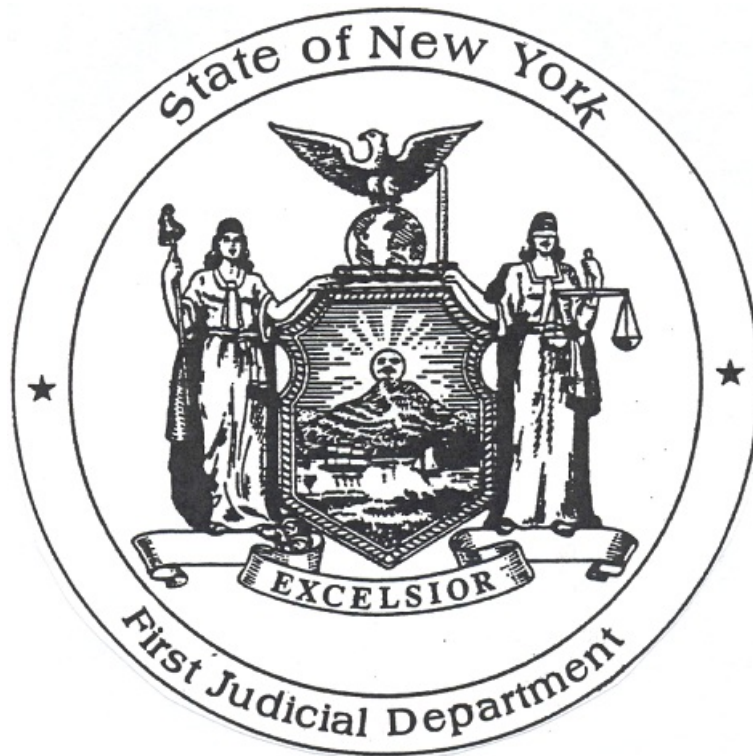


# 2014 ANNUAL REPORT



**The Departmental Disciplinary Committee  
of the Appellate Division of  
the Supreme Court of  
the State of New York  
First Judicial Department**

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of the Appellate Division  
of the Supreme Court  
of the State of New York,  
First Judicial Department**

**Ernest J. Collazo  
Chair**

**Jorge Dopico  
Chief Counsel**

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# CHAIRMAN'S REPORT

Ernest J. Collazo  
Chair



## CHIEF COUNSEL'S REPORT

Ernest J. Collazo, Chairman of the Departmental Disciplinary Committee, merits great thanks for the able leadership he has demonstrated throughout his first year as Chairman. Mr. Collazo has continued the tradition of excellence and enhanced Committee efficiency with his insistence on the full participation of all Committee members.

Sincere thanks are owed to the Policy Committee and the Committee members at large. Their role in ensuring the sound handling of the 2837 cases newly opened in 2014 defies exaggeration. And, as always, they eased the way and welcomed new members who replenished Committees ranks when veteran members completed their two three-year terms.

I also must thank Presiding Justice Luis A. Gonzalez for his unwavering support of my office. Thank you as well to the Justices of our Court, in particular the Liaison Committee members: Hon. Peter Tom, Hon. Angela M. Mazzarelli, Hon. David Friedman, Hon. John W. Sweeny, Jr., Hon. Rolando T. Acosta, and Hon. Leland G. DeGrasse. In addition, thanks go to the Clerk of the Court, Susanna Molina Rojas, as well as Deputy Clerks, Eric Schumacher and Margaret Sowah, for their continued support of the Committee.

During my tenure as Chief Counsel since 2010, nearly one-third of our staff has been lost without replacement due to statewide budget cuts. I am looking forward to replacing staff as the State budget improves. In 2014, the following employees retired or resigned: Eileen Shields, Esq., Kaylin Whittingham, Esq., Eartha Hobot, and Virgil Cruz.

A severe staffing deficit continues to hobble Chief Counsel's office. Still, we are pulling together to accomplish our goal of protecting the public from attorney misconduct. Many thanks to my devoted staff whose selfless public service and tireless efforts to our Committee and the Court are unmatched.

We will continue to resolve complaints as promptly as possible, send the most serious cases to our Court with a full record, and strive for excellence at every turn. We will, in other words, continue to earn the confidence and pride of the Committee and the Court.

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Jorge Dopico  
Chief Counsel





## COMMITTEE MEMBERS

Committee members are volunteers appointed by the Court who fulfill both adjudicative and executive functions. Most significantly, they decide, after appropriate investigation by Staff, whether formal charges should be brought against an attorney, whether a private admonition should be issued, or whether the complaint should be dismissed or dismissed with guidance. If formal charges are approved, the Court appoints a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact, conclusions of law and recommended sanction. Committee Hearing Panels then review the Referee's report and recommendation, hear argument by the parties on the issues, and make an independent recommendation as to liability and sanction. Thereafter, the Court makes the final determination on both liability and sanction based on its review of the record.

In 2014, 63 Committee members served on nine different Hearing Panels of approximately seven members each, composed usually of six lawyers and one non-lawyer.

Also, in 2014, the Court appointed a new Chairman, Ernest J. Collazo, and the following new Committee members:

Robert J. Anello, Esq.

Michael I. Bernstein, Esq.

Thomas Birnbaum

Joyce M. Bove

Vincent T. Chang, Esq.

Daniel D. Chu, Esq.

Richard J. Condon

John M. Desiderio, Esq.

Darrell S. Gay, Esq.

Deesha M. Hill, Esq.

Richard M. Kenny, Esq.

Daniel F. Murphy, Esq.

Fredric S. Newman, Esq.

Pablo Quinones, Esq.

Abigail T. Reardon, Esq.

Edward M. Spiro, Esq.

Sheea T. Sybblis, Esq.

Twelve other members of the Committee, including one non-lawyer, served on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including possible rule changes, setting priorities and administrative issues. Members of the Policy Committee in 2014 were Ernest J. Collazo, Chair, Haliburton Fales, 2d, Esq., Charlotte Moses Fischman, Esq., Robert L. Haig, Esq., Brian C. McK. Henderson, Myron Kirschbaum, Esq., Alan Levine, Esq., Hon. Eugene Nardelli, Karla G. Sanchez, Esq., Carla A. Kerr Stearns, Esq., Hon. Joseph P. Sullivan, and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession, the government, and from law firms of varying sizes. The 13 non-lawyer members include business

executives, financial advisers and educators.

Below are brief biographies of all of the Committee members who served, with dedication and energy, in 2014, highlighting their diverse accomplishments:

Ernest J. Collazo (Chair)

Mr. Collazo has practiced labor and employment law for nearly 40 years. He began his career with the NLRB following his graduation from Columbia Law School. Two years later, he became an associate at Simpson Thacher & Bartlett, and, within five years, became a partner. Ten years later, Mr. Collazo left to establish the predecessor firm to Collazo Florentino & Keil, LLP, a boutique firm practicing management-side labor and employment law and litigation. Mr. Collazo is a Fellow of the College of Labor and Employment Lawyers, a member of the Council on Foreign Relations and of the Advisory Committee to the Rules Committee of the Second Circuit, and a former member of the Advisory Committee to the New York State Ethics Commission. He has served on the boards of the Federal Defenders of New York; the United Hospital Fund of New York; the Latin American Program of the Woodrow Wilson International Center for Scholars; the September 11th Fund; the New York Community Trust; and the Washington Office on Latin America. As a City Bar member, he has served on the City Bar's Executive Committee, the Committee on Professional and Judicial Ethics, the Committee on Labor and Employment, and the 2011 Nominating Committee. He also served as the City Bar's representative to the NYSBA House of Delegates and its 2009 and 2010 Nominating Committees.

James M. Altman

Mr. Altman is a litigation partner at Bryan Cave, LLP, where he focuses his practice on complex commercial litigation and issues of professional liability for lawyers. A graduate of Yale Law School, Mr. Altman is a frequent speaker and has written extensively on issues of professional ethics and the law of lawyering, including articles for the *Yale Law Journal*, the *Fordham Law Review*, *Litigation Magazine*, the *State Bar Journal*, and the *New York Law Journal*. Mr. Altman also taught legal ethics as an adjunct professor at the Brooklyn Law School. He has served on the ethics committees of the New York State Bar Association and the City Bar Association, and he is a past Chair of the New York State Bar Association Committee on Attorney Professionalism.

Robert J. Anello

Mr. Anello, a principal of Morvillo Abramowitz Grand Iason & Anello, P.C., has litigated in the federal and state courts for more than 30 years. He focuses his practice on white collar criminal defense, regulatory enforcement matters, complex civil litigation, internal investigations and reviews, and appeals. Mr. Anello is widely recognized for his skills as a criminal and civil trial attorney, and his ability to negotiate effectively on behalf of his

clients. He is President Emeritus of the Federal Bar Council, and a Fellow of the American College of Trial Lawyers, the American Bar Foundation, and the New York State Bar Foundation. Mr. Anello is a co-author of *White Collar Crime: Business and Regulatory Offenses*, Rev. Ed. (2014), 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 also is widely known for his dedication to organizations serving the legal community. He is a member of the Nominating Committee for the Association of the Bar of the City of New York and the New York State Bar Association's House of Delegates. Mr. Anello currently serves on the Board of Trustees of The Supreme Court Historical Society. He is a Fellow of the Litigation Counsel of America. He is also a member of numerous bar associations. Mr. Anello received his J.D., *magna cum laude*, from Syracuse University College of Law, and his B.A. from SUNY Albany.

#### David Arroyo

Mr. Arroyo is Senior Vice President, Legal Affairs for Scripps Networks Interactive, in which capacity he manages the law department's litigation, intellectual property, real estate, and programming functions. He graduated from the University of Michigan Law School, Duke University, and Stuyvesant High School. While at the Law School, he served as an assistant and contributing editor of the *Michigan Law Review*. Following Law School but before joining Scripps, he clerked for a federal judge and was associated with a major global law firm.

#### Michael I. Bernstein

Mr. Bernstein is a Senior Partner at Bond, Schoeneck & King, PLLC, and represents management in every facet of labor and employment law. He is a graduate of Columbia Law School and has been recognized by his peers in *New York Super Lawyers*, including its *Top 100 New York Super Lawyers* (2007), *Best Lawyers in America* (25 years or longer), *Who's Who in American Law*, Chambers USA, *An International Who's Who* of Management Labour & Employment Lawyers, and Marquis *Who's Who*. Mr. Bernstein has chaired the Labor and Employment Law Section of the New York State Bar Association, is a member of its Executive Committee, and has chaired both the Labor Committee of the New York City Bar Association, and the Federal Labor Standards Legislation Committee of the American Bar Association. He was elected Fellow to the College of Labor and Employment Lawyers, the American Bar Foundation, and the New York Bar Foundation, has served on the State Bar Association Privacy Initiative Task Force, Advisory Committees to the American Arbitration Association, the City Commission on Human Rights, and the New York State Human Rights Division, and is a member of the State Bar Association Committee on Diversity and Inclusion and the City Bar Association Committee on Minorities in the Profession. In 2015, the New York State Bar Association, Labor and Employment Law Section, honored Mr. Bernstein with its "Lifetime Achievement Award." Mr. Bernstein is an active lecturer and

has been a contributing editor to major federal and state labor and employment law treatises.

Thomas Birnbaum

Mr. Birnbaum is President of NYC Realty Advisors, LLC, the commercial real estate brokerage firm he founded in 2006. The firm concentrates on office leasing transactions, investment sales and consulting. He began in his career in real estate in 1972 with ten years at The Edward S. Gordon Company, Inc., which today has evolved into CBRE. Mr. Birnbaum attended Tabor Academy, followed by Hobart College and New York University School of Commerce. Mr. Birnbaum served in the United States Naval Air Reserves as an avionics technician. He has been a member of The Real Estate Board of New York Inc. since 1972 and the Young Men's/Women's Real Estate Association since 1976.

Sheila S. Boston

Ms. Boston is a partner in the New York office of Kaye Scholer, LLP. Her litigation practice is concentrated in class action and product liability issues. Ms. Boston received her A.B. from the Woodrow Wilson School of Public Policy and International Affairs at Princeton University in 1990; her minor was African American studies. She received her J.D. from Columbia University School of Law in 1993 and was the Topics Editor for the *Journal of Law and Social Problems*. She is currently the Secretary of the New York City Bar Association; Vice President of the Federal Bar Council; Membership Chair of the Federal Bar Council's American Inn of Court; and a member of the Steering Committee of Defense Research Institute's Drug and Medical Device Committee.

Joyce M. Bove

Ms. Bove, until September 2013, was Senior Vice President for Grants and Special Projects at The New York Community Trust, the community foundation for the New York metropolitan area. With The Trust since 1978, she administered a wide range of grant programs and special projects. Before joining The Trust, she held administrative and planning positions in health, mental health, and substance abuse agencies. She has been active in several nonprofit, civic, and philanthropic organizations, including the boards of the National AIDS Fund, Philanthropy New York, the Primary Care Development Corporation, Grantmakers in Health, and Funders Concerned About AIDS. Ms. Bove currently serves on the boards of the Institute for Contemporary Psychotherapy, the Nonprofit Coordinating Committee of New York, United Neighborhood Houses, and the Women's City Club as well as the New York Academy of Medicine School Health Programs Advisory Committee. She is the former president of the Health Care Executive Forum, where she now serves on the Program Committee. In 1989, Ms. Bove received the Council on Foundations' *Robert W. Scrivner Award for Creative Grantmaking* for her leadership in shaping the local and national philanthropic response to the AIDS epidemic. She is a graduate of Wellesley College and holds a masters degree in Public Administration from Indiana University; she is member

of the Indiana University School of Public and Environmental Affairs Distinguished Alumni Council. Ms. Bove is a fellow of the New York Academy of Medicine, and a visiting lecturer at New York Medical College's School of Public Health.

#### David Buksbaum

Mr. Buksbaum is a former vice president of news coverage and operations and director of special events for CBS News. He served as a consultant and advisor to the mayoral campaign of Richard Ravitch. He is a former member of the Directors Guild of America and Writers Guild of America. He is a recipient of the following professional honors: an Emmy, a Peabody, and a Christopher. He also received the United States Navy Meritorious Achievement Award.

#### John M. Callagy

Mr. Callagy is partner at Kelley Drye & Warren, LLP, where he represents clients on many litigation issues affecting large international enterprises. In 1992, he became the firm's first chairman, a role he held for twenty years. Mr. Callagy has counseled and litigated on behalf of United States and European corporate clients in connection with investigations, securities law issues, complex contract matters, insolvency, unfair competition, intellectual property, ERISA and pension, and labor and personnel matters. Mr. Callagy is a graduate of Georgetown University and New York University School of Law. He currently serves as a Board Member for the Inner-City Scholarship Fund. He was also on the Character and Fitness Committee for the Supreme Court of New York's Appellate Division, First Department.

#### John F. Cambria

Mr. Cambria is a partner in Alston & Bird's litigation practice group, in the firm's New York City office. After spending some years at Simpson Thacher & Bartlett, he became a partner at Christy & Viener and its successor firm, Salans, where he co-chaired the litigation department and held a number of executive management positions. Mr. Cambria joined Alston & Bird in 2004. He has almost 35 years of experience in all aspects of civil, corporate and commercial litigation. Mr. Cambria is a graduate of the College of the Holy Cross *summa cum laude*, and received his law degree from the University of Pennsylvania Law School. He is admitted to practice before state and federal courts in New York, the Third and Seventh Circuit Courts of Appeal, and the Supreme Court of the United States. Mr. Cambria has also been admitted in numerous state and federal courts throughout the country on a *pro hac vice* basis. He is a member of the Association of the Bar of the City of New York and the Federal Bar Council. At the Association of the Bar, he is a member of the in-house Counsel/Outside Litigation Counsel Group. Mr. Cambria is also a member of the Board of Directors of the Office of the Appellate Defender, a public interest legal services organization, and is a Board member of the Judges and Lawyers Breast Cancer Alert. He is

a member of the College of Holy Cross New York Leadership Council; the Board of Managers of the University of Pennsylvania Law School Alumni Society; and the Historical Society of the Courts of the State of New York. For the past several years, Mr. Cambria has regularly been listed in *The Best Lawyers in America* and *New York Super Lawyers* in the field of commercial litigation.

#### Nicholas M. Cannella

Mr. Cannella is a partner at Fitzpatrick, Cella, Harper & Scinto. A former law clerk to the Hon. Sol Wachtler of the New York State Court of Appeals, Mr. Cannella's practice is focused on the litigation of intellectual property matters, and he has served as lead trial and appellate counsel for numerous *Fortune 500* companies, both domestic and foreign. He has appeared in the federal trial and appellate courts in New York and throughout the country, and is a Fellow of the American College of Trial Lawyers. Mr. Cannella serves as Chairman of his firm's Management Committee. He also is a member of the Board of Directors of the Legal Aid Society. In addition, Mr. Cannella is an Adjunct Professor at St. John's University School of Law, where he is a President-Elect of that school's Alumni Association Board of Directors.

