interimly suspended Edwards pursuant to 22 NYCRR 1240.9(a)(3) for failure to cooperate with the AGC's investigation of professional misconduct. Edwards' misconduct arose from his appointment as a guardian of an incapacitated person on June 25, 2015. On January 9, 2018, the AGC received a complaint from the compliance referee in the guardianship department in Supreme Court, Bronx County, advising that after Edwards' ward died, Edwards failed to appear in connection with proceedings to discharge him as the guardian, notwithstanding a letter and telephone call from the court as well as a court order. Edwards then failed to submit a written answer to the disciplinary complaint and defaulted on the second day of his court ordered deposition. The AGC moved for Edwards' interim suspension. Edwards did not file a response. (Staff Attorney Remi E. Shea)

*Matter of Adam L. Bailey*, 171 AD3d 184 (1<sup>st</sup> Dept 2019)

On April 2, 2019, the Court suspended Bailey from the practice of law for a period of four months, effective May 3, 2019. Bailey is a high-profile real estate attorney. The AGC commenced proceedings against Bailey in connection with his intemperate remarks to a resident of a building owned by a client of Bailey's law firm and his conduct in the course of an arbitration hearing being conducted at the firm. The Committee alleged that Bailey violated New York's Rules of Professional Conduct: 3.3(f)(2) undignified or discourteous conduct before a tribunal; 3.3(f)(4) conduct intended to disrupt a tribunal; 8.4(d) conduct prejudicial to the administration of justice; 3.4(e) threatening criminal charges solely to obtain an advantage in a civil matter; and 8.4(h) conduct that adversely reflects on his fitness

as a lawyer. In addition to the suspension, the Court directed Bailey to engage in counseling for a period of one year with LAP. (Staff Attorney Remi E. Shea)

*Matter of Benjamin P. Bratter*, 178 AD3d 22 (1<sup>st</sup> Dept 2019)

On September 26, 2019, the Court suspended Bratter for a period of one year, effective October 28, 2019. In 2017, the AGC filed a petition of 23 charges against Bratter alleging that he engaged in a pattern of neglect, misrepresentation, incompetent representation, and failure to communicate, while representing immigration clients, and failed to cooperate with the AGC's investigation. By unpublished order entered on January 17, 2018, the Court deemed 18 of the charges established based on Bratter's admissions entered in a joint stipulation. In March 2018, the AGC brought three more charges against Bratter, including a charge of dishonesty in his representation of another immigration client. Bratter stipulated to the additional charges. In addition to imposing a suspension on Bratter, the Court directed him to enroll in and successfully complete the LAP Program. (Staff Attorney Remi E. Shea)

*Matter of Marc S. Koplik*, 168 AD3d 163 (1<sup>st</sup> Dept 2019)

On January 15, 2019, the Court granted the joint motion of the AGC and Koplik, pursuant to 22 NYCRR 1240.8(a)(5) and Koplik was publicly censured. The parties agreed that Koplik violated Rules 1.2(d) and 8.4(h) of New York's Rules of Professional Conduct. Koplik's misconduct arose from his meeting with a potential client from who represented himself as appearing on behalf of a West African minister. The individual informed Koplik that the minister desired to purchase a brownstone, an airplane, and a yacht in the United States. Koplik was under the impression that the money involved was in the tens of millions of dollars. The individual's explanation suggested that the source of the money was questionable. Koplik informed the individual that they would need to hide the true source of the money by setting up different corporations to own the properties the minister sought to purchase. Koplik also suggested to the client that lawyers in the United States could act with impunity. Factors in mitigation include Koplik's cooperation, his admitted conduct and acceptance of responsibility, the fact that the misconduct was aberrational and occurred in the context of a single, open-ended conversation with a potential client after which Koplik took no further steps. (Staff Attorney Denice M. Szekely)

*Matter of David G. Scudieri*, 174 AD3d 168 (1<sup>st</sup> Dept 2019)

