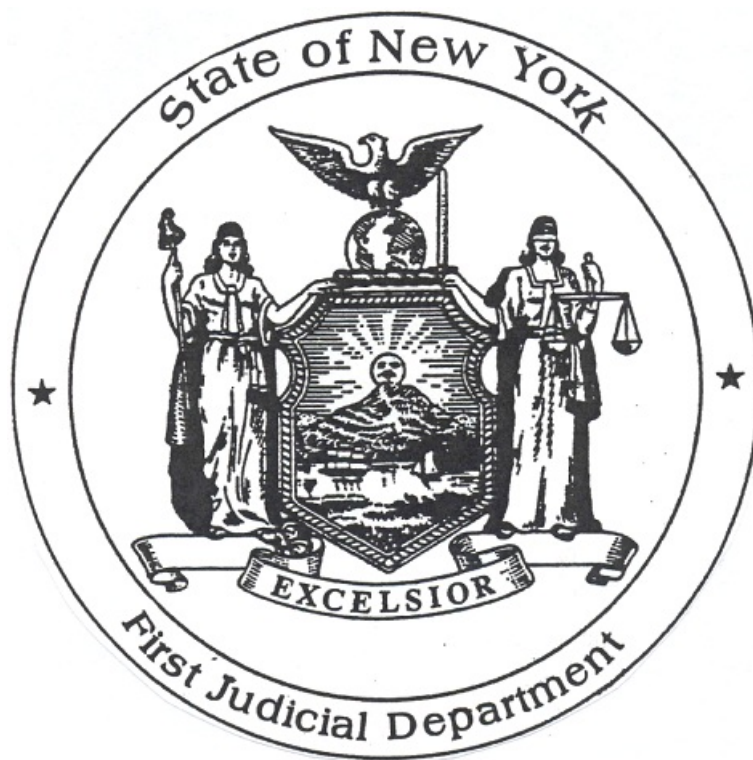


# 2017 ANNUAL REPORT



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



**2017 ANNUAL REPORT**

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

**Ernest J. Collazo  
Charlotte Moses Fischman  
Chairs**

**Jorge Dopico  
Chief Attorney**



## TABLE OF CONTENTS

CHAIRS' REPORTS.....	1
CHIEF ATTORNEY'S REPORT. ....	3
COMMITTEE MEMBERS.....	4
THE DISCIPLINARY PROCESS.....	24
Complaints, Investigations and Dismissals. ....	24
Letters of Advisement [22 NYCRR 1240.2(i)]. ....	26
Letters of Admonition [22 NYCRR 1240.2(b)]. ....	26
Applications to the Appellate Division.....	27
Formal Disciplinary Proceedings [22 NYCRR 1240.7(d)(2)(vi)]. ....	27
Collateral Estoppel. ....	28
Interim Suspensions [22 NYCRR 1240.9]. ....	28
Resignations [22 NYCRR 1240.10]. ....	29
Diversion [22 NYCRR 1240.11]. ....	29
Convictions [22 NYCRR 1240.12]. ....	29
Reciprocal Discipline [22 NYCRR 1240.13]. ....	30
Incapacity [22 NYCRR 1240.14]. ....	30
Reinstatements [22 NYCRR 1240.16, 1240.17]. ....	31
REPRESENTATIVE CASES. ....	32
Interim Suspensions. ....	32
Disbarments. ....	33
Disciplinary Resignations.....	34
Suspensions as Discipline.....	34
Suspensions for Medical Disability. ....	34
Public Censures.....	34
Reinstatements. ....	35
Dishonored Check Investigations.....	35
Immigration Complaints.....	35
PUBLIC DISCIPLINE CASES.....	36
Appendix A: AGC Assignments.....	57

Appendix B: Office of the Chief Attorney: Attorneys.. . . . . 58

Appendix C: Office of the Chief Attorney: Administrative Staff. . . . . 59

Appendix D: Annual Report to OCA. . . . . 60

Appendix E: Budget for Fiscal Year 2017-2018. . . . . 62

Appendix F: Sample Complaint Form. . . . . 63

## CHAIRS' REPORTS

**ATTORNEY GRIEVANCE COMMITTEE**  
STATE OF NEW YORK  
SUPREME COURT APPELLATE DIVISION  
FIRST JUDICIAL DEPARTMENT

ERNEST J. COLLAZO, ESQ.  
CHAIR

61 BROADWAY  
NEW YORK, NEW YORK 10006

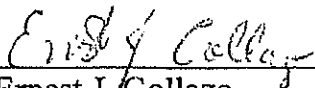
To Members of the Bar and the Public:

October 1, 2016 will be known as a seminal day in the annals of the attorney discipline process in New York. On that date, new Court rules governing the attorney disciplinary process were implemented following a lengthy period of introspection and examination among the many NY stakeholders. This seismic shift in the disciplinary process to an organizational structure consisting of two separate and independent Attorney Grievance Committees, each composed of 21 members and meeting six times a year, has placed a tremendous responsibility on the newly empowered Chief Attorney to “get the work done” well and on time.

I extend my sincere thanks to the Chief Attorney and his staff for their tremendous work in successfully transitioning to the new system after a few initial bumps, and to the Committee members for all of their hard work and dedication as they volunteer their time in a most worthwhile cause. Their success, however, would not have been possible without the steadfast support of Presiding Justice Rolando Acosta and the Justices of our Court, and, in particular, the members of the Court’s Liaison Committee consisting of Justice David Friedman, Justice John W. Sweeny, Jr., Justice Dianne T. Renwick, Justice Rosalyn H. Richter, Justice Peter Tom, Justice Angela M. Mazzarelli, and Justice Troy K. Webber. I am grateful to have a terrific Court.

I also am indebted to the Clerk of the Court, Susanna Molina Rojas, for her yeoman work as the new Court rules were implemented and for her dedicated support of the Committee and its work.

Everyone in this endeavor strives to do their best to protect the public from the unethical conduct from certain attorneys and I am thankful to be part of that effort.

  
\_\_\_\_\_  
Ernest J. Collazo  
Chair

**ATTORNEY GRIEVANCE COMMITTEE**  
**STATE OF NEW YORK**  
**SUPREME COURT APPELLATE DIVISION**  
**FIRST JUDICIAL DEPARTMENT**

**CHARLOTTE MOSES FISCHMAN, ESQ.**  
**CHAIR**

**61 BROADWAY**  
**NEW YORK, NEW YORK 10006**

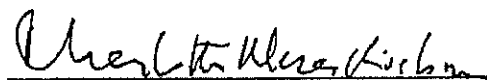
To Members of the Bar and the Public:

The late publication of this 2017 Annual Report permits an assessment of how the Grievance Committee has performed through the end of 2018. We now have twenty-seven months' experience under the 2016 Rules for Attorney Disciplinary Matters. While we have successfully transitioned our procedures, we have not adequately measured our performance. How long does it take to process a complaint to dismissal or action? What is the actual timetable for bringing a formal proceeding to completion? How does productivity under the 2016 Rules compare with accomplishments in prior years?

A prime goal of the 2016 Rules was to expedite the grievance process. We need better statistical reporting to know whether that goal is being met on a Departmental or statewide basis. Complainants, respondents and the public are entitled to timely investigations and resolutions. The Committee's dedicated staff works hard to triage thousands of complaints that run the gamut from frivolous to criminal, involving fee disputes, escrow violations, attorney error or neglect, conflicts of interest, and so much more. These complaints are read, investigated and sent to the Committee for disposition by dismissal, the issuance of letters of advisement, the imposition of admonitions or the authorization of formal charges. The Committee of experienced, diverse New York lawyers and laypeople evaluate staff recommendations and make determinations to protect the public, educate attorneys and enforce the Rules of Professional Conduct. Because of the size of the caseload, there is always the risk that too much effort is spent in processing minor matters and that serious wrongdoing is not timely addressed.

During the coming year, we hope to explore opportunities for speeding up the grievance process by implementing technology for more effective case management, expanding mediation options with the help of the bar associations, considering opportunities for pro bono programs that enlist the talents of volunteer lawyers and requesting Court appointments of special counsel to supplement the staff's efforts in cases that require particular expertise or resources.

We thank P.J. Rolando T. Acosta, the Justices that serve on the Liaison Committee and Susanna Molina Rojas, Clerk of the Court, for their steadfast support and extend heartfelt gratitude to the members of my Committee and to the staff, all of whom accomplish much with limited resources.



Charlotte Moses Fischman, Chair  
December 2018



## CHIEF ATTORNEY'S REPORT

I am grateful to have completed seven years in my role as Chief Counsel, now known as Chief Attorney as of October 1, 2016. I am pleased to thank the Chairs Ernest J. Collazo and Charlotte M. Fischman for their unconditional leadership and support as we faced many new challenges transitioning to a new system, pursuant to the adoption, as of October 1, 2016, of new Court rules (Rules) governing the disciplinary process. Since then, there have been two separate Committees of 21 members. Each Committee operates independently and meets six times a year. My thanks also to the Committee members. Their role in ensuring the sound handling of the 4005 cases processed in 2017 exemplifies the best in public service.

I must thank Presiding Justice Rolando T. Acosta for his unwavering support of my office and the Committee. Thank you as well to the Justices of our Court, in particular the Liaison Committee members: Hon. David Friedman, Hon. John W. Sweeny, Jr., Hon. Dianne T. Renwick, Hon. Rosalyn H. Richter, Hon. Peter Tom, Hon. Angela M. Mazzarelli, and Hon. Troy K. Webber. Also, thanks to the Clerk of the Court, Susanna Molina Rojas, as well as Deputy Clerks, Margaret Sowah and Eric Schumacher, for their continuing support of the Committee.

Despite the major changes that the new Rules required, the Committee and staff have adapted with great success and continue to work diligently to protect the public from attorney misconduct. Many thanks in particular to my staff for their ability to adhere to the highest standards of service. Their hard work in serving the Committee, the Court and the public is undeniable.

As always, we shall continue to strive to earn the confidence of the Committee, the Court and the public by striving for excellence.



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Jorge Dopico  
Chief Attorney

## 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 a disciplinary proceeding should be brought against an attorney, whether a private admonition or letter of advisement should be issued, or whether the complaint should be dismissed. If a disciplinary proceeding is approved, the Court may appoint a Referee to conduct a hearing and prepare a written report, stating the Referee's findings of fact, conclusions of law and recommended sanction. Thereafter, the Court makes the final determination on both liability and sanction based on its review of the record.

In 2017, two separate Committees, each with a Chair, Vice-Chair and 19 other members, reviewed and approved staff's recommendations to dismiss, advise, admonish or formally charge respondents.

Below are brief biographies of all of the Committee members who served, with dedication and energy, 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, and a former member of the Advisory Committee to the New York State Ethics Commission of the Council on Foreign Relations and the Advisory Committee to the Rules Committee of the Second Circuit. 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.

Abigail T. Reardon (Vice-Chair)

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.

Charlotte Moses Fischman (Chair)

Ms. Fischman is the General Counsel at Kramer Levin Naftalis & Frankel LLP. She is a *cum laude* graduate of Brandeis University and a *magna cum laude* graduate of 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).

Myron Kirschbaum (Vice-Chair)

Mr. Kirschbaum was a partner in the litigation department of Kaye Scholer LLP (which has since merged with Arnold & Porter) for over 30 years, concentrating on securities and commercial litigation, in which capacity he tried both jury and non-jury cases to verdict in a variety of fields including bankruptcy and antitrust, in addition to the above. He later served as Special Litigation Counsel to the firm. Both as a partner and Special Counsel he chaired the firm's Professional Ethics Committee for approximately 25 years. Mr. Kirschbaum is a *summa cum laude* graduate of Yeshiva University and *magna cum laude*

graduate of Harvard Law School, where he served as an editor of the *Harvard Law Review*. Later he clerked for the Honorable Paul R. Hays of the United States Court of Appeals for the Second Circuit. Before becoming Vice Chair of the Attorney Grievance Committee as currently constituted in 2016, he served on the Policy Committee of the previous Departmental Disciplinary Committee for approximately 13 years.