#### Giorgio Caputo

Mr. Caputo is a member of the investment team of First Eagle Funds and a Portfolio Manager of the firm's Global Income Builder fund. Mr. Caputo is a graduate of Princeton University and Columbia Business School.

#### John H. Carley

After Rutgers College and military service, Mr. Carley graduated from Yale Law School and began his legal career in New York City, becoming a litigation partner at Rogers & Wells. In 1981 he joined the Reagan Administration, serving first as General Counsel of the Federal Trade Commission (1981-1985) and then General Counsel of the Office of Management & Budget in the White House (1985-1987). Returning to New York City, he joined Donovan, Leisure, Newton & Irvine, and in 1994 joined the Guiliani Administration briefly. In December 1994, Mr. Carley was appointed New York State Deputy Attorney General for Public Advocacy. In January 1997, he returned to private life as Executive Vice-President and General Counsel of Avis, Inc. In December 1997 HFS, Inc, the parent of Avis, and CUC, Inc. merged to form Cendant Corporation. In April 1998, Cendant disclosed an accounting fraud at the former CUC resulting in a capital market loss of \$20 billion. Mr. Carley joined Cendant to manage all civil, regulatory and criminal investigations and civil litigations resulting from the fraud in which senior executives were implicated criminally and civilly. At the time it was the largest civil fraud in corporate history. In September 2007, Mr. Carley resigned from Cendant to accept then-New Jersey United States Attorney Chris Christie's offer to serve as one of five monitors enforcing deferred prosecution agreements with hip and

knee replacement public companies, following an industry investigation into consulting practices. After completing this task in April 2009, Mr. Carley pursued an individual practice.

Vincent T. Chang

Mr. Chang is a Partner at Wollmuth Maher & Deutsch, specializing in complex litigation in such areas as real estate, insurance, bankruptcy, subprime mortgage securitizations, hedge funds, reinsurance, bondholder litigation, investment banking, antitrust, and securities. Mr. Chang is a graduate of Harvard College, *magna cum laude*, and Harvard Law School, *cum laude*. Mr. Chang clerked for the Hon. Robert B. Krupansky, United States Court of Appeals for the Sixth Circuit, and was an associate and then counsel at Davis Polk & Wardwell. Mr. Chang is a past President of the Asian American Bar Association of New York and serves on the Executive Committee and Board of Directors and as Treasurer of the New York County Lawyers Association and has served as co-Chair of its Federal Courts Committee and as Chair of the NYCLA Foundation. He also serves on the Nominating Committee and the House of Delegates of the New York State Bar Association. He serves on the Task Force on Gun Violence of the New York State Bar Association and on its Standing Committee on Court Structure and Operations. Mr. Chang serves on the American Bar Association's Standing Committee on the American Judicial System. Mr. Chang has served as Vice Chair of two committees of the Antitrust Section of the American Bar Association. Mr. Chang is a recipient of the New York City Bar Association's Diversity & Inclusion Champion Award. Mr. Chang has been listed as a "Super Lawyer" in business litigation in New York, a designation limited to 5% of the lawyers in a given state.

Catherine A. Christian

Ms. Christian, an Assistant District Attorney in the New York County District Attorney's Office, is a member of the Executive Staff of the Office of the Special Narcotics Prosecutor for the City of New York where she serves as Counsel to the Trial Division and Chief of the Alternative Sentencing Division. Prior to joining the Special Narcotics Prosecutor's Office she was Supervising Court Attorney for Bronx Criminal Court and Principal Court Attorney to the Honorable Rosalyn Richter; Assistant Counsel at the New York State Commission of Investigation; and, Of Counsel in a Manhattan law firm. Prior to entering private practice she started her legal career as an Assistant District Attorney in the New York County District Attorney's Office under Robert M. Morgenthau. She serves on the Appellate Division First Department's Committee on Character and Fitness. She is a member of the House of Delegates of the American Bar Association and House of Delegates of the New York State Bar Association. Ms. Christian was President of the New York County Lawyers' Association 2007-2008.

### Daniel D. Chu

Mr. Chu is the principal and founding member of The Law Offices of Daniel D. Chu. He represents clients in state and federal matters with a focus on criminal defense. Mr. Chu began his legal career as an Assistant District Attorney in the Queens County District Attorney's Office and later became a senior associate at Stern & Montana, LLP. Mayor Michael Bloomberg appointed him a Commissioner and subsequently Chair of the NYC Civilian Complaint Review Board. A graduate of the St. John's University School of Law, he is currently an adjunct professor at his alma mater and a 2014 recipient of the Adjunct Teaching Award.

### Richard J. Condon

Mr. Condon was appointed as the Special Commissioner of Investigation for the New York City School District by former Mayor Michael R. Bloomberg on July 1, 2002, and continues under Mayor Bill de Blasio. The office of the Special Commissioner of Investigation for the New York City School District investigates criminal activity, sexual misconduct, unethical conduct, conflicts of interest and other wrongdoing occurring within the City's schools. Mr. Condon's staff includes 5 attorneys who oversee investigations and 49 investigators with backgrounds in the New York City Police Department and other law enforcement agencies; he has a budget of \$5 million and reports to the New York City Commissioner of Investigation. Mr. Condon's career in public service includes having served as Police Commissioner and First Deputy Commissioner with the New York City Police Department and Deputy Coordinator of Criminal Justice for New York City, all under Mayor Koch. He has also served as the Commissioner of the Division of Criminal Justice Services for New York State under Governor Mario Cuomo. Prior to his appointment as Special Commissioner of Investigation, Mr. Condon was Director of Administrative Services & Worldwide Security for Paine Webber. During that time he also served as a Commissioner on the New York City Civilian Complaint Review Board. A native of New York City, Mr. Condon holds a Bachelors of Arts degree from Pace University and a Masters of Arts degree in Criminal Justice from John Jay College of Criminal Justice, and is a graduate of the Senior Command Course at the British National Police College in Bramshill, England.

### Leonard F. DeLuca

Mr. DeLuca formed a media strategy firm in October, 2010, Len DeLuca & Associates, LLC, based in New York City. Clients of the firm include the New York Racing Association, IMG College, LLC, and the Tennis Channel. He spent 14 years at ESPN, most recently as Senior Vice President, Programming & Acquisitions. Immediately prior to ESPN, Mr. DeLuca was a Vice President, Programming at CBS Sports, where he had spent 16 years and was responsible for the NCAA Basketball Championships on CBS. Mr. DeLuca earned a B.A. from Boston College, a J.D. from Boston College Law School and is a member of the Massachusetts Bar. He practiced law at White, Inker, Aronson, P.C., in Boston before



joining CBS. He is a member of the Boston College Law School Board of Overseers.

John M. Desiderio

Mr. Desiderio, Chair of Adam Leitman Bailey, P.C.'s Real Estate Litigation Practice Group, has been a practicing attorney in New York City for over forty years. His practice is concentrated in cooperative/condominium representation, real estate litigation, title litigation, mortgage foreclosures, and antitrust and trade regulation. Mr. Desiderio received his A.B. degree from Fordham College in 1963, an LL.B. degree from the University of Pennsylvania Law School in 1966, and an LL.M. degree from New York University School of Law in 1969. He served as a Captain in U.S. Army Intelligence from 1966 to 1968. Mr. Desiderio has extensive litigation experience in representing both landlords and tenants in commercial and residential real estate litigation. His cases in this area have involved issues relating to ownership of title to property, the right to enforce contracts of sale, landlord obligations to furnish habitable dwellings, tenant obligations to meet conditions of their tenancy, and the applicability of common law and statutory warranties to newly constructed or converted condominium and cooperative apartments. From 1969 to 1980, Mr. Desiderio was an Assistant New York State Attorney General under Attorneys General Louis Lefkowitz and Robert Abrams, and from 1972 to 1980 he served as Chief of the Attorney General's Anti-Monopolies (now Antitrust) Bureau. He entered private practice in 1981 and has represented clients in antitrust, Civil RICO, real estate, food and drug law, and general civil litigation. Mr. Desiderio has published articles on real estate law, antitrust law, and food and drug law topics.

Sheldon H. Elsen

Mr. Elsen is a graduate of Princeton University, was a Woodrow Wilson Fellow and Teaching Fellow at Harvard University, and is a graduate of Harvard Law School. He was a member of Orans Elsen Lupert & Brown LLP and is a neutral arbitrator and mediator at JAMS and is an Adjunct Professor at Columbia Law School. He is a former vice president of the New York City Bar Association, a Fellow of the American College of Trial Lawyers, a former Assistant United States Attorney for the Southern District of New York and a member of the American Law Institute. During the New York fiscal crisis, he served as chief counsel to a Moreland Act Commission appointed by Governor Carey to investigate the default of the Urban Development Corporation on its bonds and the problems of New York's public authorities. Later, he served as Chair of a committee appointed by the New York City Bar Association at the request of Mayor Koch and the New York City Board of Estimate to investigate problems surrounding real estate developers and amenities. Mr. Elsen previously served on the Departmental Disciplinary Committee from 1990-1996, of which the last four years were spent as Chair of a hearing panel, and he has served on the Professional Ethics Committee of the New York City Bar Association.

Haliburton Fales, 2d (Special Counsel to the Policy Committee)

Mr. Fales is a retired partner of the law firm of White & Case. He is a graduate of Columbia Law School, where he was on the Board of Editors of its Law Review. From 1991 to 1996, Mr. Fales was the Chair of the Departmental Disciplinary Committee. In 1983-84 he was President of the New York State Bar Association, and in 1977-78 Vice President of the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers.

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

Ms. Fischman is the General Counsel and a litigation partner at Kramer Levin Naftalis & Frankel LLP. She is a graduate of Brandeis University and Columbia Law School, where she was a member of the *Columbia Law Review*. She has served on the boards of the Legal Aid Society, the New York Community Trust, the September 11th Fund, the Mexican American Legal Defense Fund, and was a Commissioner of the Ethics Commission for the Unified Court System. As a member of the Association of the Bar of the City of New York, she served on the Executive Committee, Judiciary Committee and Committee on Professional and Judicial Ethics. In addition, she served as an Adjunct Professor of Law at Columbia Law School in the field of ethics. For many years she served as President of the National Alliance for the Mentally Ill- NYC Metro (NAMI-Metro) and is currently NAMI-Metro's President Emeritus.

William P. Frank

Mr. Frank has practiced for more than 40 years in the litigation department of the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. He is a member of the Policy Committee of Skadden, Arps. He is a graduate of Georgetown University and Fordham Law School and sits on the boards of those Universities. He is a member of the American Bar Association, the New York State Bar Association, the Association of the Bar of the City of New York and the Federal Bar Council. He is currently the Chair of the Executive Committee of the Practicing Law Institute and Chair of the Audit Committee of the Board of Directors of Catholic Charities of the Archdiocese of New York.

Ruth W. Friendly

Ms. Friendly received her B.A. from Smith College and her M.A. from Teachers College, Columbia University. She taught in the Scarsdale Public Schools for 17 years. Currently she is director of Media and Society Seminars at the Columbia Graduate School of Journalism. Until 2012 she served as Vice-president and Senior Editor of Fred Friendly Seminars, a non-profit organization whose programs have appeared on PBS for over 25 years. She is a Commissioner on the State of New York's Commission on Judicial Nomination and has served as a member of the Independent Judicial Election Qualification Commission, First

Department, New York State. She also serves on the Boards of Riverdale Neighborhood House and Riverdale Senior Services in the Bronx.

Matthew Gaier

Mr. Gaier is a partner at Kramer, Dillof, Livingston and Moore and is responsible for the firm's appellate practice. He co-authors a regular column on medical malpractice in the *New York Law Journal*. Mr. Gaier was graduated from George Washington University and from New York University School of Law. He is a Fellow of the American Bar Foundation, and on the Board of Directors of the New York State Trial Lawyers Association, where he is co-chair of the medical malpractice committee. He is also a member of: the American Bar Association, the American Justice Association, the New York State Bar Association, the Association of the Bar of the City of New York, and the New York County Lawyers Association.

Darrell S. Gay

Mr. Gay has practiced law for more than 30 years. After graduating from Columbia Law School, Mr. Gay served as a trial attorney with the NLRB. He then headed an employment and labor law boutique for several years in New York City, and after that served as partner at two other significant international firms, DLA Piper, US LLP and Coudert Brothers, serving as the head of the U.S. practice group for Coudert. Mr. Gay also served as Commissioner with the New York State Civil Service Commission. Mr. Gay joined Arent Fox in 2008, where he continues to practice labor and employment law. Mr. Gay is a Fellow of the College of Labor and Employment Lawyers and a Fellow of the American Bar Foundation. He is one of the original founding former board members of the Minority Corporate Counsel Association, an organization that advocates the expanded hiring, retention and promotion of minority attorneys in corporate law departments and law firms. He is the former chair, and a founding board member of the National Employment Law Council, the leading association of minority management-side employment lawyers. Mr. Gay chaired the task force merging the historical Harlem Lawyers Association and the Bedford Stuyvesant Lawyers Association, to form the Metropolitan Black Bar Association, the largest minority bar in New York State. Mr. Gay previously chaired the Labor Law and Commercial Law sections of the National Bar Association and is a member of the American Bar Association and the Association of the Bar of the City of New York.

Nicholas A. Gravante, Jr.

Mr. Gravante is a partner at Boies, Schiller & Flexner, LLP, with extensive trial experience in the areas of complex commercial litigation, business crimes and antitrust litigation. He also serves as the firm's general counsel and sits on its executive committee. Mr. Gravante has consistently been honored as one of the country's top lawyers, having been named among Lawdragon's *500 Leading Lawyers in America* and *New York's Best Lawyers*, and also by

*Super Lawyers*. Most recently, he secured a victory in the battle for control of the Arizona Iced Tea empire, successfully defending the company's founder against claims seeking hundreds of millions of dollars. He is also known as counsel to former shareholders of American International Group in litigation arising from the financial crisis, as well as to several hedge funds, the Andy Warhol Foundation and to bondholders litigating over Argentine government debt. Previously, Mr. Gravante was a managing partner at Barrett Gravante Carpinello & Stern LLP. Mr. Gravante sits on the Second Department's Judicial Screening Committee and is a member of the Citizens Crime Commission of New York City. He chairs the Brooklyn Public Library's board of trustees and is a member of the board of trustees for the Community Service Society and ESS Sheltering Arms. He was a member of Mayor Bill de Blasio's Inauguration Committee.

Robert L. Haig (Special Counsel to the Policy Committee)

Mr. Haig is a litigation partner at the law firm of Kelley Drye & Warren LLP. He is a former President of the New York County Lawyers' Association. Mr. Haig has served as the Chair of the Committee on the Judiciary of the Association of the Bar of the City of New York and also chaired that Association's Council on Judicial Administration. He has served as a member of the New York State Bar Association's Executive Committee and was the founder and first Chair of that Association's Commercial and Federal Litigation Section. He is a former President of the New York Bar Foundation and a member of the American Law Institute. Mr. Haig was the Co-Chair of the Commercial Courts Task Force established by Chief Judge Judith S. Kaye in 1995 to create and refine the Commercial Division of the New York State Supreme Court. He is now the Chair of the Commercial Division Advisory Council established by Chief Judge Jonathan Lippman in 2013 to advise him on an ongoing basis about all matters involving and surrounding the Commercial Division as well as to keep him apprised of developments in the business world that may affect the court system. On November 16, 2008, he was inducted as an Honorary Charter Member of the American College of Business Court Judges in recognition of his efforts to develop business courts in New York and many other states and countries. Mr. Haig is the Editor-in-Chief of a six-volume treatise, entitled, *Commercial Litigation in New York State Courts*, and of two other multi-volume treatises.

James W. Harbison, Jr.

Mr. Harbison is counsel, and was formerly a partner, with a commercial litigation practice at Morgan Lewis & Bockius, LLP. He graduated from Duke University, where he was an Angier Duke Scholar, and from Yale Law School where he was chair of the moot court program. At the New York City Bar he has served as chair of the Committee on Senior Lawyers and served on other committees: Judiciary, Council of Judicial Administration, Antitrust and Trade Regulation, and Young Lawyers. At the New York State Bar, he has served as chair of the Committee on Judicial Administration, and as a member of the Task

Force on Court Reorganization, and of the Ad Hoc Committee on the Jury System.

Gerard E. Harper

Mr. Harper is a litigation partner in Paul, Weiss, Rifkind, Wharton & Garrison LLP, where he served four terms on its Management Committee and was its chief in-house counsel from 1991 through 2013. He is an Adjunct Professor of Professional Responsibility at the New York University School of Law and a member of the New York State Committee on Professional Ethics, of its Litigation Section's Committee on Ethics and Professionalism, and of the ABA Business Law Section's Committee on Professional Responsibility. He is a past member of the City Bar's Committees on Professional Ethics and on Professional Discipline, and served four years as Chair of the New York County Lawyers' Association's Committee on Professional Ethics. He concentrates his practice in business and commercial litigation, media law, creditors' rights, and defending lawyers in legal malpractice and related proceedings.

