Cyberbullying and the Workplace: Employers Beware

With a growing number of employers permitting access to social media at work, the probability of employees cyberbullying co-workers is increased, and employers need to be knowledgeable about the potential liability they could incur. While no U.S. jurisdiction has created a cause of action for discriminatory conduct that occurred therein. The expansive use of technology has blurred this principle because workplaces are no longer limited to the physical walls of an office building or a factory. Today, the workplace is anyplace an employee can access LogMeln, Citrix, or other similar remote access networks. As such, the risk of liability has expanded into a murky and unclear area.

With regard to the issue at hand, the decision in Espinosa v. County of Orange is instructive. In Espinosa, employees posted anonymous comments about a disabled employee on personal blogs, which referenced said employee and contained complaints about the workplace environment. The employer had no knowledge of the blogs until the employee filed complaints with the employer about said postings. Despite being made aware of such potentially discriminatory postings, the employer never interviewed any employees and conducted a cursory investigation of the matter. Eventually, the employer emailed all staff reminding them the blog posts in question violated the employer's policies, instructed all staff to stop posting inappropriate comments, and only partially blocked said employees from the workplace. Based upon the foregoing facts, the court found the employer liable for harassment and disability discrimination under California law.

According to the court in Espinosa, under California law, an employer was liable for harassment based on a disability if it knew or should have known of the harassing conduct and failed to take immediate and appropriate corrective action. As such, the court found that the postings were sufficiently related to the workplace because employees accessed the blogs on the workplace computers; the blogs referred to the disabled employee directly; and the postings discussed work-related issues. Rejecting the employer's argument that the imposition of liability was improper because the postings were outside the workplace and

An Apple a Day, Keeps the Doctor and the DCA Away

By Jennifer S. Yoon, Esq.

Mayor Bill de Blasio has only been in office for less than a year, and already the tremors of his legislation are being felt, rippling throughout the City for businesses. On April 1, 2014, legislation requiring private sector employers with five or more employees to provide paid sick leave came into law. Under the amended law, certain employees must allow sick paid leave for employees to care for themselves, or a family member.

What is the New Law?

New York City Earned Sick Time Act, also known as Paid Sick Leave Law, has been amended to require certain private sector employers to provide paid sick leave for eligible employees. Under the law, employees are able to accrue one hour of sick leave for every 30 hours worked, up to a maximum of 40 hours per calendar year. Employees may carry over up to 40 hours of unused sick time, however, with provisions that an employer may choose to pay for unused sick days at the end of the year. Among other conditions, an employee may use sick leave when they have a mental or physical illness or require preventive medical care. These conditions are similar for employers who use their sick days to take care of family members.

With a medical condition, the employer can require documentation from a licensed health care provider if the employee uses more than three consecutive workdays as sick leave. However, employees are protected to a certain extent in that the law prohibits employers from requiring the health care provider to specify the medical reason for sick leave. Importantly, the Act contains prohibitions on employers threatening, firing, disciplining, or reducing an employer’s hours for requesting or using sick time. For the purposes of enforcement, the Act does not authorize employees to bring a court action to enforce their rights. Instead, any employed that has a complaint or claims to have been denied sick leave must seek relief through the DCA (Department of Consumer Affairs). Employers may be fined or punished with civil penalties, ranging from $500 to $1,000.

Furthermore, employers must now notify employees in writing regarding their rights to sick time, including the accrual and use of the new provisions. The Notice of the Act’s provisions must be given to new hires employed after April 1, 2014 on their first day of employment.

Who Must Provide?

Employers with five or more employees who work more than 80 hours per year must provide sick leave. Smaller employers will be required to provide unpaid, but job-protected sick leave.

Who Is Eligible?

Employees who work more than 80 hours or more per year for their employer are eligible. The law now covers full-time and part-time employees, transitional jobs program employ-
The Interactive Process: Rights and Obligations of the Employee and Employer

Written by Julieanne Yanez, Esq.
Edited by Stephen McQuade, Esq.

The legislative intent behind anti-discrimination laws such as the Americans with Disabilities Act (ADA), the New York State Human Rights Law (NYSHRL), and the New York City Human Rights Law (NYCCHR) aims to remove barriers and afford protections against unlawful behavior for a lawful status in the area of employment. While each statute has distinct statutory language, the ADA, NYSHRL, and NYCCHR place rights and impose obligations on both the disabled employee and his/her employer to insure equal opportunity in the workplace.