#### Robert M. Abrahams

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

#### Daniel R. Alonso

Mr. Alonso is currently Managing Director and General Counsel of Exiger, which advises corporations and government agencies on financial crime and regulatory risk and compliance. He is a graduate of Cornell University (1987) and N.Y.U. School of Law (1990), and served as law clerk to Judge Joseph W. Bellacosa of the New York Court of Appeals. Mr. Alonso was previously a litigation partner at Kaye Scholer LLP and has also

served in senior positions as a federal and state prosecutor, first as the Chief of the Criminal Division in the United States Attorney's Office for the Eastern District of New York, and later as the Chief Assistant District Attorney in the Manhattan District Attorney's Office. He is member of the Board of Directors of the Fund for Modern Courts; the New York State Bar Association's Committee on Standards of Attorney Conduct; and the Board of Editors of the Journal of Financial Compliance. In 2012-13 he was Co-Chair of the New York State White Collar Crime Task Force, and between 2007 and 2009, Mr. Alonso served by appointment of the Governor of New York as a member of the New York State Commission on Public Integrity.

#### Robert J. Anello

Mr. Anello, a principal of Morvillo Abramowitz Grand Iason & Anello PC, 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 the two-volume treatise: *White Collar Crime: Business and Regulatory Offenses*, Rev. Ed. (2018), 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*. He is a frequent contributor to numerous other publications and a speaker on topics in the areas of white collar criminal law, securities law, professional ethics, and trial tactics. 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.

#### Marjorie E. Berman

Ms. Berman, a partner at Krantz & Berman LLP, practices in the areas of employment litigation, complex commercial litigation and white-collar criminal defense. In addition,

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

#### 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.

#### 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 was 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 served 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 was the former president of the Health Care Executive Forum, and she served 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 was member of the Indiana University School of Public and Environmental Affairs Distinguished Alumni Council. Ms. Bove was a fellow of the New York Academy of Medicine, and a visiting lecturer at New York Medical College's School of Public Health.

Hon. James M. Catterson

Judge Catterson is a partner at Arnold & Porter Kaye Scholer LLP, specializing in complex commercial litigation and appellate practice. Prior to joining the firm, Judge Catterson was an Associate Justice of the Appellate Division, First Department of the New York State Supreme Court, where he participated in more than six thousand civil and criminal appeals, and hundreds of disciplinary proceedings. Prior to his elevation to the Appellate Division, Judge Catterson sat as a trial judge in a civil part in the Tenth Judicial District of the New York State Supreme Court. Before his election to the Supreme Court, Judge Catterson served as Suffolk County's Deputy County Attorney and throughout his career has litigated on behalf of a broad spectrum of federal and local entities at the administrative, trial and appellate levels in both federal and state courts. He has prepared and argued appeals before the United States Court of Appeals for the Second Circuit and the Supreme Court of the State of New York, Appellate Division, Second Judicial Department. He also served as an Assistant United States Attorney in the Eastern District of New York. Judge Catterson spent the majority of his tenure in the EDNY as Chief of the Asset Forfeiture Unit. He was an adjunct professor at Cardozo Law School and Touro Law School and received his JD from St. John's University School of Law and his BA from Colgate University.

### 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.

### Sylvia Chin

Ms. Chin is partner/of counsel in the firm of White & Case LLP. She has considerable experience in corporate and commercial financing with an emphasis on asset-based financing transactions. She graduated from New York University and Fordham University School of Law. After graduation she clerked for Hon. Lawrence W. Pierce in the United States District Court of the Southern District of New York. She is an adjunct professor at Fordham University School of Law. She also serves on the governing Council of the ABA Business Law Section and as Chair of the First Judicial District of the NY Bar Foundation, President of the Asian American Law Fund of New York, a director of Stichting to Promote Women's World Banking, and a trustee of the Fordham Law Alumni Association. She is a member of the American Law Institute, the ABA Legal Opinions Committee, the Tribar Opinions Committee, and the Association Advisory Board of the Working Group on Legal Opinions. She also served as President of the American College of Commercial Finance Lawyers, President of the American



College of Investment Counsel, President of the Asian American Bar Association of New York, President of the NAPABA Law Foundation, Board Secretary of Women's World Banking, Chair of the ABA Business Law Section Diversity and Inclusion Committee, Treasurer of the National Asian Pacific American Americas Bar Association, a Director of the New York County Lawyers Association and was a representative to the NYSBA House of Delegates. Her awards include the Jean Allard Glass Cutter Award of the ABA Business Law Section, the CLEO Legacy Diversity Award, AABANY's Norman Lau Kee Trailblazer Award, Leonard F. Manning Achievement Award from Fordham Law Review, the NAPABA Northeast Region Trailblazers Award, the Fordham Law Women Distinguished Alumna Award and the Pace Law School AALSA Achievement Award. She has been listed in the *Guide to the World's Leading Structured Finance and Securitization Lawyers*, *Euromoney's Women in Business Law*, and *New York Metro Super Lawyers*.

#### 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 retired in December of 2017 after having served as the Special Commissioner of Investigation for the New York City School District for twelve years under Mayor Michael Bloomberg and for four years 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.

#### Ralph C. Dawson

Mr. Dawson is a retired partner, of counsel at Norton Rose Fulbright, US LLP. He is engaged in the practice of labor and employment law and civil litigation in the firm's New York office. His practice involves the representation of employers in proceedings before the courts and administrative agencies with respect to claims of employment discrimination and claims under various federal and state labor laws. He has also represented clients in a variety of commercial disputes involving non-competition, other restrictive covenants, breach of contract and tort claims. He also provides counseling and training to various companies in the securities industry and other industries. He is also involved in the firm's Public Finance practice. Mr. Dawson is a graduate of Yale University and the Columbia University School of Law, where he served as Notes Editor for the Columbia Human Rights Law Review. Mr. Dawson was licensed to practice law in New York in 1977, and is also admitted to practice before the Washington D.C. Bar, the United States Supreme Court, various federal district courts and the Courts of Appeal for the Second and Fifth Circuits. He is also a member of American Bar Association, New York City Bar Association, the Metropolitan Black Bar Association of New York, and serves on the Court Appointed Merit Selection Panel for Magistrate Judges in the United States District Court for the Southern District of New York. He has been recognized as a *New York Metro Super Lawyer* in the area of employment and labor from 2012-2018.

#### Peter G. Eikenberry

Mr. Eikenberry is a sole practitioner in New York City specializing in complex commercial litigation in the State and Federal courts, including employment, art law,

contract, fraud, international, securities, and bankruptcy adversary disputes. Previously, *inter alia*, he had been an associate at White & Case and a partner at Seyfarth Shaw. He was educated at The Ohio State University (B.A. and LL.B.), where he was Note Editor of the Law Journal and where he is a member of its National Council. He is a member of the NYCBA Committee on International Human Rights (2015- ) and has been a member of its committees to Encourage Judicial Service (Founding Chair 1989-1992), Orison Marden Lecture Committee (Chair 2005-2009), Federal Courts, Judiciary, State Courts of Superior Jurisdiction, Litigation and the Council on Judicial Administration. In 1998, he led an NYCBA Human Rights Mission to Northern Ireland. He has been a member of NYSBA Committees on Courts of Appellate Jurisdiction and Federal Courts, a Vice President of the Federal Bar Council, and has served on FBC Committees on Courts of the Second Circuit (Chair 2000-2003) and Public Service (Founding Chair 1991-1994). He was Editor in Chief of the FBC Quarterly (2007-2010) and was a co-author of the FBC's Proposed Deposition Rules for the Second Circuit, 131 F.R.D. 613 (1990). Mr. Eikenberry was the Convenor and is a member of the Steering Committee of the New York Conference on Immigration Representation led by Chief Judge Robert Katzmann of the Second Circuit Court of Appeals. He is also a member of the Second Circuit's Committee on Civic Education. He is a Fellow of the New York Bar Foundation. He is author of Chapter 9, Specific Performance and Rescission in Haig, Commercial Litigation in New York State Courts (West 2015). He was awarded the Second Circuit's Professionalism Award in 2016, and the Ohio State University Law School's Public Service Award in 2017. He is president of Friends of Marcy Houses Inc, is a past president of the Brooklyn Children's Museum and was a founding member of the Children's Storefront School in Harlem.

### Donna Fishman

Ms. Fishman is currently the Deputy Director of the Fund for Public Health in NYC. Ms. Fishman has made a career of serving others. For more than two decades, she has worked in the nonprofit sector as a champion for the poor and underprivileged. She is also an accomplished fundraiser, both professionally and as a volunteer. Before joining the Fund, she served for five years as the Chief Executive Officer of Gilda's Club Westchester, whose mission is to provide social and emotional support to all those affected by cancer. Her previous positions include Deputy Director of the Jewish Fund for Justice and Vice President for External Affairs, Community Service Society of New York.

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.

#### Keisha-Ann G. Gray

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

#### Robert L. Haig

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.

#### 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.

#### Danielle C. Lesser

Ms. Lesser serves as the Chair of the Business Litigation Department of Morrison Cohen, LLP. Ms. Lesser is an experienced trial attorney whose diverse practice involves all phases of litigation, from pleading through verdict and appeal. Ms. Lesser's practice includes both litigating and advising transactional clients with respect to litigation risk and litigation avoidance strategies. Ms. Lesser has successfully handled a broad range of litigations in state and federal court as well as in arbitrations and is often retained on the eve of trial. Her representations include public companies, multi-million dollar private companies, hedge funds, private equity funds, investment bankers, start-ups, developers, real estate companies, information and technology companies, high net worth individuals, and partnerships in all types of business disputes, ranging from restructuring, hotel and hospitality, real estate, and contract disputes to enforcement of restrictive covenants. She received her law degree from Fordham University School of Law.

Alan Levine

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.

Eve Rachel Markewich

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

Charles G. Moerdler

Mr. Moerdler is the Co-Chair of Stroock's Litigation Practice Group. His practice is broad-based, including concentrations in real estate and land use, health care, international law, labor and administrative law, as well as state and federal appellate practice. Mr. Moerdler's public service career includes current service as a Board Member of the Metropolitan Transportation Authority, the New York City Housing Development Corp., and as a Member of the New York City Board of Collective Bargaining, as well as Commissioner of Housing and Buildings under Mayor John V. Lindsay. Mr. Moerdler has represented many of New York's leading real estate developers and owners, as well as real estate trade organizations, in a variety of contexts ranging from antitrust, to land use and zoning, to brokerage and contract disputes. Among the many organizations that have retained Mr. Moerdler as outside general counsel are one of the largest hospitals in the country, one of the nation's largest health maintenance

organizations and a major New York City daily newspaper, for which he also has served as a director. He regularly counsels Austria's largest bank in international litigation and served as board chairman of its U.S. subsidiary. He also acts for Austria's largest electricity and power enterprise, one of its largest realtors and has represented other major European companies. Mr. Moerdler represents the American Federation of Teachers and has served as lead negotiator for numerous municipal labor unions, including the United Federation of Teachers and the Patrolmen's Benevolent Association. Mr. Moerdler was admitted to the New York Bar 1956. He holds an LLB from Fordham Law School and a BA from Long Island University.

### Elliot Moskowitz

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

### 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).

#### Ricardo E. Oquendo

Mr. Oquendo is the founder and co-managing partner at Oquendo Deraco, PLLC and Affiliates, and was previously associated with Davidoff Malito & Hutcher, LLP, Oquendo Ramirez Zayas Torres & Martinez, LLP, LeBoeuf, Lamb, Greene & MacRae, LLP (Dewey LeBoeuf) and with Kalkines, Arky, Zall & Bernstein, LLP (Manett Phelps & Phillips). Mr. Oquendo has over 27 years experience as a business transactional and commercial litigation attorney with a special focus on business, commercial and real estate litigation, commercial and real estate transactions, commercial landlord/tenant matters (leases and litigation), special needs/affordable housing development/tax credit financing, business finance and lending, business contracts, employment law, entertainment, fashion and media transactions, intellectual property licensing and litigation, hospitality and restaurants, nonprofit/tax exempt organizations, professional licensing and discipline and government relations/public affairs. Mr. Oquendo is a graduate of Rutgers University School of Law. Mr. Oquendo is admitted to practice law in the State of New York, the U.S. Supreme Court, the U.S. District Court, Southern, Eastern and Northern Districts of New York. Mr. Oquendo is a member of the Board of Directors of Latino Justice/Puerto Rican Legal Defense and Education Fund and is a Regent Emeritus having served as a member of the New York State Board of Regents from 1998-2003.