On June 11, 2019, the Court suspended Scudieri from the practice of law for a period of 18 months, effective 30 days from the date hereof. On February 23, 2018, the AGC charged

Scudieri with failing to provide a written retainer in a domestic relations matter; engaging in conduct that adversely reflects on his fitness as a lawyer when he exchanged sexually explicit text messages and photographs with a client he was representing in a domestic relations matter; and improperly entering into sexual relations with that client during the course of the representation, in violation of the Rules of Professional Conduct 1.5(d)(5)(ii), 8.4(h), and 1.8(j)(1)(iii). Scudieri admitted to the failure to provide a written retainer and to the exchange of sexually explicit text messages photographs but denied having a sexual encounter with a matrimonial client in a courthouse stairwell. After a liability hearing, including testimony from the matrimonial client, and briefs on sanction, the Referee sustained all three charges against Scudieri and recommended 18 months suspension. The Court affirmed the Referee's findings on liability and sanction, noting that, "With respect to liability, charges 1 and 2 are no longer in dispute. However, the prime issue with charge 3 depends on the credibility of the witnesses, and we conclude that the findings of the Referee are fully supported by the record." The Court further noted that while the sexual encounter was consensual, "respondent's misconduct contravenes New York's strong public policy prohibiting lawyers from engaging in sexual relations with clients in domestic relations matters during the course of their representation." (Staff Attorney Denice M. Szekely)

*Matter of Marcus R. Mumford*, 171 AD3d 180 (1<sup>st</sup> Dept 2019)

The Court publicly censured Mumford as reciprocal discipline predicated upon a public admonishment by the U.S. Court of Appeals for the Tenth Circuit. The Tenth Circuit cited ten matters that Mumford had made late filings and noted his pattern of failing to file a brief, petition or response to a court order by the applicable deadline, which was often extended multiple times prior to the late filing. Mumford's failure to comply with the Tenth Circuit's deadlines, rules and directives was inconsistent with the standards of practice required of attorneys admitted to appear before the Tenth Circuit. The misconduct for which Mumford was disciplined by the Tenth Circuit would also constitute misconduct in New York in violation of Rules of Professional Conduct Rules 1.3(a) (failure to act with reasonable diligence and promptness in representing a client; 1.3(b) neglect of a legal matter); 3.3(f)(1) (failure to comply with known local customs of courtesy and practice of the bar or a particular tribunal without giving to opposing counsel timely notice of the intent to comply; 3.3(f)(3) (intentionally or habitually violating any established rules of procedure; 8.4(d) (conduct prejudicial to the administration of justice; and 8.4(h) (other conduct adversely reflecting on fitness as a lawyer). (Deputy Chief Attorney Raymond Vallejo)



*Matter of Harold Levine*, 168 AD3d 91 (1<sup>st</sup> Dept 2019)

The Court interimly suspended Levine from the practice of law based upon his plea of guilty in the United States District Court for the Southern District of New York, of corruptly endeavoring to obstruct and impede the due administration of the internal revenue laws, in violation of 26 USC §7212(a) and tax evasion in violation of 26 USC §7201, both federal felonies. Levine was sentenced to two years of imprisonment, followed by 3 years of supervised release and ordered to pay \$1.5 million dollars in restitution to the IRS for his unpaid tax debt. Levine's convictions stemmed from his alleged participation in a tax evasion scheme involving his diversion of millions of dollars of tax shelter fee income from his law firm to himself and his failure to declare these fees as income to the IRS. The Court found that automatic disbarment was not warranted as Levine's plea admissions in conjunction with the indictment and other testimony did not establish "essential similarity" between the federal felonies of which he was convicted and the New York State felony of scheme to defraud in the first degree. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Edgar H. Paltzer*, 168 AD3d 160 (1<sup>st</sup> Dept 2019)