One right afforded an employee under the ADA, NYSHRL, and NYCCHR, arises when a disability claim is made. The disability and subsequently makes a request to his/her employer for a reasonable accommodation. In turn, the disabled employee's request for a reasonable accommodation imposes an obligation on the employer to engage the employee in an "interactive process" to ascertain what accommodations, if any, may be provided. The extent to which an employer must engage in an interactive process has been the topic of numerous federal decisions and recent decisions under New York State and City law.

The Interactive Process Under Federal Law

The ADA prohibits the discrimination of a qualified individual on the basis of disability in the discharge of employees. The ADA expressly states that the "employer shall not refuse to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability. However, the ADA does not provide an express definition of a "reasonable accommodation." The Code of Federal Regulations suggests that to determine the appropriate reasonable accommodation, the employer may need to initiate an informal, interactive process with the disabled employee in need of the accommodation. The Code of Regulations describes the interactive process as a means to identify the limitations resulting from the disability and identify potential reasonable accommodations that could overcome the limitations. The language in the EEOC Compliance Manual further supports the Code of Regulations.

The Second Circuit has not held or taken the position that the interactive process is a mandatory legal obligation. Rather, the Second Circuit has held that, when an employee requests a reasonable accommodation, the obligation of an employer to engage in the interactive process is triggered. Moreover, the Second Circuit has also opined that an employer's failure to engage in an interactive process is not an independent element to determine liability, but rather, returns the disability accommodation claim, but merely a factor to consider.

The Interactive Process Under New York State and City Law

Similar to the ADA, the NYSHRL defines "reasonable accommodation" and prohibits an employer from refusing to provide reasonable accommodation to the known disabilities of an employee. The NYSHRL also does not define or discuss an interactive process. Similar to the ADA and the NYSHRL, the NYCCHR defines reasonable accommodation, but does not discuss an interactive process or the obligation of the employee and employer to engage in an interactive process. While the NYSHRL regulations employ language to describe an interactive process, there has been a dearth of legal authority discussing the issue of whether the "interactive process" is a mandatory legal obligation under New York State and City law.

In its analysis, the Court of Appeals reasoned that the "interactive process" is an interactive process that is an independent element to determine liability. Rather, the Court of Appeals addressed the issue of whether a New York employer must engage in the interactive process with an employee even if the accommodation requested by the employee suggests the employee cannot perform the essential functions of his job. The Court of Appeals answered this question as "yes." The Court of Appeals held that an employer "failed to demonstrate it responded to a disabled employee's request for a particular accommodation by engaging in a good faith interactive process regarding the feasibility of that accommodation, summary judgment may be precluded by the employer.

Moreover, when the Plaintiff, a Health Facilities Planner, was diagnosed with a form of pulmonary dysfunction and shortly thereafter was reassigned. After this transfer, the Plaintiff received a new diagnosis of "pulmonary stenosis," an occupational lung disease caused by prolonged inhalation of asbestos or other dust particles. The Plaintiff then requested a three-month medical leave of absence. At the time, the Plaintiff's physician stated the Plaintiff should not be exposed to "inhaled dusts." Three months later, the Plaintiff's physician counsel requested that the Plaintiff be given a reasonable accommodation in the form of a reassessment. The Plaintiff was reassigned, but returned to work with a disability accommodation. Upon his return, the Plaintiff requested a protective respirator to prevent excessive dust intake. The protective respirator was not provided to the Plaintiff; instead, the Respondent provided the Plaintiff a standard dust mask. Shortly thereafter, the Plaintiff filed a disability discrimination complaint.

In its analysis, the Court of Appeals reasoned that under both statutes an employer's request for a reasonable accommodation is relevant as to whether an accommodation can be made. Under the NYSHRL and the NYCCHR, the request for a reasonable accommodation made by the employee guides the employer in the exploration of the reasonableness of the accommodation requested. Failures to so may foreclose summary judgment in favor of the employer. The precise parameters of what constitutes an adequate, good faith, interactive process are the subject of current cases.