Peter C. Harvey

Mr. Harvey is a member of the firm of Patterson Belknap Webb & Tyler, LLP. He graduated from Morgan State University, with honors, and Columbia Law School. He is a past Attorney General of the State of New Jersey and a former federal prosecutor. Before becoming Attorney General in February 2003, he served as First Assistant Attorney General and the Director of the Division of Criminal Justice. Prior to joining the Attorney General's office he was an Assistant United States Attorney for the District of New Jersey and was in private practice. His professional activities include: Member of the National Association of Attorneys General (NAAG); Representative to the Executive Working Group on Prosecutorial Relations; Chairman, NAAG Subcommittee on Gang Violence; and a member of the National Bar Association and the American Bar Association. He received the *New Jersey Law Journal's* "Lawyer of the Year" award (2003); he was recognized in *Super Lawyers* in the area of Business Litigation, and named to "Top Black Lawyers in America," *Black Enterprise Magazine*.

Brian C. McK. Henderson (Member of the Policy Committee)

Mr. Henderson is the founding partner of Henderson International Advisors, LLC. He has dedicated over forty years to the financial services industry in both investment and commercial banking. His unique expertise includes international client relationships, both corporate and institutional, as well as management and corporate governance experience. Mr. Henderson devoted over 36 years to two major American financial institutions, including 22 years at Merrill Lynch & Co. and 14 years at the Chase Manhattan Bank, N.A. Most of Mr. Henderson's responsibilities at both Merrill Lynch and Chase were in international investment and commercial banking, with his last position at Merrill Lynch & Co. as Senior Vice President and Chairman of Global Public Sector. Mr. Henderson serves on the

following not-for-profit boards: Vice Chairman and Treasurer of The Atlantic Council of the United States; Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University; The Institute for the Study of Diplomacy, School of Foreign Service, Georgetown University; member of Manhattan School of Music International Advisory Council, and Trustee of the Fort Apache Heritage Foundation. Past board service include the Board of Trustees for the National Museum of the American Indian, Smithsonian Institution, and trustee of the American Indian College Fund. Finally, Mr. Henderson currently serves as non-executive Chairman of Augustea Bunge Maritime Ltd., a joint venture between Augustea Holding S.P.A. and the Bunge Group.

#### Deesha M. Hill

Deesha Hill is Assistant General Counsel for Verizon Enterprise Solutions (VES). In this role, Ms. Hill is responsible for providing legal support to Global Operations and Marketing for VES. Prior to VES, she supported the B2B channel for Verizon Wireless. In October 2014, Ms. Hill received the National Individual Pro Bono Award from the Association of Corporate Counsel. In February 2009, she received a Proclamation from the New York City Council for her community involvement in the City of New York. She currently serves as a member of the Verizon Pro Bono Committee. During her career, Ms. Hill has represented victims of domestic violence and developed programming for legal diversity pipeline initiatives. Ms. Hill has also been a frequent speaker on corporate pro bono best practices and has addressed the Pro Bono Institute and Association of the Bar of the City of New York. Before joining Verizon, Ms. Hill worked in private practice at White & Case LLP in New York as a corporate associate. She focused on leveraged finance transactions in the corporate department. She is a member of the Association of the Bar of the City of New York, American Corporate Counsel Association - Greater New York Chapter, Delta Sigma Theta Sorority Incorporated and the New York Junior League. She received a Bachelor of Science in Economics from the University of Pennsylvania and holds a *Juris Doctor* degree from Fordham University School of Law. Ms. Hill is admitted to practice in the State of New York and the Southern District of New York.

#### Pamela Jarvis

Ms. Jarvis has been a partner in Joseph Hage Aaronson, LLC, (formerly Gregory P. Joseph Law Offices, LLC) since the firm's formation in 2001. She is a graduate of Barnard College and Boston University School of Law. Following law school, she joined Fried, Frank, Harris, Shriver & Jacobson, where she was a litigation partner from 1985-1991. From 1991-1998, Ms. Jarvis was Vice President, General Counsel and Secretary of NYLCare Health Plans, Inc., a subsidiary of New York Life Insurance Company. From 1999-2001, she served as Chief of the Health Care Bureau of the New York State Attorney General's Office.

John J. Jerome

Mr. Jerome is a former counsel to the firm of Sullivan and Cromwell, LLP and a former partner of Milbank, Tweed, Hadley & McCloy, having served as Chair of that Firm's Restructuring and Bankruptcy Group and on its Executive Committee. He has practiced law for over 45 years and has wide experience in various legal matters. He is a graduate of St. John's University Law School. Mr. Jerome is admitted to State and Federal courts in New York, and is admitted to practice in Pennsylvania and Colorado, as well as to the United States Supreme Court. He serves as an official mediator for the United States Bankruptcy Court, Southern District of New York. He is a member of the American Bankruptcy Institute, the American Bar Association, the International Insolvency Institute and the New York City Bar Association, where he chaired the Bankruptcy and Reorganization Committee. Mr. Jerome has served as president of the Judd Foundation and as a trustee of the New York State Archives Partnership Trust.

Alfreida B. Kenny

Ms. Kenny of the Law Office of Alfreida B. Kenny concentrates her law practice in the areas of adult guardianships, trusts and estates, and real estate. Ms. Kenny also serves as a mediator. She is a graduate of Columbia Law School.

Richard M. Kenny

Mr. Kenny is the founding member of The Law Office of Richard M. Kenny, a firm dedicated to the prosecution of plaintiff's personal injury cases. Mr. Kenny graduated from St. John's University School of Law in 1990. His professional affiliations include the American Bar Association, the New York State Bar Association and the New York State Trial Lawyers Association. Mr. Kenny has regularly been listed in *New York Super Lawyers*, the *Top Attorneys in New York*, and the *National Association of Distinguished Counsel* in the field of plaintiff's personal injury litigation.

Myron Kirschbaum (Special Counsel to the Policy Committee)

Mr. Kirschbaum is a Special Counsel in the firm of Kaye Scholer LLP, where he is the longtime co-chair of the firm's Professional Ethics Committee, and is engaged in complex business litigation and provides professional responsibility advice and counseling. He received his law degree from Harvard University where he was Editor of the *Harvard Law Review*. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit.

Alan Levine (Member of the Policy Committee)

Mr. Levine is a litigation partner in Cooley LLP, formerly Kronish Lieb Weiner & Hellman LLP, and a member of its Management Committee. He was graduated from the Wharton School of the University of Pennsylvania and the New York University School of Law where

he was an Editor of the *Law Review*. Following graduation he clerked for the Hon Lee P. Gagliardi in the United States District Court, Southern District of New York and then served for five years as an Assistant United States Attorney in the Southern District of New York. He joined Kronish Lieb in 1980 and was its Managing Partner from 1996 until its merger with Cooley Godward in 2006. Mr. Levine has served in the House of Delegates of the NYSBA and the ABA and as chair of committees of each. He was Chair of the Board of the Legal Aid Society from 2006-2010. He is a Fellow of the American College of Trial Lawyers and has served as Chair of its New York Downstate Committee.

#### Arthur M. Luxenberg

Mr. Luxenberg, of Weitz & Luxenberg, primarily engages in Asbestos and Toxic Tort litigation. He graduated from Benjamin N. Cardozo School of Law. Mr. Luxenberg has served as First Vice President for the New York State Trial Lawyers Association and he is a member of the Jewish Lawyers Guild, the Association of Trial Lawyers of the City of New York, Trial Lawyers for Public Justice, and the New York State Bar Association. He co-authored the *Practicing Law Institute Course Book*, (1988), was honored in *Who's Who in America Law*, 6<sup>th</sup> ed. (1990-1991), and *Best Lawyers* (2007-2011).

#### William A. Maher

Mr. Maher is a founding member of Wollmuth Maher & Deutsch LLP, where he leads the firm's litigation department. Mr. Maher received his J.D. degree from The University of Virginia School of Law, where he graduated Order of the Coif and was Managing Editor of the *Virginia Law Review*. Following his graduation from law school, Mr. Maher clerked for the Honorable Milton Pollack in the United States District Court for the Southern District of New York. Mr. Maher's law firm practices in the areas of complex commercial litigation and arbitration, general corporate, transactional and commercial law, and bankruptcy and reorganization.

#### Roger Juan Maldonado

Mr. Maldonado is a litigation partner at Balber Pickard Maldonado & Van Der Tuin, P.C. His practice concentrates on complex civil litigation concerning commercial and real estate transactions, software development disputes, copyright infringement, employment matters and education law. Mr. Maldonado serves as the New York City Bar (NYCB) designated member of the Board of Directors of the New York Community Trust. Chief Judge Jonathan Lippman recently appointed Mr. Maldonado to serve as Co-Chair of the Committee on Non-Lawyers and the Justice Gap; as a member of the Commercial Division Advisory Council; and as a member of the Advisory Group to the New York State and Federal Judicial Council. Mr. Maldonado also serves as a Vice-President and member of the Board of Directors of United Neighborhood Houses of New York; and as a Referee for the New York State Commission on Judicial Conduct. Mr. Maldonado previously served as Chair of the NYCB's



Council on Judicial Administration; as Vice- President of the NYCB; as a member of the Mayor's Advisory Committee on the Judiciary; and as Co-Chair of the Real Estate and Probate Litigation Committee of the American Bar Association's Litigation Section. Mr. Maldonado is a graduate of Yale Law School and Yale College.

#### Robert P. McGreevy

Mr. McGreevy is engaged primarily in commercial and appellate litigation as a sole practitioner and as counsel to Kellner Herlihy Getty & Friedman, LLP. He is a graduate of Queens College and received his Juris Doctor degree from St. John's University School of Law. Following graduation, he served as Senior Law Clerk to Judge Harold A. Stevens of the Court of Appeals and later as Law Secretary to Presiding Justice Stevens; Special Administrative Assistant to Presiding Justice Francis T. Murphy, Jr.; and Law Secretary to Associate Justices Theodore R. Kupferman and Richard T. Andrias of the Appellate Division, First Department. Mr. McGreevy was the elected Town Supervisor of the Town of Lewisboro, Westchester County from 1996 to 1998, and currently serves on the Town's Board of Ethics. He is a member of the Denis McInerney NYCLA Inn of Court.

#### Maria D. Melendez

Ms. Melendez is a litigation partner at Sidley Austin LLP. Her practice focuses primarily on complex commercial litigation, products liability, and securities litigation representing global public companies, financial institutions, pharmaceutical companies, and individuals in federal and state courts, and in arbitrations. She is the New York chair of Sidley's Diversity Committee and a member of Sidley's Hiring Committee. Ms. Melendez is active in *pro bono* and community activities. She is a member of the Board of Directors of Latino Justice PRLDEF, which has won landmark civil rights cases. She handled cases for, and served on the Board of Directors of, inMotion, Inc., a public service organization that provides free legal assistance in matrimonial, family, and immigration law to low-income women in New York City. She is a member of the Federal Bar Council, the American Bar Association, the Hispanic National Bar Association, and the Puerto Rican Bar Association. She is a graduate of Syracuse University and was graduated *cum laude* from Albany Law School of Union University where she was an Associate Editor of the *Albany Law Review*.

#### Daniel F. Murphy

Since 1998 Mr. Murphy has been the Managing Partner of Putney, Twombly, Hall & Hirson LLP, a New York City law firm founded in 1866. Prior to that, Mr. Murphy served as the Labor and Employment Law Practice Group Leader from 1997 to 2003. Mr. Murphy represents management exclusively in all aspects of labor relations, employment law, and related litigation. He counsels employers on a daily basis in a variety of industries on topical employment issues. He litigates cases in federal and state courts throughout the country. He represents management before arbitration tribunals and administrative agencies on the state

and federal level. He also serves as chief spokesperson for management during labor negotiations. Mr. Murphy represents employers in health care, higher education, manufacturing, financial services, retail and services industries. He provides counsel to employers on a full range of human resource issues, including hiring and termination, discrimination complaints, sexual harassment (including the development of policies and the training of supervisors), collective bargaining and strategic analysis involving organized labor, the development and administration of human resource policies, wage and hour compliance, and occupational safety and health issues. Mr. Murphy has advised employers during acquisitions, mergers and corporate divestitures and corporate restructuring. Mr. Murphy has lectured on various employment law topics, including sexual harassment, the Americans With Disabilities Act, Workers Compensation, the Family Medical Leave Act, negligent hiring, discrimination, diversity in the workplace, violence in the workplace and a variety of other concerns, to clients, trade associations and at seminars conducted by professional associations.

Mr. Murphy received his law degree from Boston College Law School in 1975, a Masters Degree in Labor and Employment Law from New York University Law School in 1982 and his undergraduate degree, cum laude, from LeMoyne College in 1972. He is a 1968 graduate of Regis High School. Between 1975 and 1979, Mr. Murphy was a prosecutor in Kings County prosecuting homicide cases. He is admitted to practice before the United States Supreme Court, the Second, Third, Sixth and District of Columbia, Courts of Appeals and various Federal District Courts, including the Southern, Eastern, Western and Northern Districts of New York and District of New Jersey. Mr. Murphy is admitted to practice in the States of New York and New Jersey. He is a member of the American Bar Association, New York State Bar Association, New Jersey State Bar Association, the Association of the Bar of the City of New York, (Sections on Labor and Employment Law), a former member of the Labor and Employment Law Committee of the Association of the Bar of the City of New York and is a Fellow of the College of Labor and Employment Lawyers. He has been recognized by *The Best Lawyers in America* and *Super Lawyers* publications.

Hon. Eugene Nardelli (Member of the Policy Committee)

Judge Nardelli is a graduate of Fordham University LLB. He served as Associate Justice of the Appellate Division, First Department, from 1993 to 2011. He previously served as Justice of the Supreme Court of the State of New York, First Department, and Judge of the Civil Court. Governor Andrew Cuomo appointed him Director of the IOLA Fund. He is a Director of the Italian Language Foundation, a Director of the American Society of the Italian Legion of Merit, and a Director of the Columbus Citizens Foundation, and was appointed Special Master of the Appellate Division's Pre-Argument Conference Program.

Fredric S. Newman

Mr. Newman is a founding partner of Hoguet Newman Regal & Kenney, LLP, a commercial litigation firm in Manhattan. He is a legal generalist with decades of experience in commercial litigation, business advice, corporate transactions, employment counseling and alternative dispute resolution. Mr. Newman is an Adjunct Professor of Law at Fordham University School of Law where he co-teaches a seminar on Professional Responsibility, Legal Ethics in Civil Litigation. Mr. Newman is a member of the National Advisory Board of the Berman Institute of Bioethics of Johns Hopkins University. His numerous other civic, public service and non-profit positions have included: Court-appointed Mediator in the U.S. District Court, Southern District of New York; Director, Columbia Law School Association; Trustee, The Calhoun School, New York City; Founding Director and Vice President, American Corporate Counsel Association, New York Chapter; Director and Secretary, New York Fire Safety Foundation; and Sustaining Life Fellow, American Bar Foundation. Mr. Newman graduated from Harvard College (A.B. *cum laude* 1967) and Columbia Law School (J.D. 1970). He also received an Executive M.B.A. from the University of Virginia Darden School of Business (TEP 1984).

Pablo Quinones

Mr. Quinones has served as general counsel to an investment adviser and litigation partner at Reed Smith, LLP. Prior to that, from 2004 to 2012, he served as an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Southern District of New York. Before serving in government, Mr. Quinones primarily practiced as a civil litigator at Anderson Kill & Olick, P.C. He is a graduate of Cornell University and Michigan Law School, where he served as a Note Editor of the *Michigan Journal of International Law*.

Abigail T. Reardon

Ms. Reardon is a partner in the firm of Nixon Peabody, LLP, where she litigates complex commercial litigation. She is a graduate of Duke University School of Law. Ms. Reardon is admitted to practice law in the State of New York, the U.S. Court of Appeals, Second Circuit, the U.S. District Court, Southern District of New York, and the U.S. District Court, Eastern District of New York. Ms. Reardon is a member of the Arbitration Committee of The Association of the Bar of the City of New York and a member of the Duke University Law School Board of Visitors. She has served on the Town of Bedford, New York Master Plan Committee. She is a former trustee of Windward School, White Plains, New York, and a governor of the Nantucket Yacht Club.

Roland G. Riopelle

Mr. Riopelle is a partner in the firm of Sercarz & Riopelle, LLP, where he litigates primarily criminal cases and the occasional complex civil case. He is a graduate of the Boalt Hall

School of Law. After law school, Mr. Riopelle clerked for a Federal District Judge and later served as an Assistant United States Attorney in the Southern District of New York from 1992 to 1998. He is a member of the American College of Trial Lawyers. He is a member of the executive board of the New York Council of Defense Lawyers, and serves as the Vice-President of that organization. He is also a member of the National Association of Criminal Defense Lawyers. He is an active member of the New York State Bar Association and the Association of the Bar of the City of New York, where he has chaired the Criminal Advocacy Committee, served on the Criminal Courts and Judiciary Committees, and chaired or participated in various Continuing Legal Education programs.