The Court accepted Paltzer's resignation from the practice of law. Paltzer's resignation stemmed from his guilty plea in the United States District Court for the Southern District of New York to conspiracy to defraud the IRS in violation of 18 USC §371, a felony. During Paltzer's plea allocution, he admitted that, *inter alia*, from 2000 to 2012, working with others in the Swiss financial industry, he assisted U.S. taxpayers in evading their U.S. tax obligations by forming entities and opening bank accounts in Switzerland in the name of these entities without completing W-9 tax disclosure forms which would have disclosed the U.S. taxpayers' interests in the Swiss accounts to the IRS and in filing false tax returns with the IRS. This allowed the U.S. taxpayers involved to conceal the income earned in these Swiss bank accounts from the IRS. By order of December 3, 2015, the Court deemed Paltzer's conviction a "serious crime" and immediately suspended him from the practice of law. Paltzer was sentenced to time served, placed on supervised release for a period of two years and fined \$75,000, which Paltzer paid. Paltzer sought an order, pursuant to 22 NYCRR 1240.10, accepting his resignation as an attorney. Paltzer acknowledged that he was the subject of a pending "serious crime" proceeding and attests that he could not successfully defend himself against the facts and circumstances of his professional conduct based upon his criminal conviction. The Court granted Paltzer's motion to resign from the practice of law, disbarring him and striking his name from the roll of attorneys. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Marla L. Stein*, 168 AD3d 116 (1<sup>st</sup> Dept 2019)

The Court accepted the joint motion of the AGC and Stein, pursuant to 22 NYCRR 1240.8(a)(5), to suspend her from the practice of law for a period of three years. Stein's suspension stemmed from her plea of guilty in the United States District Court for the Southern District of New York to corruptly endeavoring to obstruct and impede the due administration of the internal revenue in violation of 26 USC §7212(a), a felony. In an attempt to lower her tax liability and in response to an IRS audit, Stein created false tax documentation indicating that two individuals, a medical professional who had performed medical services for a member of Stein's family and a domestic employee had provided services to her law practice and had been paid fee income by Stein. Stein presented the false documentation to the IRS during the course of a 2013 audit of her and her husband's joint tax returns for the 2010 and 2011 tax years to substantiate fake deductions and expenses. Stein was sentenced to a term of one year and one day of imprisonment, followed by one year of supervised release, 100 hours of community service and was also directed to make restitution in the amount of \$99,546, which Stein paid prior to her being sentenced. In August 2015, Stein, who ceased practicing law as of April 2015, notified the AGC of her conviction as required by the Judiciary Law 90(4). The Court deemed Stein's conviction a "serious crime" and immediately suspended her from the practice of law and referred the matter for a sanction hearing to be held within 90 days from Stein's release from prison. The mitigating factors stipulated by the parties included: Stein's previously unblemished disciplinary history and the fact that she has not practiced law for 3 ½ years; that she had been under an interim suspension since January 2016; her misconduct did not involve the misuse of client funds; she fully cooperated with the federal criminal authorities and made full restitution; she promptly notified the AGC of her conviction and cooperated with the AGC's investigation; she accepted full responsibility for her misconduct and expressed remorse and contrition; since approximately 2014, Stein and her husband have retained the services of diligent accountants and attorneys to assist them in meeting their tax obligations and she is fully committed to continuing to meet such in the future; Stein has already suffered significant consequences as a result of her tax conviction, namely 11 ½ months of incarceration, financial penalties and an interim suspension and it is extremely unlikely that the misconduct at issue will recur in the future. (Deputy Chief Attorney Raymond Vallejo)

*Errol J. Tabacco*, 171 AD3d 163 (1<sup>st</sup> Dept 2019)

The Court reciprocally suspended Tabacco from the practice of law for a period of 15 months. Tabacco's reciprocal discipline stemmed from an order entered by the Supreme