#### Lee S. Richards, III

Mr. Richards a partner at Richards Kibbe & Orbe, is experienced in trial work and securities, regulatory, banking, white-color criminal and commercial litigation, and internal investigations. He received his B.A., *summa cum laude*, from Amherst College in 1972, where he was a member of Phi Beta Kappa, and his J.D. from Columbia University School of Law in 1975, where he was a Harlan Fiske Stone Scholar and a Parkhurst Fellow. Mr. Richards was a law clerk to the Honorable Milton Pollack, United States District Judge for the Southern District of New York, from 1975 to 1976. From 1977 to 1983 Mr. Richards was an Assistant United States Attorney for the Southern District of New York.

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*.

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 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 2018), 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 has served as a member of the House of Delegates of the New York State Bar Association and the Board of Directors of the New York County Lawyers' Association. He is a former Chair of NYCLA's Committee on Professional Discipline and the New York City Bar Association's Committee on Professional Discipline. 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 also serves as a trustee of the State University of New York and the Shaker Museum | Mount Lebanon. 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 the District Director of the New York and Long Island offices of the Financial Industry Regulatory Authority (FINRA) and manages the sales practice examination and surveillance staff in both locations. Prior to assuming this role in June 2014, he was the Regional Enforcement Chief Counsel for FINRA's North Region where he managed Enforcement staff in FINRA's New Jersey, Boston, and Philadelphia offices. He spent several years in a variety of FINRA Enforcement roles in New York including service as a Deputy Regional Chief Counsel. Mr. St. Louis earned a B.A. from Baruch College and a law degree from the New York University School of Law. Previously, he was a law clerk to a Justice of the New York State Supreme Court, New York County, Commercial Division and worked in the Compliance Department of a regional

broker-dealer. 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.

Hon. Joseph P. Sullivan

Judge Sullivan, formerly of counsel at the firm of Holland & Knight, LLP, 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.

Anne C. Vladeck

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

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

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.

Toby R. Winer

Ms. Winer is currently a Financial Consultant and has served as Interim Chief Financial Officer for multiple organizations. She has expertise in turning around underperforming organizations and driving financial and operational improvement. Prior to consulting, Ms. Winer was the Executive Vice President and CFO of Pace University. Ms. Winer received her M.B.A from Columbia University and her B.A. in Mathematics at Carnegie Mellon University. She is a Certified Public Accountant.

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.

## THE DISCIPLINARY PROCESS

### Complaints, Investigations and Dismissals

Complaints against attorneys, registered at an address in Manhattan or the Bronx, are investigated and resolved by the Attorney Grievance Committee for the Supreme Court, Appellate Division, First Judicial Department (AGC). The Chief Attorney of the AGC manages a staff of over 40 salaried lawyers and non-lawyers (staff). Together with a volunteer group of lawyers and non-lawyers (collectively referred to as AGC members), the Chief Attorney's Office processed 4,005 complaints in 2017.

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

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

The screening attorney may also recommend rejection of a complaint for any one of several reasons, *e.g.*, the complaint lacks merit, seeks legal advice, is an attempt to collect a debt, or involves a fee dispute. In 2002, a mandatory mediation/arbitration program was instituted to deal with fee disputes in civil and matrimonial matters, where the amount in dispute is more than \$1,000 and less than \$50,000.

If the complaint involves the same substantial and material allegations that will be decided in pending litigation, the AGC may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. If the complaint alleges serious misconduct by an attorney, such as conversion of client funds, the AGC will not defer investigation.

If it appears from the complaint that a respondent may have engaged in serious professional misconduct, the screening attorney brings the matter to the attention of the Chief Attorney for direct assignment to a staff attorney. If the misconduct appears to be very serious, *e.g.*, conversion of escrow funds, investigation of the matter is expedited. During the initial screening, a matter may also be directly assigned to a staff attorney investigating other complaints involving the same respondent.

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

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

When the investigation is complete, the staff attorney makes a recommendation to one of two Committees of the AGC members for dismissal, or the imposition of a Letter of Advisement, an Admonition (which is private discipline), or formal disciplinary proceedings against the respondent which could result in public discipline. The staff attorney’s supervisor (a Deputy Chief Attorney) and the Chief Attorney review all

recommendations before they are submitted to a Committee. The two Committees meet six times a year on alternate months to vote on the staff's recommendations. One of the Committees must approve all post-investigation recommendations by a majority vote of those present at the monthly meeting (a quorum of two-thirds of the members is required to conduct business). When matters are dismissed on the merits, the closing letter to the complainant indicates the complainant's right to request reconsideration of the dismissal within 30 days.

Letters of Advisement [22 NYCRR 1240.2(i)]

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

Letters of Admonition [22 NYCRR 1240.2(b)]

The AGC issues a Letter of Admonition (Admonition) when an investigation reveals that a respondent has violated the New York Rules of Professional Conduct (Rules<sup>1</sup>), but not seriously enough to warrant a public sanction, pursuant to 22 NYCRR 1240.7(d)(2)(v). For example, an Admonition might be issued if a respondent neglected only one legal matter and there were mitigating factors.

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

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



### Applications to the Appellate Division

Public discipline requires an order of the Court. The AGC applies to the Court by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court 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.<sup>2</sup> The order imposes a public sanction ranging from a public censure (no suspension) or short suspension to disbarment (seven year bar from practicing). The Court may also impose a private sanction, dismiss a matter or remand it back to the AGC for further proceedings.

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

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

A staff attorney's recommendation that a formal petition be filed against a respondent must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, and approved by the Chief Attorney and the AGC members. Upon approval, the AGC serves the respondent with a petition in which it requests that the Court sustain the charges or, if there are factual or legal issues in dispute, to appoint a Referee to hear the charges.<sup>3</sup> Within 20 days after service of the respondent's answer or, if applicable, a reply, the Committee must file with the Court a statement of disputed and undisputed facts. Respondent has 20 days to respond. In the alternative, within 30 days after service of the answer or, if applicable, a reply, the parties may file a joint statement of disputed and undisputed facts or a statement that the pleadings raise no issue of fact requiring a hearing, pursuant to 22 NYCRR 1240.8(a)(2). At any time after the filing of the petition, the parties may file a joint motion with the Court requesting the imposition of

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

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

“Discipline by Consent,” in order to avoid a hearing, pursuant to 22 NYCRR 1240.8(a)(5). The motion must outline the agreed upon discipline to be imposed, which may include monetary restitution authorized by Judiciary Law §90(6-a), and the respondent’s affidavit conditionally admitting the acts of professional misconduct.

Under the Court's rules, respondents have the right to appear, to be represented by counsel, to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two separate parts, liability hearing and sanction (mitigation and aggravation evidence) hearing. A Referee cannot proceed with a sanction hearing until he or she indicates that at least one charge will be sustained. A Referee makes a finding on the charges shortly after the end of the liability hearing. The Referee almost always asks the parties to submit memoranda regarding liability and sanction. When the hearing, liability and sanction, is concluded, the Referee must file with the Court a written Report and Recommendation containing findings of facts, conclusions of law and, charges sustained or dismissed, and recommendation as to sanction (Referee’s Report). The Chief Attorney or the respondent may file a motion with the Court to confirm or disaffirm the Referee’s Report. *See* NYCRR 1240.8(b).

#### Collateral Estoppel

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

#### Interim Suspensions [22 NYCRR 1240.9]

Under certain circumstances, the Court may suspend a respondent from practice on an interim basis upon the AGC’s motion. Such a finding may be based upon the respondent’s default in responding to a petition or subpoena to appear for a formal interview, the respondent’s admissions under oath of professional misconduct, the

respondent's failure to comply with a lawful demand of the Court or the Committee, the respondent's willful failure to pay money owed to a client (which debt is demonstrated by an admission, judgment, or other clear and convincing evidence), or other uncontroverted evidence of professional misconduct.

Resignations [22 NYCRR 1240.10]

A respondent may apply to resign from the practice of law, while an investigation or proceeding is pending, by submitting to the Court an application admitting the nature of the charges or the allegations under investigation. When the matter includes allegations that the respondent has willfully misappropriated or misapplied money or property in the practice of law, the respondent must consent to the entry of an order to make monetary restitution pursuant to Judiciary Law 90(6-a). If the Court accepts the resignation, the respondent is disbarred from practicing law for seven years pursuant to Judiciary Law 90(2).

Diversion [22 NYCRR 1240.11]

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

Convictions [22 NYCRR 1240.12]

If an attorney is found guilty of any crime, the attorney must notify the Committee having jurisdiction pursuant to 22 NYCRR 1240.7(a)(2), within 30 days. The AGC must file a motion directly with the Court when an attorney has been convicted of a felony or "serious crime." An attorney who is convicted of a felony in New York, or an analogous felony in another state or federal jurisdiction, ceases to be an attorney by operation of law pursuant to Judiciary Law 90(4-a) and the AGC must apply to the Court to have the attorney's name stricken from the roll of attorneys in New York. In cases where the Court, on the AGC's motion, has determined that a lawyer has been convicted of a crime

which is not analogous to a New York felony, but is a serious crime under New York's Judiciary Law 90(4)(d), the Court assigns the case to a Referee to hear the matter. Thereafter, the AGC or the respondent files a motion with the Court to confirm or disaffirm the Referee's Report. Serious crime cases may result in the same range of sanctions imposed in other formal disciplinary proceedings.

Reciprocal Discipline [22 NYCRR 1240.13]

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

Incapacity [22 NYCRR 1240.14]

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

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

Reinstatements [22 NYCRR 1240.16, 1240.17]

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

## REPRESENTATIVE CASES

Although the Committee engages in multiple functions in a confidential manner that do not result in public discipline, a significant portion of what the Committee does becomes public when the Court acts on motions made by the Committee. In 2017, the Appellate Division, First Judicial Department, publicly disciplined 69 lawyers as follows: 26 disbarments<sup>4</sup>, 4 resignations by attorneys facing charges (equivalent to disbarment), 33 suspensions and 6 public censures.

### Interim Suspensions

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

The most serious misconduct 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 that an attorney holds 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 of an attorney 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 2017, the Court suspended 20 attorneys on an interim basis pending resolution of the charges against them in the following cases: *Matter of Sueann S. Co*, 148 AD3d 142; *Matter of Scott A. Spencer*, 148 AD3d 223; *Matter of Paul R. Karan*, 149 AD3d 14; *Matter of Alexander Perchekly*, 149 AD3d 17; *Matter of Mark A. Hidalgo*, 149

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<sup>4</sup> The 2017 Attorney Discipline Activities Report provided to OCA and the Court lists 24 disbarments. Two attorneys (*Matter of Scollar* and *Matter of Rosenblatt*) were stricken from the roll of attorneys in 2017, but the records were sealed by the Court until 2018.

AD3d 58; *Matter of Carlos Moreno*, 149 AD3d 65; *Matter of Stephan L. Rosenbaum*, 149 AD3d 270; *Matter of Aaron Davidson*, 150 AD3d 182; *Matter of William E. Baroni*, 152 AD3d 35; *Matter of Evgeny A. Freidman*, 152 AD3d 89; *Matter of Edward N. Kiss*, 152 AD3d 129; *Matter of Steven S. Herzberg*, 153 AD3d 33; *Matter of Edward M. Char*, 153 AD3d 39; *Matter of W. Marilyn Pierre*, 153 AD3d 306; *Matter of Nytaino Romulus*, 155 AD3d 14; *Matter of Richard B. Kelly*, 155 AD3d 25; *Matter of Joshua A. Messian*, 155 AD3d 57; *Matter of Brian D. Thomas*, 155 AD3d 61; *Matter of Claude Castro*, 155 AD3d 102, and, *Matter of Pincus David Carlebach*, 156 AD3d 44.