#### Robin Stratton Rivera

A video producer specializing in projects for not-for-profits, Ms. Rivera is a principal of Digital Laundry, a digital archiving and video production services company located in Manhattan. She is a graduate of Stanford University (M.S. Mechanical Engineering) and the University of Southern California School of Urban and Regional Planning (Master of Planning). Prior to launching her business, she was a producer and programming executive for ABC Sports and spent several years with the International Olympic Committee in Lausanne, Switzerland. She has served on the boards of several charitable organizations and as Vice President of the New York Junior League.

#### Barbara K. Rothschild

Ms. Rothschild earned a B.A. in English Literature from Boston University. She recently retired from a second career in medical office management. Prior to that experience, Ms. Rothschild was Assistant Director of Public Relations for the Johns Hopkins Medical Institutions, Director of Public Relations for The Maryland Institute College of Art and president of her own public relations firm in Baltimore, Maryland. She has been a volunteer in a variety of schools and community organizations throughout her professional life.

#### David M. Rubin

Mr. Rubin is a partner at Golenbock Eiseman Assor Bell & Peskoe, LLP, a general practice law firm in Manhattan, and practices primarily in real estate and real estate litigation. Mr. Rubin is a long standing, active neutral arbitrator with the American Arbitration Association and was a member of the Committee on Standards of Attorney Conduct of the New York State Bar Association that drafted the New York Rules of Professional Conduct enacted in 2009. Mr. Rubin is also a recipient of the City Bar Justice Center's 2010 Jeremy G. Epstein Award for *pro bono* service. Mr. Rubin is a member of the Board of Safe Space NYC, LLC and Episcopal Social Services NYC and a graduate of the University of Michigan Law School, *cum laude*.

William T. Russell, Jr.

Mr. Russell is a partner at Simpson Thacher & Bartlett LLP in the firm's Litigation Department. He is a member of the American Law Institute, former Chair of the New York City Bar Association's Committee on Pro Bono and Legal Services and member of its delegation to the New York State Bar Association House of Delegates, former Chairman of the Board of Manhattan Legal Services, a member of the Advisory Board of Legal Outreach, Inc., the Board of Legal Services New York City and the Board of the National Center for Access to Justice, a member of the New York State Bar Association's President's Committee on Access to Justice and a member of Court of Appeals Chief Judge Jonathan Lippman's Attorney Emeritus Council. He is a graduate of Princeton University and New York University School of Law and is admitted to practice before the Southern, Eastern and Northern District Courts of New York, the United States District of Arizona, the United States Court of Appeals for the Second and Fourth Circuits, and the United States Supreme Court.

Barbara A. Ryan

Ms. Ryan is a partner at the law firm of Aaronson, Rappaport, Feinstein & Deutsch, LLP, where her area of practice focuses on health care law and medical malpractice defense. She is a member of the Board of Directors of the Association of Healthcare Risk Management of New York, which is the local chapter of the American Society for Healthcare Risk Management (ASHRM). Ms. Ryan is a Past-President of the New York Women's Bar Association and the Judges And Lawyers Breast Cancer Alert. Before practicing law, Ms. Ryan was a Nurse Manager at the New York Hospital-Cornell University Medical Center (now New York Presbyterian Hospital). She is a 1989 graduate of Seton Hall University School of Law. Ms. Ryan frequently lectures on professional licensure, risk management and medical malpractice issues. She has also taught courses in Healthcare Risk Management and Elder Law, as an Adjunct Assistant Professor at the New York University School of Continuing and Professional Studies and as an adjunct lecturer at New York Medical College, Valhalla, New York.

Karla G. Sanchez (Member of the Policy Committee)

Ms. Sanchez is the Executive Deputy Attorney General for Economic Justice at the New York Attorney General's Office. She was formerly a partner at Patterson Belknap Webb & Tyler LLP, concentrating her practice in commercial and intellectual property litigation (including patents, trade dress and false advertising). She graduated *cum laude* from Fordham University School of Law where she was a member of the Order of the Coif, an Editor of the *Fordham Intellectual Property, Media & Entertainment Law Journal*, President of the Latin American Law Students Association and a member of the National Trial Advocacy Team. Her undergraduate degree is from Columbia College. Prior to joining Patterson Belknap, Ms. Sanchez served as a law clerk to the Honorable Deborah A. Batts,

United States District Court, Southern District of New York. Ms. Sanchez was named one of the *40 under Forty* by Crain's New York Business and listed on Hispanic Business's *100 Most Influential Hispanics*.

Kathleen M. Scanlon

Ms. Scanlon is an experienced litigator and advocate representing clients in a broad-range of business disputes, insurance coverage matters and professional responsibility issues. Ms. Scanlon possesses unique experience and expertise in arbitration, mediation and court-related proceedings. Prior to founding her own law firm, Ms. Scanlon was Special Counsel at Heller Ehrman where she co-founded the International Arbitration and ADR practice area. Ms. Scanlon received her early training in the Litigation Group at Simpson Thacher & Bartlett where she represented clients in all phases of complex commercial litigation. Ms. Scanlon clerked for the Honorable Louis L. Stanton in the United States District Court for the Southern District of New York.

Karen Patton Seymour

Ms. Seymour is a partner of Sullivan & Cromwell LLP, where she is the Co-Managing Partner of the firm's litigation group. Her practice focuses on white collar criminal defense and internal investigations. She represents individuals, corporations, and financial institutions in the context of allegations of securities fraud, insider trading, healthcare fraud, antitrust violations, Foreign Corrupt Practices Act violations, and other violations. Prior to joining Sullivan & Cromwell, Ms. Seymour served as Chief of the Criminal Division of the United States Attorney's Office for the Southern District of New York from February 2002 through November 2004. Ms. Seymour also served in the United States Attorney's Office from 1990-1996. Ms. Seymour is on the boards of various organizations including Legal Services New York City and the Vera Institute of Justice, and serves as a member of the Attorney Grievance Committee for the United States Court of Appeals for the Second Circuit.

Eugene P. Souther

Mr. Souther is senior counsel to the firm of Seward & Kissel. He received an LL.B. from Fordham University School of Law. Mr. Souther is a Fellow of the American College of Trial Lawyers and served on the New York Downstate Committee of the College; was president of the New York County Lawyers' Association; served in the House of Delegates of the New York State Bar Association; was a delegate to the House of Delegates of the American Bar Association; and served as Vice Chairman of the International Bar Association.

Lawrence S. Spiegel

Mr. Spiegel is a partner at Skadden, Arps, Slate, Meagher & Flom LLP. He has more than two decades of experience advising individuals and corporations in complex criminal and

civil matters. He has represented corporations, their directors, officers and employees in cases involving allegations of mail and wire fraud, securities fraud, tax fraud, government program and procurement fraud, bank fraud, consumer fraud and money laundering. He represents clients in connection with federal and state grand jury investigations, in inquiries by regulatory agencies, including the Securities and Exchange Commission, and at trial. He has successfully defended many clients in high-profile criminal investigations and indictments and on appeal. Mr. Spiegel has particular experience advising clients in the context of concurrent criminal proceedings and civil litigation. In addition, he has led many corporate internal investigations, and has advised boards of directors and management of public and private companies on compliance issues and programs, including those related to the Foreign Corrupt Practices Act. Mr. Spiegel serves as the Skadden's general counsel and co-chairs the firm's Ethics Committee. He is also a member of the firm's Client Engagement and Risk Committees and participates on the firm's Policy Committee (*ex officio*). Mr. Spiegel repeatedly has been listed in the *Best Lawyers in America*. He frequently lectures and writes about developments in criminal law and in legal ethics. Mr. Spiegel is an adjunct professor and guest lecturer in law schools. In 2009, he received the Burton Award for Legal Achievement, which recognizes excellence in legal scholarship.

#### Edward M. Spiro

Mr. Spiro is a principal of Morvillo Abramowitz Grand Iason & Anello, P.C. His practice focuses primarily on complex commercial litigation. He is co-author of *Civil Practice in the Southern District of New York*, 2d Ed. (Thomson Reuters 2014), a two-volume treatise updated annually, and co-author of a regular *New York Law Journal* column on civil practice in the Southern District of New York. Mr. Spiro is a member of the House of Delegates of the New York State Bar Association. He is also on the Board of Directors of the New York County Lawyers' Association and former Chair of its Committee on Professional Discipline. He is a former Chair of the Committee on Professional Discipline of the New York City Bar Association. Mr. Spiro is a Fellow of the American Bar Foundation and a member of the American Bar Association (Litigation and Criminal Justice Sections), the New York State Bar Association (Commercial and Federal Litigation Section), and the Federal Bar Council. Mr. Spiro received his J.D., *cum laude*, from Boston University School of Law and his B.A., *cum laude*, from Colgate University.

#### William St. Louis

Mr. St. Louis is a Regional Chief Counsel in the Enforcement Department of the Financial Industry Regulatory Authority (FINRA) where he manages a team of attorneys in FINRA's New Jersey, Boston, and Philadelphia district offices. Previously he was a Deputy Regional Chief Counsel in FINRA's New York office and a law clerk to a Justice of the New York State Supreme Court, New York County, Commercial Division. A graduate of New York University Law School, he has served on the New York State CLE Board, on committees at

the New York City Bar Association, and on the board of a New York University Law School alumni association. He is a member of the Metropolitan Black Bar Association.

Carla A. Kerr Stearns (Member of the Policy Committee)

Ms. Stearns is the principal in the Kerr Law Firm, specializing in commercial and employment litigation. She is a graduate of Stanford University and Stanford Law School. As a litigator at Hughes Hubbard & Reed, LLP, for 25 years, including 16 years as a partner, she litigated major cases through the federal system, including two constitutional cases resolved by the United States Supreme Court, and served frequently as a media commentator on First Amendment and liberty interest issues.

Hon. Joseph P. Sullivan (Member of the Policy Committee)

Judge Sullivan is of counsel at the firm of Holland & Knight, LLP. He graduated from St. John's University, LL.B, and the University of Virginia, School of Law, LL.M. Prior to joining Holland & Knight, LLP, Judge Sullivan served as Associate Justice of the Appellate Division, First Judicial Department – January 1, 1978 to February 15, 2000; January 1, 2002 to December 31, 2007, and served as Presiding Justice of the Appellate Division, First Judicial Department – February 16, 2000 to December 31, 2001. He also served as Justice of the Supreme Court of the State of New York, First Judicial Department, and Judge of the Civil Court of the City of New York. He was nominated ten times by the Commission on Judicial Nomination for appointment to the Court of Appeals, including twice for the office of Chief Judge.

Sheea T. Sybblis

Ms. Sybblis is currently a career law clerk to District Judge Susan D. Wigenton, in the U.S. District Court for the District of New Jersey. Ms. Sybblis graduated with honors with a B.S. in Biochemistry from the Honors College at the State University of New York at Stony Brook, then obtained her M.B.A. from the Zicklin School of Business at Baruch College. She obtained her J.D. in 2005 from Fordham University School of Law, where she was symposium editor of the Fordham Intellectual Property, Media, and Entertainment Journal. Ms. Sybblis worked as a corporate associate at Stroock & Stroock & Lavan, LLP, then clerked for District Judge Susan D. Wigenton in the District of New Jersey. Following her term clerkship, Ms. Sybblis was a litigation associate at Patton Boggs, LLP, where her practice was focused on health law, mass toxic torts, product liability, and environmental law. Ms. Sybblis has volunteered as an arbitrator and mediator, and is an adjunct professor of graduate business and law. She is also the President of the Association of Black Women Attorneys NY and an active member of the Network of Bar Leaders and the American Health Lawyers Association.



Ronald J. Sylvestri, Jr.

Mr. Sylvestri is Founder and President of Quail Ridge Asset Management, a premier boutique investment consulting and advisory firm providing marketing and fund-raising services for alternative asset managers and advisory services to small and mid-sized companies. Before forming Quail Ridge Asset Management in 2006, Mr. Sylvestri was a partner at Diamond Edge Capital Partners, where he played a key role in the firm's worldwide private equity business. Prior to joining Diamond Edge Capital Partners, Mr. Sylvestri spent seven years at Morgan Stanley, where he had investment, portfolio, and strategic responsibilities at various investment units. At Morgan Stanley, Mr. Sylvestri was primarily involved in the Sales and Marketing of equity research and equity/debt structure products. Mr. Sylvestri is an active investor in venture and start up companies. Most recently he was named Senior Partner of a New York based financial PR firm. Residing in Manhattan, Mr. Sylvestri has been heavily involved in several charitable organizations: The Children's Aid Society, New York University School of Medicine MIPC, the Alzheimer's Association, and Arthritis Foundation and Friends of Saint Dominic. Mr. Sylvestri earned a Bachelor of Science degree in 1996 from Babson College in Wellesley, Massachusetts, where he majored in Investments and Economics.

Natica von Althann

Ms. von Althann is a founding partner of C&A Advisors, a consulting firm focusing on strategy and risk management for government and select financial institutions. She retired in June 2008 as the Senior Credit Risk Management Executive for Bank of America and Chief Credit Risk Officer of United States Trust, an investment management company. Previously, she spent 26 years at Citigroup, including in a number of senior management roles. She serves as a director of TD Bank, N.A., where she is a member of the Board Risk and Wealth Management Committees. In 2009, Ms. von Althann was appointed to the board of PPL Corporation where she is a member of the Board Audit Committee and Chair of the Finance Committee. She also serves as vice-chair of the Board of Neighbors Link, a non-profit organization in Mt. Kisco, New York.

John L. Warden

Mr. Warden is Of Counsel to the firm of Sullivan & Cromwell LLP where he was a Partner until 2009 and for many years a member of the firm's Executive Committee and head of its Litigation Group. He also serves as an arbitrator and mediator. He is a graduate of Harvard College and University of Virginia Law School. He is a Life Member of the American Law Institute and a Fellow of the American College of Trial Lawyers.

Stephen L. Weiner (Special Counsel to the Policy Committee)

Mr. Weiner is in private practice in his own firm specializing in complex commercial litigation and white collar investigations. He is a graduate of Columbia College and also

received his *cum laude* law degree from Columbia University School of Law. He was Chair of the New York State Commission of Investigation for over eight years. He is a member of the Association of the Bar of the City of New York and has been Chair of its Criminal Justice Council and its Committee on Criminal Justice operations and Budget; the American Bar Association; and a former member of the Board of Directors of the Legal Aid Society.

#### Susan Welsher

Ms. Welsher is a former teacher of early childhood education in Bedford Stuyvesant and English as a Second Language in East Harlem. Later, she was a paralegal and administrator at the law firms of Stroock Stroock & Lavan, Reid & Priest, and Cravath Swaine & Moore. She currently donates much of her time to a variety of civic, cultural and charitable organizations. For the past eight years, Ms. Welsher has devoted a lot of her time to visiting her three grandchildren who live in Pennsylvania.

#### Milton L. Williams, Jr.

Mr. Williams is a partner at the law firm of Vladeck, Waldman, Elias & Engelhard, which is a plaintiff's employment law firm. Prior to joining the Vladeck firm in January of 2009, he was a Deputy General Counsel and the Chief Compliance Officer at Time Inc. He had been at Time Inc. since 1997. Before coming to Time, Mr. Williams was in private practice and served as Assistant United States Attorney in the United States Attorney's Office for the Southern District of New York and was an Assistant District Attorney in the New York County District Attorney's Office. He is a graduate of Amherst College and the University of Michigan Law School in Ann Arbor.

#### Frank H. Wohl

Mr. Wohl is a partner of Lankler Siffert & Wohl, LLP. His practice focuses on civil and white collar criminal litigation, as well as financial regulatory matters. He is a graduate of Dartmouth College and the University of Chicago Law School. He served in the United States Attorney's Office for the Southern District of New York where he was Chief of the Civil Division and Deputy Chief of the Criminal Division. He is a Fellow of the American College of Trial Lawyers. He is the President of the Federal Bar Council.

#### Richard R. Zayas

Mr. Zayas is a partner in the Law Offices of Richard R. Zayas & Associates and a principal in the business development firm Triascent Group. His practice concentrations are business, healthcare, not-for-profit law and litigation. He is a graduate of Yale Law School and Fordham University. He is also an Interfaith Minister and the founder of the not-for-profit organization, Wind Beneath My Wings.

Gonzalo S. Zeballos

Mr. Zeballos is a partner at the law firm of Baker & Hostetler, LLP, where he is a member of the litigation department. His practice focuses on complex commercial litigation with a specialization in international dispute resolution and arbitration. He is a graduate of Columbia Law School, where he was a senior editor of the *Columbia Law Review*. Mr. Zeballos also holds advanced degrees in History and Latin American Studies from the University of Chicago.

Sarah E. Zgliniec

Ms. Zgliniec is a partner at the law firm of Patterson Belknap Webb & Tyler LLP, with a concentration in complex commercial disputes, including areas of intellectual property and international arbitration. She is a graduate of Dartmouth College and New York University School of Law. After graduation, she served as a law clerk to the Honorable Reena Raggi in the United States District Court for the Eastern District of New York. She is a member of the New York State Bar Association and the American Bar Association.