Court of Vermont finalizing the decision of the Hearing Panel of the Professional Responsibility Board of Vermont (PRB) suspending Tabacco from the practice of law for 15 months based upon his convictions of domestic assault and simple assault by mutual affray (13 V.S.A. §§1042, 1023(b)). The AGC sought an order pursuant to Judiciary Law 90(2) and 22 NYCRR 1240.13 imposing reciprocal discipline on Tabacco based upon the discipline imposed by the PRB. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Herbert G. Lindenbaum*, 172 AD3d 26 (1<sup>st</sup> Dept 2019)

The Court accepted a joint motion for discipline by consent of the AGC and Lindenbaum, pursuant to 22 NYCRR 1240.8(a)(5), to suspend Lindenbaum from the practice of law for one year, retroactive to September 20, 2018, the date of his interim suspension, or the period of his supervised release, whichever is longer. The parties agreed on the stipulated facts, including that Lindenbaum pleaded guilty in the United States District Court for the Southern District of New York evasion of payment of income taxes in violation of 27 USC §7201, a felony. Lindenbaum was sentenced to three years of supervised release, with six months of home confinement, and directed to pay \$3,392,211 in restitution for his unpaid tax liability for the tax years of 1999 through 2013. The mitigating factors were that Lindenbaum was 81 years old and had been a successful practicing trial attorney since 1962 and his disciplinary record was previously unblemished; he acknowledged his guilt, cooperated with the AGC's investigation, accepted full responsibility for his misconduct and expressed remorse. Further, Lindenbaum has had, and continues to have, significant family tragedy which has affected his ability to support himself and his family, namely that one of his daughters died of brain cancer and the cost of her medical treatment required Lindenbaum to spend much of his income for her care. Lindenbaum's second daughter, who lives at home with him and his wife, is unable to support herself due to being misdiagnosed with Lyme's Disease when she was five years old. As an adult, Lindenbaum's daughter has been rendered virtually immobile and her medical condition has resulted in significant expenses for him. (Deputy Chief Attorney Raymond Vallejo)

*Matter of James P. Byrne*, 174 AD3d 180 (1<sup>st</sup> Dept. 2019)

Byrne was reciprocally suspended from the practice of law pursuant to Judiciary Law 90(2), the Rules of Attorney Disciplinary Matters 22 NYCRR 1240.13, predicated upon discipline imposed by the Supreme Court of New Jersey. In 2018, Byrne was suspended for three months in New Jersey having been found guilty of, *inter alia*, gross neglect, lack of diligence, failure to communicate with a client, protecting the client's interests and lying to

the client about the status of her legal matter. Byrne failed to cooperate in the New Jersey proceeding, resulting in his default and suspension. The misconduct for which Byrne was disciplined in New Jersey would also constitute misconduct in violation of New York Rules of Professional Conduct (22 NYCRR 1200.0) Rules 1.3(a) (diligence); 1.3(b) (neglect); 1.4 (failure to communicate); 1.16(e) (failure to protect client's interests upon termination of representation; and 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation. Byrne's suspension from the practice of law for a period of three months was effective July 15, 2019. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Raul I. Jauregui*, 175 AD3d 34 (1<sup>st</sup> Dept 2019)

Pursuant to Judiciary Law 90(2) and the Rule for Attorney Disciplinary Matters 22 NYCRR 1240.13, the Court reciprocally disciplined Jauregui predicated upon discipline imposed on him by the Supreme Court of Pennsylvania. The Court suspended Jauregui from the practice of law for a period of one year based upon the Supreme Court of Pennsylvania's one year suspension based on his conduct of engaging in a conflict of interest; breaching confidentiality; making knowingly false and misleading statements to the Pennsylvania Office of Disciplinary Counsel; willfully failing to comply with legitimately sought discovery and court orders; and engaging in frivolous filing, which would have constituted violations of New York's Rules of Professional Conduct 1.3(a), 1.6(a), 1.9(a) and (c), 1.16(b), 3.1, 4.4(a), and 8.4(c) and (d). (Deputy Chief Attorney Raymond Vallejo)