### Disbarments

In 2017, the First Department disbarred five attorneys (three after formal charges, one following a petition for reciprocal discipline, and one following a petition to disbar after the attorney engaged in the practice of law while under suspension): *Matter of Christopher W. Hyde*, 148 AD3d 9; *Matter of Trevor A. Reid*, 149 AD3d 114; *Matter of Mark A. Bloomberg*, 154 AD3d 75; *Matter of Alex H. Pierre*, 154 AD3d 194; and, *Matter of Mitchel Tarter*, 156 AD3D 157.

Further, the First Department, pursuant to 22 NYCRR 1240.9(b), disbarred 11 interimly suspended attorneys who failed to apply in writing to the Committee or Court to request a hearing, or reinstatement, within six months of the interim suspension: *Matter of Yoorok Jung*, 148 AD3d 1; *Matter of Paul H. Jones*, 148 AD3d 113; *Matter of Brian W. Raum*, 152 AD3d 43; *Matter of Mikhail A. Shedrinsky*, 152 AD3d 132; *Matter of Marjorie Modestil*, 154 AD3d 37; *Matter of Robert A. Evans*, 154 AD3d 187; *Matter of Brian King*, 154 AD3d 191; *Matter of Paul R. Karan*, 155 AD3d 61; *Matter of Richard B. Kelly*, 155 AD3d 306; *Matter of William Antwi*, 157 AD3d 55; and, *Matter of Mark A. Hidalgo*, 158 AD3d 1.

Finally, the First Department granted 10 motions to strike the names of attorneys convicted of felonies: *Matter of David J. Boden*, 146 AD3d 69; *Matter of Jeffrey L. Lessoff*, 150 AD3d 159; *Matter of Loreto S. Kudera*, 150 AD3d 173; *Matter of Douglas Kuber*, 151 AD3d 124; *Matter of Fengling Liu*, 153 AD3d 45; *Matter of Anthony A. Pastor*, 154 AD3d 184; *Matter of Diana S. Downing*, 155 AD3d 106; *Matter of William C. Doonan*, 157 AD3d 44; *Matter of Allison Scollar*, 159 AD3d 59; and, *Matter of Michael J. Rosenblatt*, 159 AD3d 82.

### Disciplinary Resignations

The Court permitted an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submitted an affidavit pursuant to 22 NYCRR 1240.10, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending investigation or disciplinary proceeding is the equivalent of disbarment. In 2017, the First Department accepted resignations under 22 NYCRR 1240.10 from four attorneys and ordered their names stricken from the roll of attorneys: *Matter of Wesley G. Wallen*, 149 AD3d 235; *Matter of Siddharth G. Dubal*, 151 AD3d 34; *Matter of Michael J. Moshan*, 153 AD3d 312; and, *Matter of Alexander Perchekly*, 157 AD3d 67.

### Suspensions as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public. The Court imposes suspension for conviction of “serious crimes,” as defined in the Judiciary Law 90(4)(d), for reciprocal discipline and for misconduct. In 2017, the Court suspended 12 attorneys for periods ranging from three months to four years: *Matter of Scott B. Gilly*, 149 AD3d 230; *Matter of Steven C. Bartley*, 151 AD3d 1; *Matter of Theophilus F. Maranga*, 151 AD3d 31; *Matter of Darrell Andrew Marshall*, 153 AD3d 1; *Matter of Steven C. Brodsky*, 153 AD3d 52; *Matter of Steven J. Kwestel*, 154 AD3d 29; *Matter of Jay B. Zucker*, 154 AD3d 29; *Matter of Natalia A. Sishodia*, 154 AD3d 123; *Matter of John L. Weichsel*, 154 AD3d 207; *Matter of Carlos Moreno*, 156 AD3d 51; *Matter of Stuart I. Rich*, 157 AD3d 73; and, *Matter of Nicholas A. Penkovsky*, 159 AD3d 1.

### Suspensions for Medical Disability

The Court’s rules provide that an attorney may be suspended if judicially declared incompetent or if the Court concludes that the attorney is incapacitated from continuing to practice law. Pursuant to 22 NYCRR 1240.14(b), any pending disciplinary proceedings against the attorney shall be held in abeyance after the Court makes a determination of the attorney’s incapacity to continue the practice of law. In 2017, the Court suspended one attorney on these grounds: *Matter of Simone R. Coley*, 150 AD3d 1.

### Public Censures

The least severe form of public discipline that the Court may impose is a censure (*see* 22 NYCRR 1240.2[c]). In 2017, the First Department issued public censures in six cases: *Matter of Mark D. Bogard*, 149 AD3d 224; *Matter of Michael J. Aviles*, 152 AD3d 27;



*Matter of Joel M. Gluck*, 153 AD3d 301; *Matter of Nicholas Fitzgerald*, 153 AD3d 315; *Matter of George P. Stasiuk*, 154 AD3d 20; and, *Matter of Robert S. Meloni*, 154 AD3d 67.

### Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR 603.14 (rescinded October 1, 2016), and 22 NYCRR 1240.16 (effective October 1, 2016), permit attorneys to apply for reinstatement to the practice of law after a period of suspension, or seven years after disbarment. Attorneys who are suspended for six months or less, may file an application for reinstatement pursuant to 22 NYCRR 1240.16(d). An attorney who has been suspended for a period of more than six months may apply to the Court for reinstatement upon the expiration of the period of suspension. An attorney who has been disbarred, or stricken from the roll of attorneys, may not apply for reinstatement until the expiration of seven years from the effective date of disbarment. In 2017, the Court granted 10 petitions for reinstatement and denied six.

### 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 participates in a task force aimed at Protecting Immigrants of New York (PINK), and speaks before various groups, including community organizations and federal judges interested, or involved, in immigration matters.

## PUBLIC DISCIPLINE CASES

Several of the cases prosecuted by staff attorneys that became a matter of public record in 2017 are reviewed below:

*Matter of Nytaino Romulus*, 155 AD3d 14 (1<sup>st</sup> Dept 2017)

The Court interimly suspended Romulus for his failure to appear or cooperate with the AGC's investigation following allegations into Romulus's neglect of multiple personal injury and related matters. (Staff Attorney Sinan Aydiner)

*Matter of Douglas Kuber*, 151 AD3d 124 (1<sup>st</sup> Dept 2017)

The Court disbarred Kuber on the basis of his conviction for the federal crimes of Conspiracy to Commit Wire Fraud and Scheme to Defraud, both felonies, in the United States District Court for the District of Maryland. The Court agreed with the AGC's contention that these felonies "were essentially similar to the New York State felony of scheme to defraud in the first degree under Penal Law §190.65(1) (b)" and warranted disbarment. (Staff Attorney Sinan Aydiner)

*Matter of Loreto S. Kudera*, 150 AD3d 173 (1<sup>st</sup> Dept 2017)

The Court disbarred Kudera on the basis of his conviction of the federal crime of Conspiracy to Commit Immigration Fraud, a felony, in the United States District Court for the District of Vermont. The Court agreed with the AGC's contention that "disbarment under Judiciary Law §90(4)(b) is appropriate because respondent's federal conviction for conspiracy to commit immigration fraud through the making of material false statements is essentially similar to the New York felony of offering a false statement for filing in the first degree, in violation of Penal Law §175.35." (Staff Attorney Sinan Aydiner)

*Matter of Mark D. Bogard*, 149 AD3d 224 (1<sup>st</sup> Dept 2017)

Bogard was reciprocally censured based on an order of public reprimand in New Jersey for his gross neglect and related misconduct in handling a foreclosure matter which resulted in his clients' house being sold at a sheriff's sale. On August 31, 2012, Bogard's clients told him that a judgment in foreclosure had been entered against them and a sheriff's sale was scheduled to take place in twelve days. On September 4, 2012, the clients paid Bogard \$2,135 to defend the foreclosure. Bogard, however, took no action until the day before the sale, when he purportedly called the sheriff's office and was

informed that only the homeowners could apply for an adjournment of the sale, and not even his personal appearance as their attorney would suffice. Bogard did not ask to speak to a supervisor or to the Sheriff, submitted nothing in writing to the Sheriff's Office and failed to memorialize this purported telephone conversation. Neither Bogard nor anyone from the firm attended the sale because the Sheriff's Office allegedly told him that it would not help. A representative from the Sheriff's Office testified, however, that a homeowner's attorney could request an adjournment of a sale and that two-week adjournments were routinely granted. The day prior to the sale, Bogard tried to reach the client by telephone to no avail but sent an email informing her that she had to go in person to the Sheriff's sale the next day in order to stop it. Unbeknownst to Bogard, the clients were on vacation in Mexico, but received the email and tried to call him on his direct line. He did answer or return the call. The clients did try to call the law firm's office before traveling to Mexico to inquire about the status of the Sheriff's sale and whether it was all right to leave for vacation, but received no reply to their messages. The New Jersey Supreme Court agreed with the Disciplinary Review Board and the District Ethics Committee, which found after a hearing, that Bogard engaged in gross neglect for his failure to make a sufficient effort to stop the Sheriff's sale and recommended that he be reprimanded. Noting that Bogard raised no defenses to reciprocal discipline, the Court found that none apply, and that public censure was appropriate considering precedent involving similar misconduct. (Staff Attorney Kevin P. Culley)

*Matter of Nicholas Penkovsky*, 159 AD3d 1 (1<sup>st</sup> Dept 2017)

Penkovsky was charged with 10 counts of professional misconduct arising from his neglect of a client's copyright infringement matter, failure to communicate with his client and misleading the client about the status of the case. He also disregarded his obligations to pay monetary judgments owed for court reporting and appellate printing services, law student loans and his landlord for unpaid office rent. During the litigation for nonpayment of rent, Penkovsky engaged in conduct that adversely reflected on his fitness as a lawyer for having served his landlord's attorneys with a dismissal motion that he never filed with the Court, deliberately causing his adversary to waste time and resources in opposing the motion. Penkovsky also failed to file tax returns or pay taxes from 2009 through 2015 and made statements which misled the AGC to believe that filing extensions granted by the Internal Revenue Service remained in effect. In mitigation, Penkovsky suffered from prolonged financial hardship stemming from an unsuccessful legal career, a difficult marriage which ended in a bitter divorce and custody dispute, depression and the loss of

his marital residence due to his poor financial circumstances. He has also confronted his financial and emotional problems and taken steps to improve himself. In aggravation, Penkovsky was previously admonished for his protracted delay in paying a court-imposed sanction. Finding that his actions "were serious enough that future clients should be on notice of them," the Court rejected Penkovsky's request for an admonition, disaffirmed the Referee's recommendation of public censure and determined that a three-month suspension was appropriate given the nature of the misconduct, and the aggravating and mitigating circumstances presented. (Staff Attorney Kevin P. Culley)

*Matter of Mitchel Tarter*, 156 AD3d 157 (1<sup>st</sup> Dept 2017)

Tarter was charged with 11 counts of professional misconduct arising from his use of non-attorney "brokers" to induce 50 distressed homeowners to pay him advance legal fees totaling more than \$190,000 to engage in federal mass joinder litigation seeking to modify their mortgage obligations and assert other claims against their lenders, but performed no meaningful work for those fees, which he failed to refund, and used sham business entities to improperly split the fees with the non-attorney mortgage brokers who referred the clients to him. Tarter solicited his clients through telemarketing, mass mailings and the internet, with false representations that mass-joinder litigation would likely result in reduced mortgage interest rates, principal loan balances or both, even though he had no prior experience litigating such matters, but offered to commence litigation in an attempt to circumvent federal regulations that prohibited charging homeowners advanced fees for mortgage assistance relief services. Tarter admitted that his motivation throughout the period of misconduct was for material gain so that he could maintain his lifestyle and drug and alcohol addictions. The Court rejected the Referee's recommended three-year suspension and disbarred Tarter. The Court found Tarter's mitigation, e.g., his full cooperation with the AGC, his acceptance of responsibility and sincere remorse, although impressive, was outweighed by the "affirmative, ongoing, egregious, and detrimental" nature of his misconduct, and his decision to continue to engage in the fraudulent scheme even after he was aware that the first mass-joinder litigation had been dismissed, and that further actions would be unavailing to his clients. (Staff Attorney Kevin P. Culley)