## A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

### Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a “respondent.” Some 3961 matters were opened in 2014, primarily based on complaints from clients, but also from other attorneys and members of the public at large. The Committee also opened *sua sponte* investigations based on information which appeared in judicial opinions, professional journals, referrals from the judiciary, dishonored check notifications from the Lawyers’ Fund for Client Protection, newspaper accounts and other sources.

Complaints are date-stamped, numbered and entered into the Committee’s computer system, which generates a printout of the respondent’s disciplinary history with the Committee, as well as current information from the respondent’s registration with the Office of Court Administration. The complaint is then screened by a staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, or whether the complaint should be referred to another public agency or disciplinary committee. If it appears that there is no substantial misconduct, but there has been a breakdown of communication between the lawyer and the client, staff may refer the matter for mediation by the 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 seeks legal advice, is an attempt to collect a debt, or involves a fee dispute. In 2002, a mandatory mediation/arbitration program was instituted to deal with fee disputes in civil and matrimonial matters, where the representation began after January 1, 2002 and involves a dispute of 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 Committee may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. Staff’s recommendation to close a matter pending resolution of an ongoing litigation must be approved by a lawyer member of the Committee. In such cases, the Committee will independently monitor the progress of the litigation with a view to reopening the complaint upon resolution of the litigation. If it otherwise appears that the complaint has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

If it appears from the complaint that a respondent may have engaged in serious professional misconduct, the “first screening attorney” brings the matter to the attention of the Chief Counsel for direct assignment to a staff attorney. If the misconduct appears to be very

serious, *e.g.*, conversion of escrow funds, the Chief Counsel instructs the assigned attorney to expedite it. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

If a matter is not closed following the initial screening, a paralegal monitors the case while preliminary information is obtained from the respondent, who is required to file an answer to the complaint, and from the complainant who is sent a copy of the respondent's answer for a reply. The paralegal then writes a summary of the allegations and defenses and refers the file to the initial or "first screening attorney" who performs a "second screening" or further evaluation of the complaint, answer and reply. The staff attorney may also recommend referral to mediation/arbitration at this point. If the staff attorney recommends dismissal, a lawyer member of the Committee reviews that written recommendation together with the file, and a draft letter to the complainant explaining why the case is being closed. A matter that warrants additional investigation is forwarded to the Chief Counsel for review and assignment to a staff attorney.

The staff attorney who is assigned to a matter 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 recommends dismissal<sup>1</sup>, an admonition (which is private discipline), or formal charges. The Chief Counsel reviews all staff attorney recommendations to dismiss a matter from their assigned caseload before the recommendation is reviewed by a Committee member. A lawyer member of the Committee must approve each recommendation for dismissal. When matters are dismissed on the merits, the closing letter to the complainant indicates the complainant's right to request reconsideration of the dismissal within 30 days.

The Committee's investigations are confidential pursuant to Judiciary Law 90(10) unless the Court orders otherwise.

### Admonitions

The Committee issues a Letter of Admonition (admonition) when an investigation reveals that a respondent has violated the New York Rules of Professional Conduct (Rules), but not seriously enough to warrant a public sanction. For example, an admonition might be issued

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<sup>1</sup>Staff may also recommend a "dismissal with guidance" (DWG) which is aimed at educating and warning an attorney of conduct that is questionable but does not quite warrant discipline. DWG is the same as virtually any other dismissal in that it is not "discipline" and will never disadvantage the respondent in subsequent disciplinary proceedings. The Committee sent out 121 DWGs in 2014.

if a respondent neglected only one legal matter and there were mitigating factors.

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."

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 will be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct against a respondent (*see* 22 NYCRR 605.5[b]). A staff attorney's recommendation to issue an admonition is reviewed by a Deputy Chief Counsel and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible and substantial proof of misconduct. If a respondent refuses to accept an admonition, he or she may request that the Committee file formal charges instead and proceed to a hearing. In that case, staff must be able to prove the misconduct, by a preponderance of the evidence, before a Referee; or, the respondent may ask for reconsideration of the admonition by the Chair. In that case the Chair sustains, modifies or vacates the admonition. In 2014, the Committee issued 75 Letters of Admonition. An admonition may be based on more than one complaint against a respondent. Usually, respondents accept the admonition, or request reconsideration from the Chair. Rarely do respondents request a hearing.

#### Formal Charges

A staff attorney's recommendation that formal charges be filed must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, a Deputy Chief Counsel, and approved by the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. 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 cannot proceed with a sanction hearing until he or she indicates that at least one charge will be sustained. A Referee should make 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 must file a written Report and Recommendation within 60 days containing findings of facts, conclusions of law and, charges sustained or dismissed, and recommendation as to sanction (Report).

The Chair then refers the Referee's Report to a Hearing Panel, usually consisting of at least six lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews the full record of the proceedings as well as the Referee's Report. It then convenes to hear oral argument to determine whether to confirm, disaffirm, or modify the findings of fact, conclusions of law and sanction in the Referee's Report. No additional evidence may be considered at the oral argument, which is not transcribed. The Hearing Panel is required to issue a Hearing Panel Determination in writing (Determination) within 40 days of the argument or 10 days from the submission of briefs, whichever is shorter.

A formal hearing may result in a recommendation of disbarment, suspension, public censure, private reprimand, or dismissal. The first three, which are public discipline, are imposed only by the Court. A private reprimand may be imposed by the Committee on its own or by referral from the Court. The Chair issues the private reprimand. (*see* 22 NYCRR 605.5[a][4]).

### Serious Crimes

In cases where the Court, on the Committee's motion, has determined that a lawyer has been convicted of a crime which is not a felony, but is a "serious crime" under New York's Judiciary Law 90(4)(d), the Court may assign the case to a Referee or directly to a Hearing Panel on the sole issue of sanction. In the latter case, the Hearing Panel, as the trier of fact, conducts a hearing which is transcribed, and then renders a recommendation as to what action should be taken by the Court. Serious crime cases may result in the same range of sanctions imposed in charges cases. The Court assigns most serious crimes cases directly to a Hearing Panel.

### Applications to the Appellate Division

Public discipline requires an order of the Court. The Committee applies to the Court by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court decides 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. In matters involving a hearing on charges, the Committee files a petition, reviewed and signed by the Chair, with the Court to confirm a Hearing Panel's Determination; or, the Chief Counsel files a motion to disaffirm a Hearing Panel's Determination.

Rather than formal charges, the Committee may seek a Court order in an appropriate case applying the doctrine of collateral estoppel and finding a lawyer guilty of violating the Rules solely on the basis of prior civil or criminal court decisions without a further hearing. The petition may be granted where the findings and issues in the prior action are identical to the disciplinary issues against a respondent and where a respondent has had a full and fair

opportunity to litigate in the prior proceeding. In such cases, a hearing will be held before a Referee/Hearing Panel on the issue of sanction only. Mostly, the Court assigns collateral estoppel cases directly to a Hearing Panel.

Certain other matters are also filed directly with the Court. For example, when a respondent fails to cooperate with a Committee investigation and the respondent's conduct otherwise poses an immediate threat to the public, the Committee may file a motion for an interim suspension, pending a hearing under 22 NYCRR 603.4(e). If the Committee obtains uncontroverted evidence that the attorney has continued to engage in the practice of law during the period of suspension, the Committee will petition the Court to disbar the attorney for violating its order.

The Committee also files a petition directly with the Court when an attorney has been convicted of a felony in New York, or the equivalent of a New York felony in another jurisdiction (*see* Judiciary Law 90[4]). The Committee files similar applications if an attorney has been found guilty of an ethical violation in another jurisdiction and "reciprocal discipline" is warranted (*see* 22 NYCRR 603.3); if an attorney has violated a court-ordered suspension; or, has become incapacitated due to a mental or physical infirmity (*see* 22 NYCRR 603.16).

Hearings before Referees and Hearing Panels 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. 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.



## REPRESENTATIVE PUBLIC DISCIPLINE CASES

In 2014, the Appellate Division, First Judicial Department, publicly disciplined 70 lawyers as follows: 22 disbarments, 11 resignations by attorneys facing charges (equivalent to disbarment), 28 suspensions and 9 public censures. Several cases prosecuted by Committee staff attorneys that have become a matter of public record in 2014 are reviewed below:

*Matter of Olukayode L. Babalola*, 121 AD3d 181 (1st Dept 2014)

Babalola was retained to handle an estate and assist his clients, the estate's heirs, in obtaining their share of three life insurance policies, which were received and deposited into Babalola's escrow account. After disbursing a portion of the funds at the clients' request, Babalola and his clients entered into an agreement which directed that he deposit the balance of the escrow funds, an amount he represented to be \$130,000, into a separate account in the name of Greater Works Realty, Inc., and with the funds make loans to contractors for the purpose of purchasing and rehabilitating distressed properties. The clients filed a disciplinary complaint after Babalola was unable to return their funds promptly or provide them with an adequate explanation for his inability to do so. Babalola's bank records showed that his escrow balance fell short by nearly \$50,000, and that he made substantial withdrawals to himself during the relevant time period that he was unable to explain. The Court found, pursuant to 22 NYCRR 603.4(e)(1)(iii), that Babalola's bank records provided "other uncontested evidence of professional misconduct" that he either intentionally converted and/or misappropriated escrow funds, and suspended him on an interim basis. (Staff Counsel Kevin P. Culley)

*Matter of Mark R. Colodne*, 120 AD3d 120 (1st Dept 2014)

Colodne, who operated a tax preparation and consulting business in Florida but did not practice law, induced one of his tax clients, a retired government worker, to invest her life savings in a high risk hedge fund which he formed and managed. Colodne falsely assured the investor that the fund had retained an independent accountant, and that it was safe and guaranteed not to lose money. He also failed to advise her that the fund engaged in unauthorized trading activities and, that as a result, had lost nearly all of its assets in a failed transaction to purchase computer chips. When the investor sought return of her investment, Colodne misled her to believe that her funds were also lost in the failed transaction when, in fact, he used them to improperly pay himself and another employee fees, and to reimburse other investors. In aggravation, Colodne engaged in similar misconduct with respect to other investors and had not satisfied two judgments they obtained against him, testified falsely at a deposition before the Committee and improperly transferred the funds of a deceased tax client into a joint-trading account. Colodne conceded liability for all of the charges at the conclusion of staff's case in the hearing before the referee. The Court disbarred Colodne. (Staff Counsel Kevin P. Culley)

*Matter of Donald B. Rosenberg*, 117 AD3d 47 (1st Dept 2014)

Rosenberg was suspended on an interim basis, pursuant to 22 NYCRR 603(4)(e)(i) (failure to cooperate) and (iii) (other uncontested evidence of misconduct). Rosenberg misappropriated and converted client funds in excess of \$130,000 held in his escrow account incident to the settlement of personal injury matters on behalf of four clients. Rosenberg used those funds to pay personal expenses for himself and his wife. While Rosenberg provided Committee staff with required bookkeeping records for his escrow account, he later informed the Committee, through counsel, that he would not appear for a deposition. The Court thereafter disbarred Rosenberg, pursuant to 22 NYCRR 603.4(g), when he failed to appear or request a hearing for more than six months after the order of interim suspension (\_\_\_ NYS3d \_\_\_, 2014 NY Slip Op. 09165 [1st Dept 2014]). (Staff Counsel Kevin P. Culley)

*Matter of Nicolas Velez*, 123 AD3d 231 (1st Dept 2014)

A former client complained that Velez mishandled the proceeds from the sale of her home which had been deposited into his escrow account at her request. In response, Velez initially indicated a desire to resign, but was unwilling to fully acknowledge his misconduct and the resignation was never finalized. His counsel subsequently withdrew from further representation, and advised the Committee that Velez lacked the mental capacity to defend himself, had moved out of state and was no longer practicing law. The Committee later learned that the Superior Court of North Carolina declared Velez an incompetent person and appointed a “guardian of the person” based on a diagnosis of vascular dementia and his admittance to a locked Alzheimer's Treatment Program. On June 4, 2014, the medical director of that facility wrote to the Committee, stating that Velez has difficulty "convers[ing] in full sentences" and that he is suffering from "a chronic, progressive neurocognitive disorder" that renders him unable to practice law or to assist in defending himself against charges of professional misconduct, and his condition is incurable. Upon the Committee's motion, the Court immediately suspended Velez for an indefinite period, pursuant to 22 NYCRR 603.16(a), on the grounds of mental incapacity or medical disability. (Staff Counsel Kevin P. Culley)

*Matter of Peter F. Anderson*, 123 AD3d 86 (1st Dept 2014)

Anderson was suspended on an interim basis, pursuant to 22 NYCRR 603.4(e)(1)(ii) (substantial sworn admission of misconduct) and (iii) (uncontested evidence of professional misconduct). Anderson misappropriated and/or converted third-party funds in the amount of \$65,000, a down payment entrusted to Anderson as seller's attorney. Anderson also made repeated ATM cash withdrawals from his escrow account and commingled personal funds with client funds while tax liens amounting to \$200,000 loomed over any funds Anderson maintained outside of his escrow account. (Staff Counsel Kevin M. Doyle)

*Matter of Mia Falls*, 121 AD3d 83 (1st Dept 2014)

Falls was suspended from the practice of law for an indefinite period, pursuant to 22 NYCRR 603.16(b)(1), which provides for suspension on account of incapacity arising from physical or mental infirmity. Falls' incapacity arose from mental infirmity. This infirmity first came to the Committee's attention when Falls' psychiatrist informed the Committee that Falls was unable to respond to a disciplinary complaint filed against her. That complaint alleged both neglect and the submission of false reports on cases to Falls' firm and to clients. Eventually, both Falls and her psychiatrist agreed that, on account of severe depression and anxiety, Falls was "unable to function as an attorney at this time." Indeed, Falls consented to the Committee's motion. (Staff Counsel Kevin M. Doyle)

*Matter of Bernard A. Weintraub*, 123 AD3d 135 (1st Dept 2014)

Weintraub resigned from the practice of law, pursuant to 22 NYCRR 603.11(a)(2), admitting that he could not defend against charges forthcoming from the Committee's investigation into allegations that Weintraub had misappropriated client funds. It was alleged specifically that Weintraub jointly represented two clients at the closing of the sale of their home, that Weintraub held in his escrow account a portion of the sale proceeds, the disbursement of which was delayed on account of his clients' divorce proceedings, and that without his clients' consent, he "borrowed" \$600,000 "to meet certain obligations in the face of the economic downturn." Weintraub admitted as well that he could not defend against any charges arising from the allegation that he provided to one client's counsel a false accounting as to the escrow funds. Weintraub resigned though he had ultimately paid over the funds in full, along with interest for the entire escrow period. (Staff Counsel Kevin M. Doyle)

*Matter of Rose-Ellen Schwartz*, 121 AD3d 292 (1st Dept 2014)

In an order, dated July 31, 2014, the Court granted the Committee's motion to suspend Schwartz indefinitely for medical reasons based on unrefuted evidence that she was unfit to practice law. The Court discussed that Schwartz had produced medical documentation and had testified as to a long period of incapacity, prior treatment, and present efforts at rehabilitation, which the Committee argued was, at best, incomplete. (Staff Counsel Paul L. Friman)

*Matter of Anthony Chiofalo*, 123 AD3d 22 (1st Dept 2014)

Chiofalo had been suspended from the practice of law in 2010 for harassing, insulting and threatening his estranged wife and her matrimonial attorneys. (78 AD3d 9) While under suspension he moved to Texas, held himself out as a duly admitted New York attorney and was hired as in-house counsel to a Japanese construction crane manufacturer in Houston. Thereafter he created a fictitious law firm which, he claimed, was handling complex litigation for the manufacturer in various courts. Before the manufacturer became suspicious, it had paid the fictitious firm \$9 million for its supposed legal services, all of which Chiofalo

and his new wife collected. He fled the jurisdiction but eventually surrendered. He pleaded guilty to the Texas equivalent of grand larceny and was stricken from the roll of attorneys in New York. (Special Trial Counsel Jeremy S. Garber)

*Matter of Marie P. Flaherty*, 119 AD3d 15 (1st Dept 2014)

A number of lawyers and a sitting judge had complained to the Committee that Flaherty was writing anonymous articles on various internet blogs falsely accusing them of engaging in a criminal conspiracy to evict her from her apartment in Stuyvesant Town as well as other assorted criminal acts. Flaherty refused to comply with the Committee's subpoena requiring her to attend an examination under oath and answer questions concerning the blogs. The Court suspended her for failing to cooperate with the Committee's investigation. (Special Trial Counsel Jeremy S. Garber)

*Matter of Scott M. Gibson*, 114 AD3d 182 (1st Dept 2014)

The Court had suspended Gibson on February 7, 2013, based on his admission that he had converted client funds and based also on bank records showing his commingling. The Committee served Gibson with formal charges alleging that he had intentionally converted client funds in his possession as escrow agent for several real estate transactions. While charges were pending, Gibson submitted an affidavit of resignation to the Court admitting that he could not defend himself on the merits against the charges. The Court accepted his resignation. (Special Trial Counsel Jeremy S. Garber)