*Matter of Michael D. Cohen*, 170 AD3d 30 (1<sup>st</sup> Dept 2019)

The Court disbarred Cohen based upon his plea of guilty in the United States District Court for the Southern District of New York to evasion of assessment of income tax liability in violation of 26 USC §7201 (five counts for the calendar years of 2012-2016); making false statements to a financial institution in connection with a credit decision in violation of 18 USC §§ 1014 and 2; causing an unlawful corporate contribution in violation of 52 USC §§ 30118(a) and 30109(d)(1)(A), and 18 USC § 2(b); and making an excessive campaign contribution in violation of 52 USC §§ 30116(a)(1)(A); (7) and 30109(d)(1)(A), and 18 USC § 2(b), which are all federal felonies. Cohen subsequently pleaded guilty in the United States District Court for the Southern District of New York to making false statements to the United States Congress in violation of USC § 1001(a)(2). Cohen was sentenced to three years in prison based upon his first conviction, a two-month concurrent sentence for his second conviction, concurrent three year terms of supervised release in both cases, and was ordered to pay two fines of \$50,000 each, to forfeit \$500,000 and to pay \$1,393,858 in restitution to

the IRS. The AGC sought an order striking Cohen's name from the roll of attorneys pursuant to Judiciary Law 90(4)(a) and (b) and Rules of Attorney Disciplinary Matters 22 NYCRR § 1240.12(c)(1) on the grounds that Cohen was automatically disbarred as a result of his conviction of a federal felony that would constitute a felony under New York law. The AGC's motion was granted and Cohen's name was stricken from the roll of attorneys and counselors-at-law in the State of New York pursuant to Judiciary Law 90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1), effective *nunc pro tunc* to November 29, 2018, the date Cohen ceased to be an attorney as a result of his conviction of the crime of making false statements to Congress in violation of 18 USC § 1001(a)(2), a federal felony. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Meighan M. McSherry*, 174 AD3d 61 (1<sup>st</sup> Dept 2019)

The Court disbarred McSherry from the practice of law based upon her conviction in Supreme Court, New York County. McSherry pleaded guilty to attempted robbery in the third degree, a class E felony, in violation of Penal Law §§ 110.00 and 160.05. McSherry admitted during her plea allocution that at a bank in New York County, she attempted to forcibly steal property from another person. McSherry was sentenced to a conditional discharge of three years and a surcharge of \$300. The AGC sought an order striking McSherry's name from the roll of attorneys pursuant to Judiciary Law 90(4)(a) and (b) and Rules for Attorney Disciplinary Matters, 22 NYCRR 1240.12(c)(1) on the ground that McSherry had been automatically disbarred by virtue of her conviction of a felony as defined under Judiciary Law 90(4)(3). The Court granted the AGC's motion striking McSherry's name from the roll of attorneys and counselors-at-law *nunc pro tunc* to April 25, 2018. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Carlos A. Matir, Jr.*, 180 AD3d 67 (1<sup>st</sup> Dept 2019)

The Court publicly censured Matir pursuant to 22 NYCRR 1240.13, as reciprocal discipline predicated upon his public reprimand by the Disciplinary Board of the Supreme Court of Pennsylvania. Matir's misconduct stemmed from his repeated failure to appear before the Court in a criminal matter in accordance with its scheduling orders. Matir was found in contempt and fined \$1,500. Matir was subsequently charged with violations of the Pennsylvania Rules of Professional Conduct 1.1, 1.3 and 8.4(d) for his failure to provide competent representation to a client; failure to act with reasonable diligence and promptness in representing a client; and conduct prejudicial to the administration of justice. The violations pertaining to Rules 1.3 and 8.4(d) were upheld and a public reprimand was

imposed. The Disciplinary Board noted that Matir had been privately disciplined on three prior occasions for neglect of client matters and misrepresenting matters to the court. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Robert E. Arnold, III*, 180 AD3d 72 (1<sup>st</sup> Dept 2019)

Pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.13, the Court reciprocally disbarred Arnold predicated upon his disbarment by the Supreme Court of Missouri which disbarred Arnold from the practice of law for, *inter alia*, misappropriating settlement funds, maintaining inadequate trust fund records, violating client confidentiality and failing to respond to a lawful demand of disciplinary authorities. Arnold's misconduct stemmed from his representation of a client in a child custody and support case as well as a personal injury case related to a motor vehicle accident. Arnold settled the personal injury case for the \$25,000 limit of the at-fault driver's insurance policy and deposited the funds into his trust account. Thereafter, Arnold transferred all of the settlement funds into his operating account despite the fact that his client never gave her consent for him to keep the entire settlement amount. After his client threatened to sue him, Arnold filed an attorney lien against his client's family law case and then filed a civil interpleader action against her regarding the distribution of settlement proceeds. Without his client's informed consent and without her authorization, Arnold attached an affidavit in support of the interpleader action that included personal information about his client. The misconduct for which Arnold was disciplined in Missouri would also constitute misconduct in New York in violation of the Rules of Professional Conduct (22 NYCRR 1200.0) Rules 1.15(a) (prohibition against commingling and misappropriation of client or third party funds); 1.15(c) (failure to promptly pay to a client or third party funds in possession of the lawyer which the client or third party person is entitled to receive); 1.15(d) (failure to maintain bookkeeping records); 1.15(c) (failure to promptly provide a contingency fee remittance statement; 1.6(a) (client confidentiality); and 8.4(d) (conduct prejudicial to the administration of justice). (Deputy Chief Attorney Raymond Vallejo)

*Matter of Gordon R. Caplan*, 179 AD3d 157 (1<sup>st</sup> Dept 2019)

The Court immediately suspended Caplan from the practice of law pursuant to 22 NYCRR 1240.12(c)(2)(ii) as he was convicted of a "serious crime." Caplan was convicted, upon his plea of guilty, in the United States District Court for the District of Massachusetts, of conspiracy to commit mail fraud and honest services mail fraud in violation of 18 USC §1349. Caplan was sentenced to one month in prison, one year of supervised release, 250

hours of community service and ordered to pay a fine of \$50,000. Caplan's conviction stemmed from his involvement in the widely publicized college admissions bribery and cheating scandal centered on college admissions consultant William "Rick" Singer who helped parents bribe coaches and test administrators so their children had a better chance of getting into prominent schools. Specifically, in or about 2018, Caplan agreed to pay Singer \$75,000 (via wire transfer and the mail) to participate in the college entrance exam cheating scheme. To accomplish this, Caplan flew to Los Angeles with his daughter to meet with a psychologist recommended by Singer to obtain medical documentation required to receive extended time on the ACT exam for which she received approval; and he changed his daughter's testing location to a test center in West Hollywood, California so that Singer's associate could proctor her exam, correct her answers to obtain the desired score, and mail the corrected exam to the ACT grading center in Iowa. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Laurence Savedoff*, 179 AD3d 19 (1<sup>st</sup> Dept 2019)

The Court immediately suspended Savedoff from the practice of law pursuant to Judiciary Law 0(4)(f), as he was convicted of a "serious crime." Savedoff pled guilty, in the United States District Court for the Western District of New York, to misprision of a felony in violation of 18 USC §4. Savedoff's conviction stemmed from his representation, as settlement attorney, of The Funding Source (TFS), a mortgage bank, between 2008 and 2009. In that capacity, Savedoff represented TFS in eight real estate transactions for properties in Bronx, New York, involving loans insured by the Federal Housing Administration (FHA). During the transactions, Savedoff learned that his co-defendants were engaged in a scheme to fraudulently obtain mortgages that were insured by the FHA on behalf of unqualified borrowers. Savedoff signed legal documents knowing that the information they contained were false. Although Savedoff did not know the full extent of the scheme, he became aware that he was being used to defraud financial institutions and he failed to notify authorities of his co-defendants' fraudulent actions. Savedoff also took affirmative steps to conceal the fraud by signing, or by having his paralegal sign, documents sent to the banks. As a result, financial institutions purchased fraudulently originated loans from TFS, resulting in a total loss of \$4,800,007. Savedoff was sentenced to a term of imprisonment of four months, supervised release of one year and a special assessment of \$100. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Harold Levine*, 179 AD3d 172 (1<sup>st</sup> Dept 2019)