*Matter of Alexander Perchekly*, 157 AD3d 67 (1<sup>st</sup> Dept 2017)

Perchekly was interrimly suspended based on uncontroverted evidence of his misconduct including conversion. (149 AD3d 17) Perchekly resigned from the practice of law after

engaging in the unauthorized practice of law after his suspension, and failing to adhere to the rules for suspended attorneys. (Staff Attorney Sherine F. Cummings)

*Matter of George Stasiuk*, 154 AD3d 20 (1<sup>st</sup> Dept 2017)

Stasiuk, a suspended attorney (suspended for failure to pay biennial dues), was also publicly censured by this Court as a reciprocal discipline for neglect, failing to communicate with clients and failing to cooperate with the disciplinary authorities in New Jersey. The Court noted that, as a consequence of failing to comply with a portion of the New Jersey Supreme Court's order he was subsequently suspended in New Jersey, but our Court did not impose a reciprocal suspension here since Stasiuk was already under suspension in New York. (Staff Attorney Sherine F. Cummings)

*Matter of Diana S. Downing*, 155 AD3d 106 (1<sup>st</sup> Dept 2017)

Downing was convicted, upon her 2010 guilty plea, of grand larceny in the third degree, a class D felony, welfare fraud in the third degree, a class D felony, and offering a false instrument for filing in the first degree, a class E felony, in full satisfaction of the charges pending against her. Downing claimed that she managed a building in Manhattan in exchange for free rent when in fact she owned the building, as well as the adjacent building; she received rental income from both buildings. Downing was charged with illicitly receiving \$38,161.84 in public health insurance benefits between 2005 and 2008. Downing was sentenced to five years probation on each count to run concurrently and a \$5,000 fine, which she paid on the day of sentencing. Downing advised the sentencing court that she had already made restitution in the amount of \$18,104, which included interest. Nine months after sentencing, upon Downing's application, her earlier plea and sentence were vacated. Downing then re-entered the same guilty pleas and was resentenced to a conditional discharge so she could spend time with her child outside the country. Notwithstanding the requirement of self-reporting within 30 days of conviction under Judiciary Law §90(4)(c), Downing never troubled to advise the Court of her conviction. Rather, the AGC learned about the conviction in 2016 and only by happenstance. On the AGC's motion, the Court disbarred Downing and ordered her name struck from the roll of attorneys and counselors-at-law, effective *nunc pro tunc* to the day Downing first pled guilty in 2010. (Staff Attorney Kevin M. Doyle)

*Matter of Robert Anthony Evans*, 154 AD3d 187 (1<sup>st</sup> Dept 2017)

Evans proved selective and sporadic in his cooperation with one AGC investigation into

apparent shortfalls in his IOLA account after his receiving a \$225,000 down payment in connection with the sale of his clients' apartment and a subsequent AGC investigation into alleged conversion of \$139,000 in escrowed funds belonging to another client. Though initially Evans was cooperative in the former investigation, Evans persistently refused to follow-up by filling out a Excel spreadsheet necessary for analysis of his IOLA account usage. As to the second investigation, Evans refused to even provide the AGC an answer to the initiating complaint. In the summer of 2016, the Court suspended Evans for his failure to cooperate. Within the following six months, Evans took no steps to respond to or appear before the AGC. The AGC thus moved for his disbarment. Evans opposed through an untimely affidavit in opposition in which he advanced conclusory, and incredible defenses. Evans claimed his run for Congress had deprived him of the time and resources necessary to cooperate with the AGC and seek reinstatement, despite contrary Federal Election Commission documents. More, Evans still failed to provide an answer to the unanswered complaint. The Court disbarred Evans and struck his name from the roll of attorneys and counselors-at-law. (Staff Attorney Kevin M. Doyle)

*Matter of Brian W. Raum*, 152 AD3d 43 (1<sup>st</sup> Dept 2017)

In June 2016, the Court suspended Raum for his failure to cooperate in an AGC investigation. Raum, who lived in Arizona but was admitted in the First Department, had faced ten complaints, four of which he never answered. More, when subpoenaed for examination under oath, Raum had failed to appear or explain his failure to appear. Raum, served with notice of entry by certified and ordinary post at his home address in Arizona, then let six months pass after his suspension without seeking reinstatement or otherwise contacting the AGC. The AGC thus moved for Raum's disbarment, serving Raum as before but also serving him by email. Raum ignored the motion to disbar as he had ignored the motion to suspend. The Court disbarred Raum; his name was struck from the roll of attorneys and counselors-at-law. (Staff Attorney Kevin M. Doyle)

*Matter of Scott A. Spencer*, 148 AD3d 223 (1<sup>st</sup> Dept 2017)

Spencer came under AGC investigation after his former wife complained of his willful defiance of a Florida court order that he pay child support. Spencer appeared for an examination under oath. But thereafter he failed to appear for follow-up examination, though so directed by subpoena, or otherwise respond to extensive AGC efforts to contact him. In early 2017, the Court suspended Spencer. (Staff Attorney Kevin M. Doyle)

*Matter of Yoo Rok Jung*, 148 AD3d 1 (1<sup>st</sup> Dept 2017)

The Court had suspended Jung for an indefinite period on October 6, 2015 for failing to cooperate with the AGC's investigation into two complaints. [132 AD3d 236 (1<sup>st</sup> Dept 2015)] When Jung failed to appear or apply in writing for reinstatement within six months of her suspension, the AGC moved to disbar her, pursuant to 22 NYCRR 1240.9(b), which motion was granted by order dated January 24, 2017. (Special Trial Attorney Jeremy S. Garber)

*Matter of D. Andrew Marshall*, 153 AD3d 1 (1<sup>st</sup> Dept 2017)

Marshall had informed a client and the AGC that her case against the City of New York had settled, requested her to sign a release, and ultimately gave her a check for her share of the settlement. He also prepared and filed with OCA a closing statement, setting forth the terms of the settlement with the City. In fact, Marshall had missed an early deadline for filing a Notice of Claim, and when the City eventually realized this, they withdrew their settlement offer. There was no settlement. All of the documents Marshall provided to his client and the AGC referring to the purported settlement had been fabricated by him to conceal his initial neglect. The Court suspended Marshall for three months, finding not only that he had neglected his client's legal matter, but that he had also engaged in dishonest conduct that was prejudicial to the administration of justice and that adversely reflected on his fitness as a lawyer. (Special Trial Attorney Jeremy S. Garber)

*Matter of Sueanne S. Co*, 148 AD3d 142 (1<sup>st</sup> Dept 2017)

In March 2016, out of concern, a justice of the Supreme Court reported to the AGC that he was constrained to declare a mistrial because of the conduct of Sueanne Co who was representing a criminal defendant during a five week criminal trial. The conduct was indicative of mental health issues. Shortly after receiving the justice's letter, the AGC wrote to Co and requested that she submit a written answer explaining what happened during the trial. Between April 18 and June 17, by phone, Co requested five extensions, which the AGC granted. But when the AGC did not receive a written submission by June 22, 2016, the AGC subpoenaed Co to appear for an examination under oath. At her deposition, Co agreed to submit a written answer by August 1, 2016 and to authorize the AGC to speak with her psychiatrist. She did not. On August 2, Co requested an adjournment to comply with the AGC's directives. The AGC gave her the adjournment and two more after that, but as of September 2016, Co had not submitted a proper written response, nor had she authorized the AGC to speak with her doctor. The AGC moved for

an order interimly suspending Co for her failure to cooperate with the AGC's investigation, pursuant to 22 NYCRR 1240.9(a)(3), or in the alternative for an order imposing an indefinite medical suspension, pursuant to 22 NYCRR 1240.14(b). By order dated February 21, 2017, the Court interimly suspended Co without prejudice to convert the suspension to a medical suspension, if she were so advised. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Joel M. Gluck*, 153 AD3d 301 (1<sup>st</sup> Dept 2017)

By decision and order dated July 15, 2015, the Committee on Grievance of the United States District Court for the Southern District of New York (COG), publicly reprimanded Joel Gluck. Gluck did not timely report the federal sanction to the AGC or to the Court. Eventually, however, in November 2016, Gluck reported the discipline to the Grievance Committee in the Second Department where he practiced until 2014. In December 2016, the Second Department forwarded the decision and order to the AGC. The COG publicly reprimanded respondent for an extensive pattern of disregarding court orders, failing to appropriately communicate with clients and the Court and delaying litigation to the detriment of the parties, in violation of Rule 1.1 (competence); Rule 1.3(diligence); Rule 1.4 (communication); Rule 3.2 (delay of litigation); Rule 3.3 (conduct before a tribunal); Rule 3.4 (fairness to opposing counsel); and Rule 8.4 (fitness) of the New York Rules of Professional Conduct. Although the COG determined that the sheer number of times Gluck engaged in misconduct warranted a suspension, it limited sanction to a public reprimand in light of his financial struggles, his lack of disciplinary history and his willingness to represent clients for little or no remuneration. Pursuant to 22 NYCRR 1240.13, the AGC moved for an order finding that Gluck had been disciplined by a foreign jurisdiction, and directing him to demonstrate to this Court why discipline should not be imposed in New York for the underlying misconduct. In accordance with the Court's general rule in disciplinary matters to give significant weight to the jurisdiction in which the misconduct occurred, and because a censure (equivalent to the federal public reprimand) comports with First Department precedent under similar circumstances, by order August 8, 2017, the Court publicly censured Glick. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Christopher W. Hyde*, 148 AD3d 9 (1<sup>st</sup> Dept 2017)

By order dated February 5, 2008, the Court suspended Christopher W. Hyde for failure to file biennial attorney registration statements and pay attendant fees. In 2011, an attorney



who was unaware of Hyde's suspension retained him to effectuate an infant compromise order in connection with the settlement of a personal injury matter. Over the course of the next four years, Hyde drafted and filed pleadings and appeared in Court for the unsuspecting attorney. In October 2015, the attorney learned for the first time, Hyde's status and immediately advised the AGC. The AGC initially had difficulty locating Hyde, but in December 2015, the AGC sent Hyde a copy of the referring attorney's submission and directed Hyde to respond. Between February and June 2016, Hyde repeatedly asked for extensions of time to respond, but he never respond to the AGC. In September 2016, the AGC moved to have Hyde disbarred for engaging in the unauthorized practice of law. By order dated, January 5, 2017, the Court disbarred Hyde. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Edward N. Kiss*, 152 AD3d 129 (1<sup>st</sup> Dept 2017)

In June 2016, a former client of Edward Kiss filed a complaint with the AGC alleging that, while he was incarcerated, Kiss converted approximately \$50,000 from a trust of which he was a beneficiary after he gave Kiss Power of Attorney (POA) over the account. The AGC was not able to prove that Kiss took \$50,000, but bank records which the AGC subpoenaed showed that on August 10, 2012, Kiss withdrew \$7,500 from the POA account and deposited it directly into his personal account, and on July 10, 2015, he took \$20,000 and deposited it directly into his personal account. When asked at his examination under oath in January 2017 to explain the two transactions, Kiss invoked his Fifth Amendment right and refused to answer. The Court found that the documentary evidence, along with the negative inference allowed to be drawn from Kiss's invocation of his Fifth Amendment privilege against self-incrimination, was uncontroverted proof that Kiss had converted \$27,500, and by order dated July 6, 2017, immediately suspended him. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Joshua A. Messian*, 155 AD3d 57 (1<sup>st</sup> Dept 2017)