*Matter of Roy R. Kulcsar*, 123 AD3d 251 (1st Dept 2014)

Kulcsar was suspended in New York in 2012 based on his suspension from the United States District Court for the Southern District of New York for commingling client and personal funds, failing to keep or produce financial records and failing to cooperate with a federal grievance committee investigation. (98 AD3d 161) The Committee filed a second reciprocal petition in 2014 seeking to disbar Kulcsar based on his disbarment by the Southern District for misappropriating client funds, urging a witness to testify falsely, and practicing law while suspended. The Court disbarred Kulcsar. (Special Trial counsel Jeremy S. Garber)

*Matter of Gary R. Novins*, 119 AD3d 37 (1st Dept 2014)

While employed by a law firm, Novins was requested to handle the personal injury action of a police officer who was wounded by the negligent gun play of a fellow officer while both were off duty. The case had been in the office for years prior to Novins' hiring and his predecessors had failed to obtain the personnel records of the careless officer that could have shown that his supervisors had knowledge of his propensity to handle his service revolver while drinking. The trial court dismissed the case against the police department, the Appellate Division affirmed and Novins then filed a motion for leave to appeal to the Court of Appeals. While this motion was pending he requested that the client sign an agreement

giving Novins 45% of his recovery, in consideration for Novins marshaling evidence and testifying in the client's legal malpractice action against his own firm. Months later, after the client had hired a new lawyer to pursue the malpractice action, Novins left dozens of telephone messages on his client's answering machine regarding the 45% agreement and threatened to destroy relevant firm files and evidence if the client did not respond. Novins was found to have entered into an agreement for an excessive or illegal fee; to have acquiesced in the payment of compensation to a witness [himself] contingent upon the outcome of the case; and by threatening to destroy evidence, to have engaged in conduct prejudicial to the administration of justice. The Court ordered him suspended for one year. (Special Trial Counsel Jeremy S. Garber)

*Matter of Arthur J. Teichberg*, 121 AD3d 319 (1st Dept 2014)

A steel manufacturer retained Teichberg to collect \$300,000 in unpaid invoices owed by a small business customer in exchange for 20% of the amount collected. The customer acknowledged the debt but did not have the cash flow to make full repayment. Teichberg collected about one sixth of the debt but was then discharged by his client. Teichberg, nevertheless, falsely held himself out as the manufacturer's attorney in order to continue to collect the debt and, to make matters worse, refused to transmit any of the funds he had collected to his client. After keeping the collected funds in escrow for a year he converted them, claiming that he had earned all the monies as legal fees under a theory of *quantum meruit*, unsupported by any legal precedent. Teichberg was found to have failed to deliver files and funds to his client upon discharge; charged an illegal or excessive fee; failed to withdraw from representation upon discharge; and misappropriated client funds. The Court ordered him suspended for six months. (Special Trial Counsel Jeremy S. Garber)

*Matter of Salvatore V. Azzoline*, 124 AD3d 69 (1st Dept 2014)

In October 2013, the Committee opened an investigation on the basis of a client complaint that Azzoline, an associate at Levy, Phillips & Konigsberg, failed to inform the client of the dismissal in 2008 of the 2003 Benzene-tort action of her now deceased father. She also complained to the firm to whom Azzoline had apparently misrepresented the status of the matter. After dismissing Azzoline, the firm initiated an internal investigation and, within weeks, informed the Committee of two other matters, in which he allegedly misrepresented the status to the firm. Subsequently, the firm reported to the Committee that as its investigation expanded it uncovered six other matters in which Azzoline is alleged to have engaged in deceit and misrepresentation. Once the Committee finally ascertained a correct address for Azzoline, beginning in March 2014, the Committee repeatedly sent Azzoline copies of the client complaint and the firm's correspondence by first class mail and certified mail and directed him to address the allegations. He did not respond to any of the letters or to the subpoena to appear in August 2014. Accordingly, in September 2014, the Committee moved to have Azzoline immediately suspended on the basis of his non-cooperation. The

Court suspended him by order dated November 25, 2014. (Deputy Chief Counsel Naomi F. Goldstein)

*Matter of William R. Hamel*, 121 AD3d 332 (1st Dept 2014)

On March 23, 2014, Hamel, a managing associate at the firm of Dinkes & Schwitzer, was convicted, upon his plea of guilty in Bronx County Supreme Court, to the reduced charge of criminal solicitation. The conviction arose out of Hamel's involvement in a scheme of paying municipal hospital employees to disclose confidential medical information for patients which the employees referred to the firm as personal injury clients. Hamel made eight such payments in the course of one year. Upon application of the Committee, the First Department deemed the conviction a "serious crime" and referred the matter to the Committee for a sanction hearing. In consideration of factors in mitigation and based on applicable precedents, by order dated May 22, 2014, the Court suspended Hamel for four months. (Deputy Chief Counsel Naomi F. Goldstein)

*Matter of Howard B. Hornstein*, 123 AD3d 125 (1st Dept 2014)

At a deposition in September 2013, Hornstein admitted that between 2010 and 2011 he took \$83,000 in legal fees paid to him directly by a client, which were owed to his former law firm; he used the funds for his own personal benefit; and he did not report the funds on his tax returns. (In 1997, Hornstein was publicly censured on the basis of his misdemeanor conviction for failure to file taxes.) Based on his sworn admissions at the deposition, by order dated April 14, 2014, the Court granted the Committee's motion and suspended Hornstein from the practice of law until the disciplinary matters pending before the Committee were concluded, and until further order of the Court (121 AD3d 1). Hornstein opted to bypass a hearing and tendered his resignation. By order dated August 4, 2014, the Court accepted his disciplinary resignation and struck his name from the roll of attorneys. (Deputy Chief Counsel Naomi F. Goldstein)

*Matter of Scott A. Stern*, 118 AD3d 85 (1st Dept 2014)

In 2014, the Court disbarred Stern. His disbarment was a long time coming. In January 2010, Stern pleaded guilty to three counts of aggravated harassment, and two counts of stalking, in connection with his mailing a box cutter and a threatening letter to New York County sitting judges and sending threatening e-mails to counsel for his landlord who had evicted him for non-payment. As a condition of his plea, Stern was ordered to resign from the bar. The Court returned his affidavit of resignation because it was not notarized. Stern refiled a notarized affidavit, but he had altered it by omitting the key section of the affidavit in which he acknowledged that he could not defend against the misconduct. The Court rejected the affidavit and referred the matter to the Committee for proceedings, to include a psychiatric evaluation. Over the course of the next year and a half, Stern appeared once for a deposition, but refused to comply with the Committee's numerous demands to make himself

available for the evaluation. On May 21, 2013, the Court suspended him based on his lack of cooperation and certain admissions at his deposition. A year later, on May 6, 2014, after the Committee served Stern with formal charges, and he defaulted throughout the proceeding, the Court disbarred Stern. (Deputy Chief Counsel Naomi F. Goldstein)

*Matter of Terry J. Finkelstein*, 118 AD3d 51 (1st Dept 2014)

Finkelstein was the recipient of two public disciplines issued by the Supreme Court of New Jersey. On July 27, 2004, Finkelstein was publicly reprimanded for gross neglect, lack of diligence, failure to communicate, and conflict of interest. On March 5, 2010, Finkelstein was publicly censured for misappropriation of client funds, bookkeeping violations, gross neglect, lack of diligence and failure to communicate with the client. The discipline imposed in New Jersey was admonishment (known as discipline by consent) in January 2004. New Jersey disciplined Finkelstein a second time in 2004, issuing a public reprimand for conflict of interest, gross neglect, lack of diligence, and failure to communicate with his clients. In both instances, Finkelstein failed to self-report his discipline to the Committee. The Committee learned of Finkelstein's 2004 reprimand from the New Jersey District Review Board's discussion of Finkelstein's prior discipline when considering his March 2010 misconduct. In sum, Finkelstein admitted to his misconduct, which was also supported by clear and convincing evidence. Thus, New Jersey concluded that in this case, where an admonition was followed by a reprimand for similar misconduct, a censure was warranted. As the conduct for which Finkelstein was disciplined in New Jersey constituted misconduct in New York as well, the Court imposed a public censure. (Staff Counsel Roberta N. Kolar)

*Matter of Lawrence S. Cumberbatch*, 123 AD3d 152 (1st Dept 2014)

The Court immediately suspended Cumberbatch for failing to cooperate with the Committee's investigation pursuant to 22 NYCRR 603.4(e)(1)(i). Although Cumberbatch answered the complaint, he failed to cooperate and comply with the Committee's ongoing investigation including ignoring our judicial subpoena to appear for a deposition. (Staff Counsel Jun Hwa Lee)

*Matter of Kenneth M. Giles*, 124 AD3D 195 (1st Dept 2014)

Giles was stricken from the roll of attorneys. Giles was convicted of federal conspiracy to commit immigration fraud, which is analogous to the New York felony of offering a false instrument for filing in the first degree, in violation of Penal Law 175.35. Giles admitted to knowingly and intentionally submitting asylum applications which contained false information to a federal agency. (Staff Counsel Jun Hwa Lee)

*Matter of David Segal*, 123 AD3d 260 (1st Dept 2014)

Segal was suspended for one year. Segal neglected four client matters, engaged in conduct adversely reflecting his fitness as a lawyer, failed to communicate in two instances with his

clients, failed to appear at two case conferences, failed to comply with court orders and to timely file retainer statements. Segal had an extensive disciplinary history including a two-year suspension for neglect and, after he was reinstated, Segal received two subsequent admonitions; the most recent one for neglect. (Staff Counsel Jun Hwa Lee)

*Matter of Susan B. Arkun*, 119 AD3d 111 (1st Dept 2014)

The Court publicly censured Arkun after a "serious crime" proceeding based on Arkun's conviction for, inter alia, criminal contempt based on her violation of an order of protection which directed her to refrain from contacting her former paramour. (Deputy Chief Counsel Vitaly Lipkansky)

*Matter of Jude Roberto Cardenas*, 124 AD3d 123(1st Dept 2014)

The Court publicly censured Cardenas for his negligent mismanagement of his escrow account, including negligent and non-venal misappropriation of escrow funds and commingling of personal funds with client funds. (Deputy Chief Counsel Vitaly Lipkansky)

*Matter of Jacqueline S. Linder*, 122 AD3d 7 (1st Dept 2014)

The Court disbarred Linder, pursuant to 22 NYCRR 603.4(g), where she did not appear or request a hearing for more than six months after an interim suspension. Linder had been suspended on an interim basis for more than six months for her failure to cooperate with the Committee's investigation and on uncontested evidence obtained by the Committee that she had intentionally converted and/or misappropriated escrow funds. (Deputy Chief Counsel Vitaly Lipkansky)

*Matter of Jonathan N. Thalasinis*, 116 AD3d 155 (1st Dept 2014)

The Court suspended Thalasinis for one year for aiding a suspended attorney in the unauthorized practice of law and for being dishonest with the Committee about that unethical conduct. (Deputy Chief Counsel Vitaly Lipkansky)

*Matter of Craig F. Wilson*, 122 AD3d 1 (1st Dept 2014)

The Court suspended Wilson on an interim basis where the Committee's motion established that he had failed to cooperate with the Committee's investigation regarding misappropriation of funds from his escrow account, and also set forth uncontested evidence that Wilson had, in fact, intentionally converted and/or misappropriated escrow funds belonging to two clients. (Deputy Chief Counsel Vitaly Lipkansky)

*Matter of Robert Schachter*, 125 AD3d 28 (1st Dept 2014)

Pursuant to 22 NYCRR 603.4 (g), on December 16, 2014, the Court ordered that Schachter be disbarred from the practice of law on the ground that he was suspended pursuant to 22 NYCRR 603.4 (e)(1)(iii), and had neither appeared nor applied in writing to the Committee



or the Court for a hearing or reinstatement within six months from the date of his suspension. Schachter had been suspended from the practice of law based upon uncontested evidence of professional misconduct that immediately threatened the public interest. The Court found that Schachter's alleged misappropriation of his former law firm's funds for his own personal benefit was serious misconduct that immediately threatened the public interest. (Staff Counsel Norma I. Lopez)

*Matter of Philip H. Teplen*, 120 AD3d 139 (1st Dept 2014)

Teplen acknowledged misappropriating \$500,000 from his escrow account. His client, a citizen of Ireland, and at the time residing in Switzerland, retained Teplen to represent her in a U.S. Immigration application for an investment visa. Following Teplen's advice, on November 18, 2010, his client wired \$500,000 to Teplen's TD Bank escrow account. Teplen advised his client that the funds would be used to show to the immigration authorities that she was in the process of investing in the United States, so that an investor visa could be approved. Upon receipt of the funds, Teplen began removing his client's money from his escrow account for personal expenditures. Less than a month after the funds were wired into Teplen's escrow account, Teplen had depleted for his own use all of the \$500,000 that had been wired into his escrow account on November 18, 2010. As part of the Committee's investigation an examination under oath was conducted. On March 27, 2014, Teplen acknowledged in an Affidavit of Resignation that if charges were predicated upon the misconduct under investigation, Teplen could not successfully defend himself on the merits against such charges which would include engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by intentionally converting \$500,000 in escrow funds, in violation of Rule 8.4(c). (Staff Counsel Norma I. Melendez)

*Matter of Eugene C. Anyikwa*, 120 AD3d 49 (1st Dept 2014)

On June 6, 2013, the Court granted the Committee's motion to interimly suspend Anyikwa from the practice of law, effective immediately, pursuant to 22 NYCRR 603.4(e)(1)(i), and until further order of the Court (109 AD3d 76 [2013]). Thereafter, since more than six months had elapsed since this Court's June 6, 2013 suspension order and Anyikwa had not appeared nor applied in writing to the Committee or this Court for a hearing or reinstatement, the Committee moved for an order disbaring Anyikwa, pursuant to 22 NYCRR 603.4(g); the motion was granted. (Staff Counsel Elisabeth A. Palladino)

*Matter of Stuart I. Davis*, 123 AD3d 155 (1st Dept 2014)

By order entered November 30, 2012, the Southern District publicly censured Davis for permitting a non-attorney to use his username and/or password to electronically file involuntary bankruptcy petitions in violation of New York Rules of Professional Conduct (22 NYCRR 1200.0) rule 5.5(b) (aiding a non-lawyer in the unauthorized practice of law) and rule 8.4(d) (conduct prejudicial to the administration of justice). The Committee then filed

a motion, *inter alia*, for reciprocal discipline, pursuant to Judiciary Law § 90(2) and 22 NYCRR § 603.3, publicly censuring Davis. Davis, appearing *pro se*, did not object to the imposition of reciprocal discipline. The Court granted the Committee's motion and he was publicly censured. (Staff Counsel Elisabeth A. Palladino)

*Matter of Eric S. Valley*, 123 AD3d 176 (1st Dept 2014)

By order entered May 6, 1999, effective June 7, 1999, the Court suspended Valley for failure to file registration statements and pay biennial registration fees; to date, thereafter, he had not sought or been granted reinstatement. In August 2012, Valley entered into a stipulation with the Disciplinary Board of the Washington State Bar Association, admitting to misconduct in connection with two clients' matters, and agreeing to a reprimand. Thereafter, the Committee moved for an order, pursuant to 22 NYCRR §603.3, imposing reciprocal discipline on Valley. In response, Valley submitted an affidavit of resignation dated June 2, 2014, and explained that when he moved to Washington State, he did not realize he was required to either resign from the New York bar or maintain his active standing, but rather assumed that his membership would simply lapse; he also stated that he was unaware of his 1999 suspension. In its reply, the Committee asked that in addition to imposing a public censure, this Court accept Valley's resignation. The Court found that while it is generally accepted in reciprocal discipline matters that the state where the misconduct occurred has the greatest interest in the sanction imposed, the same does not necessarily hold true where some of the conduct sanctioned in Valley's home jurisdiction does not constitute a disciplinary violation here. The Court concluded that under the circumstances, the Committee's motion was best resolved by the acceptance of Valley's resignation since it was in compliance with 22 NYCRR § 603.11, in that it states that (1) Valley's resignation was submitted freely, voluntarily and without coercion or duress, and that he is fully aware of the implications of submitting his resignation, (2) he is aware of the complaints of professional misconduct against him, and (3) if charges were brought predicated upon those complaints, he would be unable to successfully defend against them. Accordingly, the Court held that Valley's resignation from the practice of law should be accepted, and his name stricken from the roll of attorneys, effective *nunc pro tunc* to June 2, 2014. (Staff Counsel Elisabeth A. Palladino)

*Matter of Oritseweyimi O. Ayu*, 123 AD3d 44 (1st Dept 2014)