The Court accepted Levine's resignation from the practice of law. Levine's resignation stemmed from his guilty plea in the United States District Court for the Southern District of New York to corruptly endeavoring to obstruct and impede the due administration of the IRS in violation of 26 USC §7212(a) and tax evasion in violation of 26 USC §7201, both federal felonies. Levine was sentenced to two years imprisonment followed by three years of supervised release, and ordered to pay \$1.5 million in restitution to the IRS. Levine's convictions were based on his participation in a tax evasion scheme involving his diversion of millions of dollars of tax shelter fee income from his law firm to himself and his failure to declare those fees as income to the IRS. By order dated January 8, 2019, the Court granted the AGC's motion determining that the crimes Levine committed were "serious crimes" and immediately suspended him from the practice of law. Levine then sought an order pursuant to the Rules for Attorney Disciplinary Matters 22 NYCRR 1240.10, approving his resignation as an attorney and counselor-at-law. The Court subsequently granted Levine's motion, accepted his resignation from the practice of law and struck his name from the roll of attorneys and counselors-at-law *nunc pro tunc* to August 22, 2019. (Deputy Chief Attorney Raymond Vallejo)



**Appendix A: Committee Composition**

**Committee 1**

Abigail T. Reardon, Chair  
Milton L. Williams, Jr., Vice-Chair  
Robert M. Abrahams  
Daniel R. Alonso  
Eleazar F. Bueno\*  
John P. Buza  
William F. Dahill  
Peter G. Eikenberry  
Keisha-Ann G. Gray  
Danielle C. Lesser  
Lisa A. Linsky  
Arthur M. Luxenberg  
Eve Rachel Markewich  
Scott E. Mollen  
Virginia A. Reilly  
Lee S. Richards III  
Darren Rosenblum  
Joe Tarver\*  
Hon. Milton A. Tingling  
Judith E. White  
Toby R. Winer\*

**Committee 2**

Robert J. Anello, Chair  
Ricardo E. Oquendo, Vice-Chair  
Marjorie E. Berman  
Rev. Reyn Cabinte\*  
Hon. James M. Catterson  
Sylvia Fung Chin  
Catherine A. Christian  
Susan M. Cofield\*  
Robert Stephen Cohen  
Ralph C. Dawson  
Virginia Goodman Futterman  
Mark S. Gottlieb\*  
Jaipat S. Jain  
Amy L. Legow  
Charles G. Moerdler  
Elliot Moskowitz  
Michael Roberts  
Joanna Rotgers  
Anne C. Vladeck  
Tina M. Wells  
Mark C. Zauderer

\*Lay Members (non-attorneys)

2019

**Appendix B: Office of the Chief Attorney: Attorneys**

Jorge Dopico  
Chief Attorney

Deputy Chief Attorneys

Angela Christmas  
Naomi F. Goldstein  
Vitaly Lipkansky  
Raymond Vallejo

Special Trial Attorney

Jeremy S. Garber

Staff Attorneys

Sinan Aydiner  
Daniel Baek  
Sean A. Brandveen  
Kevin P. Culley  
Sherine F. Cummings  
Kevin M. Doyle  
Kelly A. Latham  
Jun H. Lee  
Norma I. Lopez  
Norma I. Melendez  
Elisabeth A. Palladino  
Kathy W. Parrino  
Lance E. Philadelphia  
Orlando Reyes  
Yvette A. Rosario  
Remi E. Shea  
Denice M. Szekely