Between February and April 2016, the Lawyers' Fund for Client Protection forwarded to the AGC four reports concerning dishonored checks from Joshua Messian's IOLA account. At the time, Messian was practicing real estate law. The AGC wrote to Messian each time it received notification from the Lawyer's Fund to explain the cause of the dishonored checks. Messian did not respond. The AGC then learned that Messian had relocated to California, where his family lives, and had entered into a rehabilitation facility in May 2016 to address his substance abuse problem. In December 2016, Messian

completed his in-patient treatment. In April 2017, the AGC deposed Messian and confronted him with bank records for his IOLA account which it had subpoenaed. Messian testified to converting real estate deposits in excess of \$200,000, some of it incrementally, and falsifying closing statements on property to conceal his conversion. With the financial help of his father, to whom he disclosed his drug addiction, Messian was able to replace the money he misappropriated before the closings. As of the date of the deposition, unbeknownst to the estate of one client, Messian still owed it \$50,000. That money was replaced shortly after the deposition. By order dated October 31, 2017, pursuant to 22 NYCRR 1240.9(a)(2), the Court immediately suspended Messian on the basis of his admissions that he committed acts of professional misconduct, namely conversion, which immediately threatened the public interest. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Moshan*, 153 AD3d 312 (1<sup>st</sup> Dept 2017)

Michael J. Moshan engaged in a pattern of transferring client and third-party trust funds to a savings account and improperly retaining the interest on those funds that should have gone to the Lawyer's Fund for Client Protection. The AGC opened an investigation into Moshan's misconduct as did the Manhattan D.A. Moshan was scheduled to plead guilty on May 2, 2017, to one count of scheme to defraud in the second degree, a class A misdemeanor, based on the misconduct. One of the conditions of his plea was that he agreed to voluntarily resign from the practice of law. So on May 1, 2017, Moshan filed an affidavit of resignation in the First Department, compliant with 22 NYCRR 1240.10, in which he acknowledged that he was the subject of an investigation by the AGC regarding his misconduct, and that he could not successfully defend against the allegations. The AGC did not oppose the resignation, and the Court accepted it and struck Moshan's name from the roll of attorneys by order dated August 8, 2017. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Stephan L. Rosenbaum*, 149 AD3d 270 (1<sup>st</sup> Dept 2017)

By order dated November 20, 2013, the Court suspended Stephan L. Rosenbaum from the practice of law for failure to file biennial attorney registration statements and pay attendant fees. In October 2015, the AGC received a complaint from a 93 year old woman who was Rosenbaum's long time client, and who had lent Rosenbaum \$120,000. The fact that Rosenbaum procured the loan without the safeguards imposed by Rule 1.8, was bad enough, but then he returned only \$20,000 of the \$120,000 loan and did not satisfy the

judgment the client obtained for the remaining \$100,000. At his examination under oath before the AGC, Rosenbaum acknowledged representing the client after November 2013 but claimed he did not learn of his suspension until the Spring of 2016. He admitted practicing law "a little" after learning of his suspension. The AGC moved to disbar Rosenbaum for engaging in the unauthorized practice of law, or in the alternative, to suspend him interimly, pursuant to 22 NYCRR 1240.9(a), on the basis of his willful failure to repay the money he owed his client as evidenced by the judgment. The Court declined to disbar Rosenbaum for the unauthorized practice of law because the suspension was for failure to register, and determined that since Rosenbaum disputed that his failure to repay was willful, it was not the basis for an interim suspension. However, by order dated March 28, 2017, the Court continued Rosenbaum's suspension until proceedings were completed. (Deputy Chief Attorney Naomi F. Goldstein)

*Matter of Mark A. Bloomberg*, 154 AD3d 75 (1<sup>st</sup> Dept 2017)

The Court disbarred Bloomberg for his intentional conversion of more than \$200,000 in connection with three separate client matters over several years. Bloomberg violated Rules 1.15(a) and 8.4(c) by misappropriating and intentionally converting funds and he failed to keep proper IOLA account records in violation of Rule 1.15(d)(i) and (ii) and 8.4(h). (Staff Attorney Jun Hwa Lee)

*Matter of Paul H. Jones*, 148 AD3d 113 (1<sup>st</sup> Dept 2017)

The Court disbarred Jones pursuant to 22 NYCRR 1240.9(h), for failing to respond to or appear for further investigatory or disciplinary proceedings within six months from the date of the suspension order of April 12, 2016. On April 12, 2016, Jones was suspended for failure to maintain his attorney registration and failure to cooperate with an AGC investigation of a client complaint alleging that he failed to provide competent legal services and mistreated his client. Jones was notified that "an attorney who is suspended and who has not appeared or applied to the AGC or the Court for a hearing or reinstatement for six months from the date of the order of suspension may be disbarred without further notice." (Staff Attorney Jun Hwa Lee)

*Matter of Fengling Liu*, 153 AD3d 45 (1<sup>st</sup> Dept 2017)

The Court disbarred Liu pursuant to Judiciary Law 90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1) *nunc pro tunc* to April 14, 2014. On April 4, 2014, after a jury trial, the United States District Court for the Southern District of New York found Liu guilty of

conspiracy to commit immigration fraud in violation of 18 USC §371, a felony. (Staff Attorney Jun Hwa Lee)

*Matter of Theophilus Maranga*, 151 AD3d 31 (1<sup>st</sup> Dept 2017)

The Court suspended Maranga for two years for neglect that involved immigration clients who were "in serious jeopardy of being deported." The Court considered Maranga's failure to accept any responsibility for his wrongdoing and his prior disciplinary history that involved similar misconduct. (Staff Attorney Jun Hwa Lee)

*Matter of Paul R. Karan*, 155 AD3d 61 (1<sup>st</sup> Dept 2017)

Karan was suspended on an interim basis, pursuant to 22 NYCRR 1240.9(a)(5), based on uncontroverted evidence of his misappropriation of at least \$1.3 million from nine estate and trust accounts. (149 AD3d 14) Karan was disbarred pursuant to 22 NYCRR 1240.9(b) because, for more than six months after his February 23, 2017 interim suspension, he neither responded to, nor appeared for, further investigatory or disciplinary proceedings. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Trevor A. Reid*, 149 AD3d 114 (1<sup>st</sup> Dept 2017)

Reid was disbarred upon findings that he misused his attorney escrow account to conceal and shield his personal funds from levy by tax authorities, failed to cooperate with the AGC, and testified falsely before the AGC. Reid failed to appear at the hearing before the Referee and for the Hearing Panel proceeding despite receiving sufficient notice thereof from the AGC. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Brian D. Thomas*, 155 AD3d 61 (1<sup>st</sup> Dept 2017)

Thomas was suspended on an interim basis pursuant to 22 NYCRR 1240.9(a)(1), and (3) because he failed to respond to the AGC's investigative requests and to appear for an examination under oath pursuant to judicial subpoena. Thomas defaulted in his response to the AGC's suspension motion. (Deputy Chief Attorney Vitaly Lipkansky)

*Matter of Wesley G. Wallen*, 149 AD3d 235 (1<sup>st</sup> Dept 2017)

On March 28, 2017, the Court granted the AGC's motion pursuant to 22 NYCRR 1240.10 accepting Wallen's affidavit of resignation and striking his name from the roll of attorneys. In sum, Wallen acknowledged he could not defend himself against the complaint being investigated by the AGC of professional misconduct against him. He

acknowledged that he misappropriated and converted client funds held in his escrow account in connection with a real estate transaction in the amount of \$4,627 for his own personal use, without permission or authorization from the client. Restitution was not applicable here because Wallen fully returned the client funds. (Staff Attorney Norma I. Lopez)

*Matter of William Antwi*, 157 AD3d 55 (1<sup>st</sup> Dept 2017)

In 2015, the Court issued an order immediately suspending Antwi from the practice of law based upon his lack of cooperation with the AGC's investigation. In 2017, pursuant to 22 NYCRR 1240.9(b), the Court granted the AGC's motion for disbarment on the grounds that more than six months had elapsed since the date of the Court's order of suspension, and Antwi had failed to respond or appear for further investigatory or disciplinary proceedings. (Staff Attorney Norma I. Melendez)

*Matter of Steven C. Bartley*, 151 AD3d 1 (1<sup>st</sup> Dept 2017)

In 2016, the AGC brought charges against Bartley based upon complaints from three clients, and his failure to pay State and Federal income taxes for five years. The Court affirmed the Referee's findings of fact and conclusions of law finding that Bartley violated, *inter alia*, rules 1.1(a) (failure to provide competent representation); 1.3(a) (a lawyer shall act with reasonable diligence and promptness in representing a client); 1.3(b) (a lawyer shall not neglect a legal matter); 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter). The Court agreed with the Referee's recommendation of a three month suspension, finding that it appropriately balances Bartley's acceptance of responsibility for his misconduct and cooperation with the AGC, along with his assertion that much of his practice was devoted to *pro bono* work, against his violation of multiple Rules of Professional Conduct after previously receiving two admonitions, and his admitted tax delinquency. (Staff Attorney Norma I. Melendez)

*Matter of Jeffrey L. Lessoff*, 150 AD3d 159 (1<sup>st</sup> Dept 2017)

Lessoff was intermly suspended in 2016 for failure to cooperate with the AGC's investigation of four complaints alleging conversion and/or misappropriation of client settlement funds, commingling of client and personal funds, improper cash withdrawals from his IOLA account, and uncontroverted evidence of misappropriation of client funds. [142 AD3d 107 (1<sup>st</sup> Dept 2016)] On July 28, 2016, Lessoff pleaded guilty to grand larceny in the second degree, in violation of Penal Law 155.40 (1), a class C felony and

other charges. On May 9, 2017, the Court granted the AGC's motion for an order, pursuant to Judiciary Law 90(4) (b), striking Lessoff's name from the roll of attorneys because of the automatic disbarment that inured upon his conviction of a felony. (Staff Attorney Norma I. Melendez)

*Matter of Edward M. Char*, 153 AD3d 39 (1<sup>st</sup> Dept 2017)

Char was interimly suspended for failing to cooperate with the AGC's investigation of neglect of an appellate matter, neglect and conversion in an estate matter, and dishonored checks drawn against his law firm's IOLA account. Despite repeatedly swearing under oath that he submitted multiple answers and provided escrow records to the AGC, none were received. (Staff Attorney Kathy W. Parrino)

*Matter of Simone R. Coley*, 150 AD3d 1 (1<sup>st</sup> Dept 2017)

The Court medically suspended Coley based on her medical suspension in Connecticut. Although Coley failed to cooperate with the AGC and failed to provide medical records for a medical suspension, the Court nevertheless determined that it should fully credit the Connecticut court's determination that Coley was incapacitated from continuing to practice law after reviewing her medical records. (Staff Attorney Kathy W. Parrino)

*Matter of Steven S. Herzberg*, 153 AD3d 33 (1<sup>st</sup> Dept 2017)

Herzberg was the law partner of Edward M. Char in the law firm of Char & Herzberg. After multiple dishonored checks were drawn on the firm's IOLA account, and after Char's refusal to provide escrow records to the AGC, the AGC sought answers from Herzberg and requested escrow records from him. Herzberg failed to produce any bank records, citing that Char was in possession of the escrow records. Herzberg was subpoenaed to appear for an Examination Under Oath and to produce escrow records. Herzberg sought an adjournment, but was told that the request had to be in writing, and that his production of escrow records was still required under the original date. Herzberg failed to submit an adjournment request in writing, and only produced escrow records outside of the audited period. The Court found that his failure to produce the requested records, submit an answer, or appear for an Examination Under Oath constituted professional misconduct immediately threatening the public interest, which warranted suspension. (Staff Attorney Kathy W. Parrino)

*Matter of Richard B. Kelly*, 155 AD3d 25 (1<sup>st</sup> Dept 2017)