Ayu was initially suspended and now disbarred after he failed to appear or apply in writing to the Committee or the Court for a hearing or reinstatement within six months from the date of the order of suspension. Ayu's suspension was based upon substantial admissions under oath that he was not truthful in a prior deposition before the Committee and in his law school and New York State bar applications, and other uncontested evidence of professional misconduct threatening the public interest, including engaging in the unauthorized practice of law. After he was served with the motion to disbar, Ayu claimed that an unidentified court personnel told him that he would be unable to apply for reinstatement because the matter was

still pending before the Committee. The Court did not find this credible. (Staff Counsel Kathy Wu Parrino)

*Matter of Adam K. Block*, 116 AD3d 163 (1st Dept 2014)

This is a reciprocal discipline based on Block's conduct in New Jersey where he repeatedly failed to appear in court, failed to file the appropriate paperwork, and requested unreasonable adjournments. Block ultimately did not comply with various court orders. It was then discovered that Block had been suspended as an attorney based on his failure to pay attorney dues. Block was publicly reprimanded in New Jersey and our Court censured him. Block was also part of the group of attorneys who were suspended by our Court for failing to file biennial registration statements. (Staff Counsel Kathy Wu Parrino)

*Matter of Jason S. Ciccone*, 121 AD3d 9 (1st Dept 2014)

Ciccone was initially suspended on the grounds that he failed to cooperate with the Committee's investigation of a disciplinary complaint alleging that Ciccone mishandled third-party funds purportedly deposited into his escrow account pending resolution of a contract dispute involving his client, and failed to keep his attorney registration current. After more than six months whereby Ciccone neither appeared nor applied in writing to the Committee or this Court for a hearing or reinstatement, Ciccone was disbarred. (Staff Counsel Kathy Wu Parrino)

*Matter of Stanley Chin*, 118 AD3d 61 (1st Dept 2014)

Chin is approximately 80 years old and had actively practiced law in the State of New York since his admission in 1958. He was suspended after his admission that he had never registered as an attorney, paid registration fees, or taken a continuing legal education class since his admission. (Staff Counsel Kathy Wu Parrino)

*Matter of Dominic E. Ezeudu*, 119 AD3d 116 (1st Dept 2014)

Ezeudu was suspended after he failed to respond to the Committee's many letters and notices of motion and has become inaccessible to the Committee. Ezeudu's willful failure to cooperate with the Committee's investigation threatened the public interest. The Committee attempted to contact Ezeudu after it received a complaint that he neglected an immigration matter. Letters were sent to four different addresses with no response. Attempts were made to obtain Ezeudu's forwarding address without success. Eventually, the Court granted the Committee leave to served Ezeudu by publication. Ezeudu's continued failure to respond to the Committee resulted in his suspension. (Staff Counsel Kathy Wu Parrino)

*Matter of Joel L. Getreu*, 121 AD3d 224 (1st Dept 2014)

Getreu was initially suspended for conversion, misappropriation, commingling and failure to keep required bank records based on substantial admission under oath and uncontroverted

evidence. (113 AD3d 148) In opposition to the motion for suspension, Getreu swore (falsely) that all of his clients have received the funds to which they were entitled and that none of his improper transfers were intentional. He further claimed that his failure to keep adequate records stems from distraction caused by ongoing family issues. Getreu also noted that since it took 19 months for the Committee to file a motion to suspend, it belied the need for immediate suspension. In reply, the Committee demonstrated, *inter alia*, that it took 19 months to bring the suspension motion because Getreu delayed the Committee's investigation by failing to provide requested information, and, because of his personal issues, Getreu repeatedly requested extensions which were granted. After Getreu was suspended, the Committee immediately filed Formal Charges against him alleging, *inter alia*, that he did not maintain required bookkeeping records for his IOLA account; he converted client funds; he did not file closing statements with OCA since November 2010; and he received checks on behalf of clients to whom he has still not paid any portion of their funds. Thereafter, the Committee received more complaints that Getreu converted more client funds, which resulted in Supplemental Charges and Second Supplemental Charges. Before his scheduled hearing, Getreu resigned, and his resignation was accepted by the Court. (Staff Counsel Kathy Wu Parrino)

*Matter of Norah Hart*, 118 AD3d 13 (1st Dept 2014)

Hart, while acting as the plaintiff's attorney in a class action lawsuit against *Match.com*, called *Match.com* customer service pretending to be a reporter. Hart was looking for customer service supervisors to depose, and she thought the names given to her by *Match.com* would be highly coached. Hart also engaged in the unauthorized practice of law by participating in a lawsuit in Texas without having satisfied Texas' rules for *pro hac vice* admission. The Court censured Hart. (Staff Counsel Kathy Wu Parrino)

*Matter of Shigetaka Ogihara*, 121 AD3d 47 (1st Dept 2014)

Ogihara was initially interimly suspended based on uncontested evidence that he converted \$1.8 million from a client. (111 AD3d 186) On April 7, 2014, Ogihara pled guilty in Supreme Court, New York County, to Grand Larceny in the First Degree, a class B felony, and signed a confession of judgment for \$1.8 million. Before he was sentenced, the Committee filed a motion to strike his name from the roll of attorneys and counselors-at-law in the State of New York, which the Court granted. (Staff Counsel Kathy Wu Parrino)

*Matter of Ingrid L. Seaborn*, 121 AD3d 11 (1st Dept 2014)

Seaborn was initially suspended for failure to cooperate with the Committee's investigation into four complaints of neglect. (111 AD3d 215) Seaborn initially answered the complaints and claimed that a serious, undiagnosed illness impaired her capacity to work. However, she subsequently failed to respond to the Committee's requests for documentation regarding her illness, comply with a subpoena *duces tecum* directing her to appear for a deposition, or

respond to additional notices. After more than six months whereby Seaborn neither appeared nor applied in writing to the Committee or this Court for a hearing or reinstatement, the Court disbarred Seaborn. (Staff Counsel Kathy Wu Parrino)

*Matter of Andrew Chin*, 123 AD3d 115 (1st Dept 2014)

The Court accepted the resignation of Chin, who admitted that he could not defend himself on the merits against the Committee's charges, which included that he neglected two clients' legal matters, that for the purpose of concealing his neglect from a client and others he falsified a document to make it appear as if it had been produced by the New York Attorney General's Office, and that he testified falsely regarding that document at an examination under oath conducted by the Committee. (Staff Counsel Orlando Reyes)

*Matter of Eric P. Gonchar*, 118 AD3d 1 (1st Dept 2014)

The Court suspended Gonchar for nine months for misconduct involving deceit, dishonesty, and misrepresentation, and which adversely reflects on his fitness as a lawyer. The Court found that Gonchar engaged in the private practice of law in contravention of the policy of the law firm where he was then employed. The Court further found that Gonchar did not report to tax authorities his income from the side practice. (Staff Counsel Orlando Reyes)

*Matter of Victor J. Horowitz*, 123 AD3d 207 (1st Dept 2014)

The Court found that Horowitz's conviction of the federal felony of Health Care Fraud was "essentially similar" to the New York State felony of Insurance Fraud in the Third Degree and deemed Horowitz automatically disbarred. (Staff Counsel Orlando Reyes)

*Matter of Felix Nihamin*, 123 AD3d 193 (1st Dept 2014)

The Court deemed Nihamin's conviction of one count of the New Jersey crime of misapplication of entrusted property in the third degree a "serious crime," and remanded the matter for further proceedings related only to determining the issue of sanction. At the sanction hearing, Nihamin was found to have participated in a fraudulent residential property mortgage scheme where he misrepresented to his clients, the financial institution funding the mortgages, that the sellers in the transactions were receiving the funds. In actuality, the orchestrators of the scheme were receiving the majority of the mortgage funds. The Court suspended Nihamin for three months. (Staff Counsel Orlando Reyes)

*Matter of Jason V. Obten*, 120 AD3d 1 (1st Dept 2014)

By Order entered September 17, 2013, the Court immediately suspended Obten, pursuant to 22 NYCRR 603.4(e)(1)(i) and (iii), based on his failure to comply with an investigation by the Committee's by failing to answer the Committee's inquiries, and indisputable evidence that he had failed to register as a lawyer and advise OCA of changes to his contact information, misconduct that threatens the public interest. (110 AD3d 255) Acting pursuant

to 22 NYCRR 603.4(g), the Court disbarred Obten because he had not sought a hearing or reinstatement within six months of his suspension. (Staff Counsel Orlando Reyes)

*Matter of Theodore A. Vialet*, 120 AD3d 91 (1st Dept 2014)

The Court publicly censured Vialet based on similar discipline imposed by the United States Court of Appeals for the Second Circuit, for misconduct including neglect of a client's immigration matter, conduct prejudicial to the administration of justice, and conduct that adversely reflects on his fitness as a lawyer. (Staff Counsel Orlando Reyes)

*Matter of Edward M. DeSear*, 124 AD3d 139 (1st Dept 2014)

DeSear pled guilty in the United States District Court, for the District of New Jersey, to sex trafficking of a child and distribution of child pornography, for which he was sentenced to 210 months imprisonment and directed to pay \$1.2 million in restitution to his victims. The Court found that, during his plea allocution, DeSear admitted that he was in possession of computer files that he knew to contain images of child pornography, which he distributed via the internet. Thus, the Court found his federal conviction to be analogous to the New York felony of possessing a sexual performance by a child and ordered him disbarred. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Peter D. Heberling*, 119 AD3d 90 (1st Dept 2014)

Heberling pled guilty in Supreme Court, Bronx County, to one count of attempted dissemination of indecent material to minors in the first degree, a class "E" felony. He was sentenced to a period of probation of five years, and required to register as a sex offender, and pay various fees and surcharges. The Court found that as a result of his felony conviction, Heberling automatically ceased to be an attorney by operation of law upon entry of his guilty plea and ordered him disbarred. (Deputy Chief Counsel Raymond Vallejo)

*Matter of John M. Ioannou*, 116 AD3d 178 (1st Dept 2014)

Ioannou pled guilty to a scheme to defraud in the first degree, grand larceny in the second degree, and offering a false instrument for filing in the first degree. Ioannou admitted, among other things, that he had engaged in an ongoing scheme to defraud by accepting clients into his law practice, negotiated personal injury settlements for them, and having them sign releases authorizing the payment of settlements, after which he then embezzled the settlement funds. Ioannou also pled guilty, under a separate indictment, to identity theft in the first degree and insurance fraud in the third degree. Ioannou was sentenced to a prison term of two to seven years and was automatically disbarred by the Court. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Stephen C. Jackson*, 123 AD3d 258 (1st Dept 2014)

Jackson was initially suspended based upon evidence that he had misappropriated and/or

intentionally converted client funds, that he submitted forged records to the DDC and testified falsely before the Committee at a deposition. (103 AD3d 10) Jackson subsequently pled guilty in Supreme Court, New York County, to Grand Larceny in the Second Degree, Perjury in the First Degree, and Tampering with Evidence, all felonies. Jackson was sentenced to a term of one to three years imprisonment. The Court ordered his automatic disbarment based upon his guilty plea to these felonies. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Nicholas Khoudary*, 124 AD3d 154 (1st Dept 2014)

Khoudary was ordered suspended for two years by the Supreme Court of New Jersey based upon his filing, in the United States Bankruptcy Court for the District of New Jersey, of two successive bankruptcy petitions on behalf of a corporation. Both petitions were dismissed as frivolous by the bankruptcy court which found that Khoudary had filed them in bad faith to obstruct a pending tax foreclosure proceeding. The bankruptcy court imposed a sanction of \$11,628.90 on Khoudary. The Court granted the Committee's petition for reciprocal discipline and ordered Khoudary suspended for two years. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Sean M. Malatesta*, 124 AD3d 185 (1st Dept 2014)

Malatesta was convicted in California for attempted unlawful sexual intercourse with a minor. He failed to report his conviction to both the Illinois and New York State Bars where he was admitted. Malatesta's subsequent motion to have his name stricken from the roll of attorneys in Illinois was granted. In his affidavit of resignation to the New York Bar, Malatesta acknowledged that he entered into a plea agreement in California in which he agreed to plead no contest to the charges of attempted unlawful sexual intercourse with a minor, a misdemeanor, and he was sentenced to two days in jail, with credit for time served, two years probation, 100 hours community service and \$120 restitution. The Court accepted his resignation and his name was struck from the roll of attorneys in New York. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Theresa Racht*, 120 AD3d 156 (1st Dept 2014)

Racht pled guilty, in Criminal Court of the City of New York, to two counts of Criminal Tax Fraud in the fifth degree, for failure to file tax returns and pay New York State and New York City personal income taxes for the tax years 2009 and 2010. Racht was sentenced to a one-year conditional discharge, a \$20,000 fine and ordered to pay \$105,833 for outstanding 2004 through 2011 New York State and New York City personal income taxes. The Court found that the deterrent effect of a six-month suspension was appropriate, noting that Racht did not have a prior disciplinary history, no client was harmed by Racht's misconduct and that her failure to pay her taxes was not attributable to a lavish lifestyle. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Julian D. Riley*, 115 AD3d 112 (1st Dept 2014)

Riley was initially suspended by the Court based on substantial admissions under oath and other uncontested evidence of his professional misconduct threatening the public interest, including his misappropriation of funds from his IOLA account, writing IOLA account checks to "cash," and keeping inadequate records on the account. (102 AD3d 109) In his subsequent affidavit of resignation, Riley acknowledged that he withdrew funds from his IOLA account to pay for personal expenses without the knowledge or permission of the owner of the funds, wrote checks to "cash" instead of a named payee, and knowingly provided false information to the DDC and testified falsely at his deposition in relation to those IOLA funds, to conceal his improper transactions. The Court accepted his resignation and his name was struck from the roll of attorneys in New York. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Robert N. Vohra*, 123 AD3d 199 (1st Dept 2014)

Vohra was suspended by the District of Columbia Court of Appeals for three years for neglecting his clients' immigration cases, thereby causing an unnecessary expenditure of time and resources by the government in having to reopen and reconsider its prior final decision denying the clients' investment visa applications, by making it necessary for a successor counsel to undertake extensive efforts to rectify the situation Vohra created, by filing visa applications with forged signatures, and by making multiple misrepresentations to the District of Columbia Bar Counsel during the disciplinary investigation. The Court granted the Committee's petition for reciprocal discipline and ordered Vohra suspended for three years. (Deputy Chief Counsel Raymond Vallejo)

*Matter of Gregory S. Weisman*, 124 AD3d 52 (1st Dept 2014)

Weisman pled guilty in the United States District Court for the District of New Jersey to the felony of conspiracy to violate the Foreign Corrupt Practices Act. Specifically, Weisman admitted that while employed as an officer and general counsel for a British Virgin Islands oil and gas services company, he conspired with two other executives to bribe an official with the government of Colombia in order to secure approval for an oil services contract in Colombia on behalf of the company. The Court found that Weisman admitted to conduct during his plea allocution that would constitute the New York felony of scheme to defraud and ordered him disbarred. (Deputy Chief Counsel Raymond Vallejo)



## SUMMARY OF REPRESENTATIVE CASES

Although it may appear that the Committee should be engaged mainly in bringing formal charges of misconduct and conducting hearings on those charges, those obviously important functions of the Committee are only a part of the picture. A significant portion of what the Committee does in a confidential manner eventually does become public when the Court acts on motions made by the Committee.

### 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 that the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The Court has repeatedly stated that the intentional conversion of money held as a fiduciary or for a client requires disbarment, except when there are exceptional mitigating circumstances which are rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff attorneys will seek an immediate suspension for such misconduct if there is sufficient evidence to justify the motion. In addition, the Committee's staff 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 2014, the Court suspended 12 attorneys on an interim basis pending resolution of the charges against them in the following cases: *Matter of Donald B. Rosenberg*, 117 AD3d 47; *Matter of Stanley L. Chin*, 118 AD3d 61; *Matter of Marie P. Flaherty*, 119 AD3d 15; *Matter of Dominic E. Ezeudu*, 119 AD3d 116; *Matter of Gwen E. Snorteland*, 120 AD3d 14; *Matter of Howard B. Hornstein*, 121 AD3d 1; *Matter of Olukayode L. Babalola*, 121 AD3d 181; *Matter of Craig F. Wilson*, 122 AD3d 1; *Matter of Peter F. Anderson*, 123 AD3d 86; *Matter of Lawrence S. Cumberbatch*, 123 AD3d 152; *Matter of Salvatore V. Azzoline*, 124 AD3d 69; and, *Matter of Richard D. Borzouye*, \_\_\_ NYS3d \_\_\_, NY Slip Op. 09164.

### Disbarments

The First Department disbarred four attorneys (three following formal charges, and one following a petition for reciprocal discipline): *Matter of Richard H. Zweig*, 117 AD3d 96; *Matter of Scott A. Stern*, 118 AD3d 85; *Matter of Mark R. Colodne*, 120 AD3d 120; and, *Matter of Roy R. Kulcsar*, 123 AD3d 251.