2019

**Appendix C: Office of the Chief Attorney: Administrative Staff**

Investigators

George Cebisch, Chief (Jan.-Apr.)  
Nancy De Leon, Chief (Apr.-Dec.)  
Anthony Rodriguez

Paralegals

Joel A. Peterson, Chief  
Tennille Millhouse  
Robert F. Murphy, Investigator/Paralegal  
Reginald E. Thomas, Investigator/Paralegal

Office Manager

Marcy Sterling  
Nancy De Leon, Asst. (Jan.-Apr.)

Accountant

Martin Schwinger

Computer Personnel

Michelle Y. Wang, LAN Administrator  
Mark Hernandez, Data Entry

Administrative Assistants

Lauren Cahill  
Monique R. Hudson-Nlemchi  
Donna M. Killian  
Lokhmattie Mahabeer  
Tina M. Nardelli  
Celina M. Nelson  
Michael J. Ramirez  
Sharon Ramirez  
Natasha S. Solomon  
Leonard Zarrillo

**Appendix E: Budget for Fiscal Year 2019-2020**

Attorney Grievance Committee Budget  
Fiscal Year April, 2019 - March, 2020

	<u>Allocation</u>
Personal Service Total:	\$ 4,276,113.00
<u>Non-Personal Service:</u>	
Office Supplies	21,141.00
EDP Supplies	3,194.00
Postage Only	30,022.00
Legal Reference & Subscriptions	14,774.00
Miscellaneous Supplies and Materials	3,994.00
Travel General	344.00
Rentals of Equipment	24,522.00
Repairs of Equipment	2,851.00
Shipping	-
Printing General	77.00
Telephones	3,381.00
Building and Property Services	4,170.00
Records Management Services	13,974.00
Professional Services - Expert Witnesses	990.00
Other Court Appointed Services	20,750.00
Other General Services	40,996.00
Professional Services Per Diem Court Reporters	-
Transcript Costs General	52,049.00
Computer Assisted Legal Research	-
Equipment - New/Replacement	-
Non-Personal Service Total:	\$ 237,229.00
TOTAL BUDGET FISCAL YEAR 2018-2019	\$ 4,513,342.00

Appendix F: Sample Complaint Form

**SUPREME COURT, APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT  
DEPARTMENTAL DISCIPLINARY COMMITTEE  
61 BROADWAY, 2<sup>ND</sup> FLOOR  
NEW YORK, NEW YORK 10006  
(212) 401-0800**

**Jorge Dopico  
Chief Counsel**

**DATE:** \_\_\_\_\_

**ATTORNEY COMPLAINED OF:**

**Mr.( ) Ms.( ) Mrs.( )** \_\_\_\_\_  
**Last First Initial**

**Address:** \_\_\_\_\_ **Apt. No .** \_\_\_\_\_

\_\_\_\_\_ **City State**  
**Zip Code**

**Telephone: Home: ( ) Office: ( )**

**Cell : ( ) Email Address:** \_\_\_\_\_

**YOUR NAME/INFORMATION (Complainant):**

**Mr.( ) Ms.( ) Mrs.( )** \_\_\_\_\_  
**Last First Initial**

**Address:** \_\_\_\_\_ **Apt. No .** \_\_\_\_\_

\_\_\_\_\_ **City State**  
**Zip Code**

**Telephone: Home: ( ) Office: ( )**

**Cell : ( ) Email Address:** \_\_\_\_\_

\*\*\*\*\*

**Complaints to other agencies:**

**Have you filed a complaint concerning this matter with another Bar Association, District Attorney's Office or any other agency:**

**If so, name of agency:** \_\_\_\_\_

**Action taken by agency:** \_\_\_\_\_