Kelly was suspended for his failure to cooperate with the AGC's investigation concerning an open bench warrant issued in 2013 against him for failing to fulfill a Pre-trial Intervention program ordered after an indictment in New Jersey for possession of a controlled substance. (148 AD3d 129) The pretrial intervention program required Kelly to perform community service, and upon its completion, the indictment would be dismissed. Initially, the AGC admonished him for his conduct leading to his arrest, and for violating the program terms, leading to the bench warrant. The AGC further ordered Kelly to clear the open bench warrant. When Kelly failed to do so, a *sua sponte* investigation was commenced. Kelly did not cooperate with the AGC in the *sua sponte* investigation, resulting in his interim suspension, and then his disbarment pursuant to 22 NYCRR 1240.9(b). (Staff Attorney Kathy W. Parrino)

*Matter of Alex H. Pierre*, 154 AD3d 194 (1<sup>st</sup> Dept 2017)

In 2005, Pierre was suspended by the Supreme Court of Pennsylvania for three years. Pierre did not report this to the AGC until 2017, at which point he was disbarred in New York in a reciprocal proceeding. The Pennsylvania disciplinary matter consisted of two charged cases. The first set of charges involved neglect and misrepresentation involving a client in a personal injury matter, unlawful collection of a contingency fee, commingling of fiduciary funds, conversion of third party funds, misrepresentation to the third party insurance company regarding the existence of the settlement funds, and fraud to cover up the conversion. Pierre was also placed on inactive status from December 2002 to June 2004, during which he engaged in the unauthorized practice of law in at least nine legal matters. The second set of charges involved Pierre's repeated failure to answer expert interrogatories in a legal malpractice case, despite court orders. Pierre's failure to answer precluded the presentation of expert testimony during trial. The Pennsylvania Office of Disciplinary Counsel also found that he engaged in the practice of law in 12 more client matters during his inactive status. For the second charged case, Pierre was also suspended for three years to run concurrent with the first charged case. The AGC moved this Court to disbar him instead of following Pennsylvania's sanction of three years, and the Court granted the AGC's motion. (Staff Attorney Kathy W. Parrino)

*Matter of Mikhail A. Shedrinsky*, 152 AD3d 132 (1<sup>st</sup> Dept 2017)

Shedrinsky was disbarred pursuant to 22 NYCRR 1240.9(b), after he failed to respond to or appear for further investigatory or disciplinary proceedings within six months from the

date of his suspension. Shedrinsky was initially suspended for his failure to cooperate with the AGC's investigation of a dishonored check drawn against his IOLA account, his failures to file attorney registration statements, pay registration fees, and update his business address with OCA. [145 AD3d 71 (1<sup>st</sup> Dept 2016)] (Staff Attorney Kathy W. Parrino)

*Matter of Nicholas Fitzgerald*, 153 AD3d 315 (1<sup>st</sup> Dept 2017)

The Court granted the AGC's motion for reciprocal discipline, and publicly censured Fitzgerald, based on the New Jersey Supreme Court's order of a public reprimand, pursuant to a stipulation of discipline by consent between Fitzgerald and the New Jersey Office of Attorney Ethics. Fitzgerald purchased a law practice from an acquaintance and his son, without realizing the full extent of the bad shape in which they had left the practice. Upon realizing that many inherited clients, who had paid legal fees in full to the old firm, needed significantly more work to be performed on their matters, Fitzgerald felt that he had to charge additional fees to nearly four dozen of them, but he did not have them execute new written agreements consenting to same. This ran afoul of Rule 1.17(e). In addition, he did not timely notify the inherited clients in advance of his purchase of the law practice, as required by Rule 1.17(c)(2); he also violated the rules through the acts of another, in violation of Rule 8.4(a), by going through with the purchase despite the failure of sellers to comply with their own obligation to notify the clients of the practice's impending sale. (Staff Attorney Lance E. Philadelphia)

*Matter of Steven C. Brodsky*, 153 AD3d 52 (1<sup>st</sup> Dept 2017)

The Court suspended Brodsky for two years for concealing income in an attorney escrow account to defraud creditors, granting a joint motion for discipline by consent by the parties. (Staff Attorney Orlando Reyes)

*Matter of Steven J. Kwestel*, 154 AD3d 29 (1<sup>st</sup> Dept 2017)

The Court suspended Kwestel for six months for failing to adequately supervise an employee/bookkeeper who converted client funds from an attorney escrow account, granting a joint motion for discipline by consent by the parties. (Staff Attorney Orlando Reyes)

*Matter of Natalia A. Sishodia*, 154 AD3d 123 (1<sup>st</sup> Dept 2017)

The Court suspended Sishodia for two years for aiding a suspended lawyer in violating



the suspension order by continuing to practice law, granting a joint motion for discipline by consent by the parties. (Staff Attorney Orlando Reyes)

*Matter of Jay B. Zucker*, 154 AD3d 29 (1<sup>st</sup> Dept 2017)

The Court suspended Zucker for six months for failing to adequately supervise an employee/bookkeeper who converted client funds from an attorney escrow account, granting a joint motion for discipline by consent by the parties. (Staff Attorney Orlando Reyes)

*Matter of Michael J. Aviles*, 152 AD3d 27 (1<sup>st</sup> Dept 2017)

Aviles was publicly censured for violating Rules 3.3(a)(1), 8.4(c), and 8.4 (d) as a result of failing to promptly disclose the loss of his client's iPhone being sought in discovery by opposing counsel, and his unauthorized practice of law before a Texas bankruptcy court. His misconduct was mitigated by his previously unblemished disciplinary history, his prompt payment of significant monetary sanctions, and his admission of wrongdoing and remorse. (Staff Attorney Yvette A. Rosario)

*Matter of Claude Castro*, 155 AD3d 102 (1<sup>st</sup> Dept 2017)

Castro was intermily suspended as the record sufficiently established that he converted and/or misappropriated client's funds as evidenced by bank records which show that over a four year period, he repeatedly invaded the \$58,150 he should have held intact for the client, which he failed to address in his opposition papers. (Staff Attorney Yvette A. Rosario)

*Matter of Marjorie Modestil*, 154 AD3d 37 (1<sup>st</sup> Dept 2017)

Modestil, had been intermily suspended from the practice of law based upon her willful failure to cooperate with the AGC's disciplinary investigation, for admitting under oath that she had committed an act or acts of professional misconduct, for other uncontested evidence of professional misconduct, for her failure to pay money owed to a client which was demonstrated by a judgment, and for her failure to comply with the Office of Court Administration registration requirements, all of which immediately threatened the public interest. [142 AD3D 9 (1<sup>st</sup> Dept 2016)] Thereafter, Modestil was disbarred based on her failure to respond to or appear for further investigatory or disciplinary proceedings within six months from the date of the order of suspension. (Staff Attorney Yvette A. Rosario)

*Matter of W. Marilyn Pierre*, 153 AD3d 306 (1st Dept 2017)

Pierre was interimly suspended for treating her escrow account as an operating account, commingling client funds with her own, and using her escrow account to avoid a seizure by tax authorities in violation of Rules 1.15(b), 8.4(c) and 8.4(h). The interim suspension was also warranted based on Pierre's mishandling of guardianship funds and willful failure to satisfy a judgment owed to her former client in violation of Rule 8.4(d). Pierre's struggles with bulimia, depression, attention deficit disorder and homelessness did not avert the interim suspension as the commingling of funds, conversion and/or misappropriation of client funds, use of her escrow account to avoid seizure by tax authorities and failure to satisfy a judgment were not attributed to her conditions. (Staff Attorney Yvette A. Rosario)

*Matter of John L. Weichsel*, 154 AD3d 207 (1<sup>st</sup> Dept 2017)

Pursuant to the reciprocal disciplinary provision of 22 NYCRR 1240.13, Weichsel was suspended from the practice of law for a period of three months *nunc pro tunc* to the effective date of, and based upon, an order of suspension imposed upon him in New Jersey for failing to safeguard clients funds; failing to properly maintain IOLA account records; failing to properly supervise his secretary, which enabled her to steal client funds; and making intentionally false statements to disciplinary authorities. In light of Weichsel's expressed contrition and extensive efforts to mitigate, including reporting his secretary to law enforcement, contributing \$25,000 of personal funds to ensure no client suffered a monetary loss, and retaining an accountant to ensure his IOLA account records would be properly maintained in the future, a 90-day suspension, retroactive to the effective date of respondent's New Jersey suspension, was imposed. (Staff Attorney Yvette A. Rosario)

*Matter of Siddarth Dubal*, 151 AD3d 34 (1<sup>st</sup> Dept 2017)

On May 11, 2017, the Court granted Dubal's application for resignation. Dubal, who was also admitted in New Jersey, admitted that on January 26, 2016, the Supreme Court of New Jersey disbarred him on consent and further acknowledged that he was the subject of an investigation by the AGC involving allegations of professional misconduct, regarding conversion or misappropriation of client trust funds in a total amount of \$174,807.15. Although he made full restitution to each of the clients, he could not successfully defend himself against the allegations under investigation. (Staff Attorney Remi E. Shea)

*Matter of Mark Hidalgo*, 158 AD3d 1 (1<sup>st</sup> Dept 2017)

On March 15, 2017, the Court granted the AGC's motion for interim suspension based on Hidalgo's failure to cooperate and clear and uncontested evidence that he engaged in conduct that immediately threatened the public interest. Hidalgo's IOLA bank records showed that he converted and/or misappropriated the \$22,500 down payment involving his client's real estate transaction. (149 AD3d 58) After Hidalgo failed to appear or apply in writing for reinstatement within six months of his suspension, the AGC moved to disbar him, pursuant to 22 NYCRR 1240.9(b), which motion the Court granted on December 29, 2017. (Staff Attorney Remi E. Shea)

*Matter of Carlos Moreno*, 156 AD3d 51 (1<sup>st</sup> Dept 2017)

On March 9, 2017, the Court suspended Moreno on an interim basis for failing to produce his personal and business income tax returns for the 2010 through 2013 tax years. (149 AD3d 65) Thereafter, on November 30, 2017, the Court suspended Moreno for four years, *nunc pro tunc* to the date of his interim suspension. The Court sustained 20 charges pending against him, finding, in summary, that Moreno had failed to pay \$48,284.42 in child support and failed to turn over his tax returns as requested, in violation of 22 NYCRR 1200.0, Rule 8.4(d) and (h); misused his IOLA account in violation of Rules 1.15(a), (b)(1), (d)(2), and (e); and showed incompetence and a lack of candor in three client matters in violation of Rules 1.1(a), 1.3(a) and (b), 1.8(e), and 8.4(c). At his sanction hearing, Moreno offered no mitigation, showed no remorse, and offered no assurance that he intended to make any effort to improve his legal practice. (Staff Attorney Remi E. Shea)

*Matter of Robert Meloni*, 154 AD3d 34 (1<sup>st</sup> Dept 2017)

On September 5, 2017, the Court granted a joint motion for discipline by consent in which Meloni admitted violating Rules 1.15(a), 1.15(b)(1) and (2), 1.15(e), and 8.4(h). Specifically, Meloni admitted misuse of his escrow account by making improper cash withdrawals, commingling client funds with business funds, failing to properly identify the special account, and falsely certifying his compliance with Rule 1.15 in his attorney biennial registration. In mitigation, the parties stipulated that Meloni has never before been the subject of attorney discipline in the 36 years he has practiced law; for nearly 10 years he has been recognized as an "AV" rated attorney by Martindale Hubbell; he has engaged in pro bono activities; with the exception of the three-day period, he did not hold client or third-party funds in his escrow account with his business funds; no checks were

dishonored and no conversion or misappropriation of client funds occurred during the audit period; he has fully cooperated with the AGC and has taken full responsibility for his misconduct; and he has expressed remorse and embarrassment for his misconduct. In addition, Meloni asserted that in the years prior to the audit period, he suffered both personal and financial hardships which contributed to his misuse of his escrow account. Meloni was publicly censured. (Staff Attorney Remi E. Shea)

*Matter of William E. Baroni*, 152 AD3d 35 (1st Dept 2017).