The Court also has a rule unique to the First Department (*see* 22 NYCRR 603.4[g]), whereby a motion to suspend may also include a notice to the attorney that the attorney may be disbarred if the attorney is suspended and fails to apply in writing to the Committee or Court requesting a hearing, or reinstatement, within six months. In 2014, the First Department invoked 22 NYCRR 603.4(g) to disbar nine attorneys: *Matter of Henry A.O. Banji*, 119 AD3d 74; *Matter of Jason V. Obten*, 120 AD3d 1; *Matter of Eugene C. Anyikwa*, 120 AD3d 49; *Matter of Jason S. Ciccone*, 121 AD3d 9; *Matter of Ingrid L. Seaborn*, 121 AD3d 11; *Matter of Jacqueline S. Linder*, 122 AD3d 7; *Matter of Oritseweyimi O. Ayu*, 123 AD3d 44; *Matter of Robert A. Schachter*, 125 AD3d 28; and, *Matter of Donald B. Rosenberg*, \_\_\_ NYS3d \_\_\_, NY Slip Op. 09165.

In 2014, the First Department granted nine petitions to strike the names of attorneys convicted of felonies: *Matter of John M. Ioannou*, 116 AD3d 178; *Matter of Peter D.W. Heberling*, 119 AD3d 90; *Matter of Shigetaka Ogihara*, 121 AD3d 47; *Matter of Anthony Chiofalo*, 123 AD3d 22; *Matter of Victor J. Horowitz*, 123 AD3d 207; *Matter of Stephen C. Jackson*, 123 AD3d 258; *Gregory S. Weisman*, 124 AD3d 52; *Matter of Edward M. De Sear*, 124 AD3d 139; and, *Matter of Kenneth M. Giles*, 124 AD3d 195.

#### Disciplinary Resignations

The Court may permit an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR 603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending charges is the equivalent of disbarment. In 2014, the First Department accepted resignations under 22 NYCRR 603.11 from 11 attorneys and ordered their names stricken from the roll of attorneys: *Matter of Scott M. Gibson*, 114 AD3d 182; *Matter of Julian D. Riley*, 115 AD3d 112; *Matter of Claudine K. King*, 116 AD3d 114; *Matter of Philip H. Teplen*, 120 AD3d 139; *Matter of Joel L. Getreu*, 121 AD3d 224; *Matter of Andrew Chin*, 123 AD3d 115; *Matter of Howard B. Hornstein*, 123 AD3d 125; *Matter of Bernard A. Weintraub*, 123 AD3d 135; *Matter of William G. Scher*, 123 AD3d 162; *Matter of Eric S. Valley*, 123 AD3d 176; and, *Matter of Sean M. Malatesta*, 124 AD3d 185.

#### Suspension 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 the Judiciary Law 90(4)(d), for reciprocal discipline and for misconduct. In 2014, the Court suspended 13 attorneys for periods ranging from three months to three years: *Matter of Jonathan N. Thalasinis*, 116 AD3d 155; *Matter of David B. Bernfeld*, 117 AD3d 26; *Matter of Eric P. Gonchar*, 118 AD3d 1; *Matter of Thomas A. Farinella*, 118 AD3d 95; *Matter of Wayne S. Cook*, 119 AD3d 33; *Matter of Gary R. Novins*, 119 AD3d 37; *Matter of Theresa Racht*, 120

AD3d 156; *Matter of Arthur J. Teichberg*, 121 AD3d 319; *Matter of William R. Hamel*, 121 AD3d 332; *Matter of Felix Nihamin*, 123 AD3d 193; *Matter of Robert N. Vohra*, 123 AD3d 199; *Matter of David Segal*, 123 AD3d 260; and, *Matter of Nicholas Khoudary*, 124 AD3d 154.

#### Suspension for Medical Disability

The Court's rules provide that an attorney may be suspended if judicially declared incompetent or the Court concludes that the attorney is incapacitated from continuing to practice law. Pursuant to 22 NYCRR 603.16, any pending disciplinary proceedings against the attorney shall be held in abeyance until the Court makes a determination of the attorney's capacity to continue the practice of law. In 2014, the Court suspended three attorneys pursuant to 22 NYCRR 603.16: *Matter of Mia D. Falls*, 121 AD3d 83; *Matter of Rose-Ellen Schwartz*, 121 AD3d 292; and, *Matter of Nicolas Velez*, 123 AD3d 231.

#### Public Censures

The least severe form of public discipline that the Court may impose is a censure (*see* 22 NYCRR 605.5[a][3]). In 2014, the First Department issued public censures in nine cases: *Matter of Adam K. Block*, 116 AD3d 163; *Matter of Norah Hart*, 118 AD3d 13; *Matter of Terry J. Finkelstein*, 118 AD3d 51; *Matter of Susan B. Arkun*, 119 AD3d 111; *Matter of Theodore A. Vialet*, 120 AD3d 91; *Matter of Joseph Rokacz*, 121 AD3d 134; *Matter of Cathy C. Cardillo*, 123 AD3d 147; *Matter of Stuart I. Davis*, 123 AD3d 155; and *Matter of Jude Roberto Cardenas*, 124 AD3d 123.

#### Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR 603.14 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 be reinstated at the end of the period of suspension by simply filing with the Court and serving upon the Chief Counsel's Office an affidavit stating that the attorney has met certain requirements (*see* 22 NYCRR 603.14). An attorney who has been suspended for a period of more than six months may petition 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 petition for reinstatement until the expiration of seven years from the effective date of disbarment. In such cases, the Court may refer the matter for a hearing before a Referee, or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2014, the Court granted 12 petitions for reinstatement and denied two.

### Dishonored Check Investigations

Staff Attorney Kevin P. Culley handles the screening of all complaints which the Committee receives, pursuant to the dishonored check reporting rules under 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 bookkeeping records and recommends disposition of matters or further investigation and action by staff attorneys. He has spoken at Continuing Legal Education courses on the subject of proper escrow account management.

### Immigration Complaints

Staff Attorney Jun Hwa Lee handles the initial screening of all immigration matters. Ms. Lee also coordinates our efforts with many other agencies and prosecutors who target immigration fraud. Further, Ms. Lee supervises the Committee's use of immigration Special Counsel approved by the Court to assist the Committee. Ms. Lee often speaks before various groups, including federal judges interested, or involved, in immigration matters.

2014

**Appendix A: Committee Assignments**

Ernest J. Collazo, Chair  
Policy Committee

Haliburton Fales, 2d (Special Counsel)  
Charlotte Moses Fischman (Special Counsel)  
Robert L. Haig (Special Counsel)  
Brian C. McK. Henderson  
Myron Kirschbaum (Special Counsel)  
Alan Levine  
Hon. Eugene Nardelli  
Karla G. Sanchez  
Carla A. Kerr Stearns  
Hon. Joseph P. Sullivan (Special Counsel)  
Stephen L. Weiner (Special Counsel)

**Hearing Panel Members**

**Panel I**

William T. Russell, Jr., Chair  
Catherine A. Christian  
Daniel D. Chu  
John M. Desiderio  
Matthew Gaier  
Abigail T. Reardon  
Robin Stratton Rivera\*

**Panel III**

Eugene P. Souther, Chair  
Robert J. Anello  
Michael I. Bernstein  
Giorgio Caputo\*  
Maria D. Melendez  
Natica von Althann\*

**Panel II**

Nicholas M. Cannella, Chair  
Sheldon Elsen  
Ruth W. Friendly\*  
Darrell S. Gay  
Pablo Quinones  
Roland G. Riopelle  
Barbara K. Rothschild\*

**Panel IV**

John F. Cambria, Chair  
Richard M. Kenny  
Edward M. Spiro  
William St. Louis  
Sheea T. Sybblis  
Ronald J. Sylvestri, Jr.\*  
Gonzalo S. Zeballos

Panel V

William P. Frank, Esq.  
Vincent T. Chang  
Richard J. Condon\*  
Peter C. Harvey  
Roger Juan Maldonado  
Robert P. McGreevy  
Sarah E. Zgliniec

Panel VII

Kathleen M. Scanlon, Chair  
John M. Callagy  
John H. Carley  
Leonard F. DeLuca\*  
Deesha M. Hill  
Pamela Jarvis  
Arthur M. Luxenberg  
Susan Welsher\*

Panel IX

John L. Warden, Chair  
Joyce M. Bove\*  
James W. Harbison, Jr.  
Gerard E. Harper  
Alfreida B. Kenny  
William A. Maher  
Barbara A. Ryan

Panel VI

Karen Patton Seymour  
David Buksbaum\*  
Nicholas A. Gravante, Jr.  
Daniel F. Murphy, Jr.  
Fredric S. Newman  
David M. Rubin  
Richard R. Zayas

Panel VIII

Frank H. Wohl, Chair  
James M. Altman  
David Arroyo  
Thomas Birnbaum\*  
Sheila S. Boston  
John J. Jerome  
Lawrence S. Spiegel

\*Public Member

2014

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

Jorge Dopico  
Chief Counsel

Deputy Chief Counsel

Angela Christmas  
Naomi F. Goldstein  
Vitaly Lipkansky  
Raymond Vallejo

Special Trial Counsel

Jeremy S. Garber

Staff Attorneys

Kevin P. Culley  
Kevin Doyle  
Paul Friman  
Roberta N. Kolar  
Jun Hwa Lee  
Norma I. Lopez  
Norma I. Melendez  
Elisabeth A. Palladino  
Orlando Reyes  
Eileen J. Shields  
Kathy Wu Parrino  
Kaylin L. Whittingham

2014

**Appendix C: Office of the Chief Counsel: Staff**

Investigators

George Cebisch, Chief  
Anthony Rodriguez  
Leonard Zarrillo

Paralegals

Nancy K. De Leon (Assistant  
Office Manager)  
Donna M. Killian  
Joel Peterson  
Rebeca V. Taub

Accountant

Martin Schwinger

Office Manager

Marcy Sterling

Computer Personnel

Michelle Y. Wang, LAN Administrator  
Charles A. Sauer

Administrative Assistants

Eartha Hobot  
Monique Hudson  
Tennille Millhouse  
Tina Nardelli  
Celina M. Nelson  
Gloria Rodriguez



**Appendix D: Bar Mediators**

Association of the Bar of the City of New York

Mark Arisohn, Esq.	John Madden, Jr. Esq.
Vivien Berger, Esq.	Jeffrey Margolis, Esq.
Susan Briggs, Esq.	Morton Newburgh, Esq.
David Brodsky, Esq.	Michele Peterson, Esq.
Glen Dornfeld, Esq.	David Rubin, Esq.
Michael Graff, Esq.	Peter Scarpato, Esq.
Arthur Felsenfeld, Esq.	Jeffrey Slonim, Esq.
Paul Huck, Esq.	Richard Supple, Esq.
Chris Hyman, Esq.	Harvey Strickon, Esq.
Andrew Kaiser, Esq.	Rick Weil, Esq.
Hal Lieberman, Esq.	Jeremy Weintraub, Esq.

Bronx County Bar Association

Daniel Cassidy, Esq.	Richard Copeland, Esq.
Daniel Chavez, Esq.	Robert Wolff, Esq.

New York County Lawyers' Association

John Cannistraci, Esq.	Alan Goldberg, Esq.
Faith Colish, Esq.	Edward Morris, Jr., Esq.
Klaus Eppler, Esq.	Joseph Russell, Esq.

**Appendix E: Annual Report to OCA**

UCS-176 Rev. 01/03

**ATTORNEY DISCIPLINE ACTIVITIES**

PERIOD COVERED: ANNUAL 2014

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

**I. MATTERS PROCESSED:**

A.	Matters Pending at Start of Period	<u>1048</u>	
B.	New Matters During Period	<u>2837</u>	
C.	Closed Matters Reactivated During Period	<u>76</u>	
D.	Total Matters to be Processed During Period (A+B+C)		<u>3961</u>
E.	Total Matters Disposed of During Period		<u>2949</u>
F.	Matters Pending at End of Period		<u>1012</u>

**II. MATTERS DISPOSED OF BY COMMITTEE:**

	Cases <sup>2</sup>	Matters
A.	Rejected as Failing to State a Complaint	<u>296</u>
B.	Referred to Other Disciplinary Committees	<u>335</u>
C.	Referred to Other Agencies	<u>132</u>
D.	Dismissed or Withdrawn	<u>1929</u>
E.	Dismissed through Mediation	<u>43</u>
F.	Letter of Caution	<u>n/a</u>
G.	Letter of Admonition	<u>74</u>
H.	Reprimand (after hearing)	<u>0</u>
I.	Referred to Appellate Division (Disc. Proc.)	<u>202</u>
	Total Disposed of During Period	<u>3011</u>

**III. CASES PROCESSED IN ALL COURTS:**

A.	Cases Pending at Start of Period		<u>31</u>
	1. Disciplinary Proceedings	<u>24</u>	
	2. Other	<u>7</u>	
B.	Cases Received During Period		<u>426</u>
	1. Disciplinary Proceedings	<u>89</u>	
	2. Other	<u>337</u>	
C.	Total to be Processed During Period		<u>457</u>

**ATTORNEY DISCIPLINE ACTIVITIES** (01/14-12/14)

D.	Cases Closed		
	1. Disbarred	22	
	<b>2. Disciplinary Resignations</b>	11	
	3. Suspended <sup>③</sup>	28	
	4. Censured	9	
	5. Privately Censured <sup>④</sup>	0	
	6. Remanded to Disciplinary Committee	13	
	7. Discontinued <sup>⑤</sup>	8	
	8. Dismissed	0	
	9. Reinstatements Granted <sup>⑥</sup>	211	
	10. Reinstatements Denied <sup>⑦</sup>	4	
	<b>11. Non-Disciplinary Resignations</b>	59	
	12. All Other Dispositions	77	
	13. Total Closed		442
A.	Total Cases Pending at End of Period		24
	1. Disciplinary Proceedings	17	
	2. Other	7	

- ❶ “Matter” includes complaints, inquiries (excluding telephone inquiries) and *Sua Sponte* investigations.
- ❷ Cases refers to the number of respondent/attorneys. As some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.
- ❸ Includes (13) definite, (12)interim and (3) indefinite suspensions.
- ❹ Reported as “Privately Reprimanded” in the First Department.
- ❺ Reported as “Withdrawn” in the First Department.
- ❻ Includes (12) disciplinary reinstatements, (197) 468-a reinstatements and (2) non-disciplinary reinstatements.
- ❼ Includes (2) disciplinary reinstatements, (1) 468-a reinstatement and (1) non-disciplinary reinstatement.

**Appendix F: Budget for Fiscal Year 2014-2015**

Departmental Disciplinary Committee Budget  
Fiscal Year April, 2014 - March, 2015

	<u>Allocation</u>
Personal Service Total:	\$ 4,205,312.00
<u>Non-Personal Service:</u>	
Office Supplies	28,269.00
EDP	-
Legal Reference - General	11,689.00
Miscellaneous Supplies and Materials	7,873.00
Travel General	848.00
Rentals of Equipment	27,812.00
Repairs of Equipment	6,514.00
Repairs of Structure	-
Real Estate Rentals	-
Conferences/Training	-
Postage and Shipping	20,125.00
Printing General	2,356.00
Telephones	3,682.00
EDP Telecommunication Charges	-
Information Technology Services	-
Building and Property Services	3,632.00
Subscriptions	-
Other General Services	11,785.00
Records Management Services	24,004.00
Professional Services - Expert Witnesses	300.00
Professional Services - Interpreters	-
Transcript Costs - General	48,747.00
Computer Assisted Legal Research	-
Other Court Services	15,601.00
Professional Services Per Diem Court Reporters	1,030.00
Equipment - New/Replacement	3,455.00
	-
Non-Personal Service Total:	\$ 217,722.00
 TOTAL BUDGET FISCAL YEAR 2014-2015	 \$ 4,423,034.00

**Appendix G: 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:** \_\_\_\_\_

\*\*\*\*\*

**Court action against attorney complained of:**

**Have you brought a civil or criminal action against this attorney?** \_\_\_\_\_

**If so, name of court:** \_\_\_\_\_ **Index No.** \_\_\_\_\_

\*\*\*\*\*

**1. PLEASE SEND AN ORIGINAL AND ONE COPY OF YOUR COMPLAINT WITH ENCLOSURES. Please do not send original documents in your enclosures because we will not return them.**

2. You may copy the enclosed form as many times as you wish, or you may find it online. Our website is: [www.nycourts.gov](http://www.nycourts.gov). Go to the search bar and enter “disciplinary committee.” Click on the link which says, “Departmental Disciplinary Committee.”
3. You may also state your allegations in a letter. We request separate complaint forms/letters for each attorney in question.

**PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH**

Start from the beginning and be sure to tell us why you went to the attorney, when you had contact with the attorney, what happened each time you contacted the attorney, and what it was that the attorney did wrong. Please attach copies of all papers that you received from the attorney, if any, including a copy of ANY RETAINER AGREEMENT that you may have signed. **DO NOT FORGET TO SEND AN ORIGINAL AND ONE COPY OF THIS COMPLAINT AND ENCLOSURES.**

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**UNSIGNED COMPLAINTS WILL NOT BE PROCESSED.**

\_\_\_\_\_ Signature