Baroni was convicted, after a jury trial, in the United States District Court, for the District of New Jersey, of conspiring to obtain by fraud and intentionally misapply property of an organization receiving federal benefits, conspiracy to commit wire fraud, wire fraud, conspiracy against civil rights, and deprivation of civil rights, for which he was sentenced to 24 months' incarceration and ordered to pay \$14,314 in restitution. Baroni's conviction arose from his misuse of his position as Deputy Executive Director of the Port Authority of New York and New Jersey by conspiring with others to punish the Mayor of Ft. Lee, New Jersey, for not endorsing New Jersey Governor Chris Christie's re-election bid, by improperly closing lanes on the GW Bridge, thereby causing the streets of Ft. Lee to become clogged with traffic. Baroni and his cohorts fabricated and advanced a false story that the lane reductions were for a traffic study so that they could use Port Authority resources and personnel to carry out their scheme. The Court found that respondent's federal conviction constituted a "serious crime" and suspended him on an interim basis pending further proceedings. (Deputy Chief Attorney Raymond Vallejo)

*Matter of David J. Boden*, 146 AD3d 69 (1<sup>st</sup> Dept 2017)

Boden pleaded guilty, in the United States District Court, for the Southern District of Florida, to the felony of conspiracy to commit wire fraud. His conviction arose out of his involvement in a Ponzi scheme orchestrated by a disbarred Florida attorney. Boden's cohort had devised a fraudulent scheme involving fictitious confidential settlements. Boden conspired to broker the sale of these purported confidential settlements to investors. The Court found that Boden's felony conviction was "essentially similar" to the New York felony of scheme to defraud in the first degree and ordered him disbarred. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Aaron Davidson*, 150 AD3d 182 (1<sup>st</sup> Dept 2017)

Davidson pleaded guilty, in the United States District Court, for the Eastern District of

New York, to the felony of racketeering conspiracy and wire fraud conspiracy. His conviction stemmed from his employment with Traffic Sports USA, a firm headquartered in Florida. Davidson admittedly negotiated and facilitated the payment of millions of dollars in bribes to soccer officials in order to secure lucrative media and marketing contracts for his employer. Davidson's conviction was part of the many prosecutions connected to FIFA, the international organization governing organized soccer. The Court found that the crimes of which Davidson was convicted were "serious crimes" and ordered him immediately suspended pending further disciplinary proceedings. (Deputy Chief Attorney Raymond Vallejo)

*Matter of William Doonan*, 157 AD3d 44 (1<sup>st</sup> Dept 2017)

Doonan pleaded guilty, in the United States District Court, for the Southern District of New York, to aiding and assisting in the preparation of a false and fraudulent U.S. individual tax return and corruptly endeavoring to obstruct and impede the due administration of the internal revenue laws, both felonies. Doonan, who operated a tax preparation business, admitted that between tax years 2009 through 2012 he knowingly prepared and caused the filing of federal income tax returns for certain clients which contained fictitious and inflated itemized deductions and business expenses. He was sentenced to 24 months in prison, fined \$10,000 and ordered to make restitution in the amount of \$65,572. The Court found that respondent's conviction was "essentially similar" to the New York felony of offering a false instrument for filing in the first degree and ordered him disbarred. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Anthony A. Pastor*, 154 AD3d 184 (1<sup>st</sup> Dept 2017)

Pastor was found guilty, after a jury trial in New York County Supreme Court, of the felony of aggravated cruelty to an animal and the misdemeanor of torturing an animal. He was sentenced to a term of two years' imprisonment and banned for ten years from owning any animals. Specifically, Pastor was found guilty of killing his girlfriend's dog by inflicting repeated blows to the dog until she lost consciousness. The Court ordered Pastor automatically disbarred based upon his felony conviction. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Stuart I. Rich*, 157 AD3d 73 (1<sup>st</sup> Dept 2017)

Rich pleaded guilty, in Supreme Court, New York County, to criminal tax fraud in the fifth degree, a misdemeanor, for his willful failure to timely file his personal income tax

returns for New York State for the years 2008 through 2014. He was sentenced to a one-year conditional discharge, without supervision, and was ordered to pay \$1,194,706 pursuant to an agreement with the NYS Tax Department. The Court found that Rich was convicted of a "serious crime" and suspended him pending further proceedings. A joint motion for discipline by consent was subsequently granted by the Court which ordered Rich suspended for one year. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Allison Scollar*, 159 AD3d 59 (1<sup>st</sup> Dept 2017)

Scollar pleaded guilty, in Supreme Court, New York County, to grand larceny in the second degree, residential mortgage fraud in the second degree, and scheme to defraud in the first degree, all felonies. Scollar had entered into a plea and cooperation agreement with the New York County District Attorney's Office that was filed under seal. The Court found that Scollar's conviction of these New York felonies warranted her automatic disbarment. (Deputy Chief Attorney Raymond Vallejo)

*Matter of Michael J. Rosenblatt*, 159 AD3d 82 (1<sup>st</sup> Dept 2017)

Rosenblatt pleaded guilty, in Supreme Court, New York County, to grand larceny in the second degree, a class "C" felony. Rosenblatt had entered into a plea and cooperation agreement with the New York County District Attorney's Office that was filed under seal. The Court found that Rosenblatt's conviction of a New York felony warranted his automatic disbarment. (Deputy Chief Attorney Raymond Vallejo)

**Appendix A: AGC Assignments**

**Committee 1**

Ernest J. Collazo, Chair  
Abigail T. Reardon, Vice-Chair

Daniel R. Alonso  
Marjorie E. Berman  
Daniel D. Chu  
Ralph C. Dawson  
Peter G. Eikenberry  
Donna Fishman\*  
Keisha-Ann G. Gray  
John J. Jerome#  
Eve Rachel Markewich  
Charles G. Moerdler  
Frederic S. Newman  
Lee S. Richards III  
Barbara K. Rothschild\*#  
David M. Rubin  
Lawrence S. Spiegel  
William St. Louis  
Hon. Joseph P. Sullivan  
Stephen L. Weiner  
Toby R. Winer\*

**Committee 2**

Charlotte Moses Fischman, Chair  
Myron Kirschbaum, Vice-Chair

Robert M. Abrahams  
Robert J. Anello  
Thomas Birnbaum\*  
Joyce Bove\*  
Hon. James M. Catterson  
Vincent T. Chang  
Sylvia F. Chin  
Richard J. Condon\*  
Darrell S. Gay  
Nicholas A. Gravante, Jr.  
Robert L. Haig  
Danielle C. Lesser  
Alan Levine#  
Elliot Moskowitz  
Ricardo E. Oquendo  
Edward M. Spiro  
Anne C. Vladeck  
John L. Warden  
Gonzalo S. Zeballos#

\*Public Member

#Appointment ended in 2017

2017

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

Jorge Dopico  
Chief Attorney

Deputy Chief Attorneys

Angela Christmas  
Naomi F. Goldstein  
Vitaly Lipkansky  
Raymond Vallejo

Special Trial Attorney

Jeremy S. Garber

Staff Attorneys

Sinan Aydiner  
Sean A. Brandveen  
Kevin P. Culley  
Sherine F. Cummings  
Kevin M. Doyle  
Paul L. Friman  
Jun Hwa Lee  
Norma I. Lopez  
Norma I. Melendez  
Elisabeth A. Palladino  
Lance E. Philadelphia  
Orlando Reyes  
Yvette A. Rosario  
Kathy Wu Parrino  
Remi E. Shea  
Denice M. Szekely



2017

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

Investigators

George Cebisch, Chief  
Anthony Rodriguez

Paralegals

Joel Peterson  
Robert F. Murphy, Investigator/Paralegal

Office Manager

Marcy Sterling  
Nancy De Leon, Assistant Office Manager

Accountant

Martin Schwinger

Computer Personnel

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

Administrative Assistants

Monique R. Hudson-Nlemchi  
Donna M. Killian  
Tennille Millhouse  
Tina M. Nardelli  
Celina M. Nelson  
Michael J. Ramirez  
Gloria Rodriguez  
Natasha S. Solomon  
Leonard Zarillo

**Appendix D: Annual Report to OCA**

UCS-176 Rev. 01/03

**ATTORNEY DISCIPLINE ACTIVITIES**

PERIOD COVERED: 2017

FIRST JUDICIAL DISTRICT - FIRST DEPARTMENT

**I. MATTERS PROCESSED**

A. Matters Pending at Start of Period	<b>1147</b>	
B. New Matters During Period	5701	
C. Closed Matters Reactivated During Period	69	
D. Total Matters To Be Processed During Period (A+B+C)		6917
E. Total Matters Disposed Of During Period		(5672)
F. Matters Pending at End of Period		<b>1245</b>

**II. MATTERS DISPOSED OF BY COMMITTEE**

Cases<sup>2</sup>    Matters

A. Rejected As Failing to State a Complaint	413	465
B. Referred To Other Disciplinary Committees	307	327
C. Referred To Other Agencies	160	167
D. Dismissed or Withdrawn	1457	1516
E. Dismissed Through Mediation	1	1
F. Letter of Caution	0	0
G. Letter of Admonition	69	81
H. Reprimand (after hearing)	0	0
I. Referred to Appellate Division (Disciplinary Proceeding)	3056	3115
Total Disposed of During Period ("Matters" same as <i>I.,E.</i> above)	5463	<b>5672</b>

**III. CASES PROCESSED IN ALL COURTS**

A. Cases Pending at Start of Period		36
1. Disciplinary Proceedings	21	
2. Other	15	
B. Cases Received at Start of Period		3375
1. Disciplinary Proceedings	3041	
2. Other	334	
C. Total to be Processed During Period		<b>3411</b>

**ATTORNEY DISCIPLINE ACTIVITIES (2017)**

**D. Cases Closed**

1. Disbarred	26	
2. Disciplinary Resignations	4	
3. Suspended <sup>③</sup>	2945	
4. Censured	6	
5. Privately Censured <sup>④</sup>	2	
6. Remanded to Grievance Committee	7	
7. Discontinued	5	
8. Dismissed	0	
9. Reinstatements Granted <sup>⑤</sup>	250	
10. Reinstatements Denied	6	
11. Non-Disciplinary Resignations	40	
12. All Other Dispositions	65	
<b>13. Total Closed</b>	<b>3356</b>	<b>(3356)</b>

**E. Total Cases Pending at End of 2017 Period**

1. Disciplinary Proceedings	37	<b>55</b>
2. Other	18	

- ① Matters include: complaints, inquiries (excluding telephone inquiries) and *sua sponte* investigations.
- ② Cases refers to the number of respondent attorneys. Since some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.
- ③ Includes: (12) definite, (20) interim, (1) indefinite suspensions and (2912) for failure to register (468-a).
- ④ Reported as "Private Reprimand" until September 2016, now "Admonition by Court Order."
- ⑤ Includes (117) reinstatements following suspensions for failing to register (468-a default), (6) disciplinary reinstatements, and (1) non-disciplinary reinstatement.

**Appendix E: Budget for Fiscal Year 2017-2018**

Attorney Grievance Committee Budget  
Fiscal Year April, 2017 - March, 2018

	<u>Allocation</u>
Personal Service Total:	\$ 4,183,083.00
 <u>Non-Personal Service:</u>	
Office Supplies	23,949.00
EDP Supplies	3,596.00
Postage Only	23,000.00
Legal Reference & Subscriptions	22,064.00
Miscellaneous Supplies and Materials	3,188.00
Travel General	-
Rentals of Equipment	22,448.00
Repairs of Equipment	4,981.00
Shipping	19.00
Printing General	5,258.00
Telephones	4,041.00
Building and Property Services	4,331.00
Records Management Services	18,843.00
Professional Services - Expert Witnesses	1,700.00
Other Court Appointed Services	45,542.00
Other General Services	8,881.00
Professional Services Per Diem Court Reporters	-
Transcript Costs General	58,556.00
Computer Assisted Legal Research	-
Equipment - New/Replacement	-
 Non-Personal Service Total:	 \$ 250,397.00
 TOTAL BUDGET FISCAL YEAR 2017-2018	 \$ 4,433,480.00

**Appendix F: Sample Complaint Form**

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

**Jorge Dopico  
Chief Attorney**

**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:**