Conclusion

Guidance from recent federal and state decisions firmly suggests that when an employee adequately informs his or her employer of his or her request for a reasonable accommodation, the employer has at a minimum a duty to engage in an interactive process under the ADA. In light of the recent Jacobsen decision, under New York State and City law, the employer must engage in an interactive process where a good faith dialogue is created between both the employee and the employer as to the feasibility of the accommodation requested. Failure to do so may foreclose summary judgment. By making such requests, employees and employers can anticipate what constitutes an adequate, good faith, interactive process. Additionally, both employees and employers must give individualized consideration to that request and may not arbitrarily reject the employee's proposal without further inquiry.

While the decision places a legal obligation on the employer, the Court of Appeals did explain that an employee's failure to engage in an interactive process is just one factor to consider in determining if the time the employee sought the reasonable accommodation, one was available to the employee.

This finding still places an obligation on the employee when commencing a failure to accommodate claim and overcoming the hurdle of summary judgment. By making this finding, the Court of Appeals provides an opportunity to the employer that summary judgment is not an insurmountable hurdle that the employer cannot overcome.

Julieanne Yanez, Esq., is an EEOC/AA Officer at the New York City Health & Hospitals Corporation, and a Member of the NYCLA Labor & Employment Law Committee.

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Message from Lew Tessier President of NYCLA

Dear Reader:

What do lawyers need? A strong support system, ongoing professional development? Continuing education? Certainly. NYCLA provides the ingredients for lawyers of all fields and experience to get to the top of their game and stay there. With an open committee structure, lawyers can participate on any committee and be a part of the great work that they do—publishing articles, donating to ongoing exciting programming and fabulous social events. Public sector employees, like you, receive a huge dues discount – 60%. Diving is a great value!

NYCLA is a community of nearly 9,000 attorneys, judges, academics, and law students. We offer a range of benefits and opportunities. As a Member, you can take advantage of numerous publications, courses, lectures, community programs, and exciting networking events with lawyers and judges. Members receive our monthly newspaper, New York County Lawyer, written for lawyers by lawyers and our weekly eNewsletter. Both will keep you up to date on the latest happenings at NYCLA, as well as offer professional expertise on legal trends.

As a NYCLA Member, you also get to enjoy great benefits such as job referrals, discounts on legal research, special prediscipline courses, free membership in the Bar Association of the City of New York, and MORE. NYCLA is a proud affiliate of the New York City Bar Association. NYCLA Members can access New York City Bar Association website for additional benefits.

Further, employers should be vigilant regarding the effective and efficient investigation of complaints filed by employees regarding potentially discriminatory posts, blog entries, pictures, and other similar representations that appear to have been made by other, fellow employees, especially when taken in context with an employee’s status in the workplace. In the event that complaints are found to be legitimate, employers should take swift, remedial actions, in order to address said complaints, to limit its exposure to liability and to prevent future, similar abuses from occurring.

Additionally, the potential liability that can originate from cyberbullying in and out of the workplace, how employers deal with the increased risk of liability without action, and whether the law offers a solution. New York has recently passed a law that prohibits employers from terminating employees for an employee’s exercise of his or her constitutional right to freedom of speech.

This is not an exhaustive list of the provisions of the law, but merely to be used as an overview of the “who, what, where, when, why” of the new legislation. For detailed information regarding the provisions of the law, employers and employees can consult the New York City Bar Association’s webpage or call 311. In attempts to modernize and steadily stream information, further information may be found within the Department of Consumer Affairs’ webpage, or Twitter, Facebook, and Instagram account using the handle @NYCDCA and hashtag #paidsickleave.

Jennifer S. Yoon, Esq., is a Litigation Defense Attorney at<nolink>. She also practices general litigation in New Jersey and Florida, and is a board member of a nonprofit organization in New York.

Message from the NYCLA Foundation

A Future Made of Innovation and Enterprise

Dear Member:

As we usher in new leadership at NYCLA, I welcome everyone to take a moment to reflect on the importance of our programs, our roles as lawyers, and the great spirit of inclusion and justice that define our community. As our new Board President, Lewis Tessier expressed at this year’s Annual Meeting, it is truly an honor and a privilege to serve people in our capacity. And to that end, I might add how vital it is that we consider our future capacity to continue to serve and defend those who need us most. This, in essence, means finding new resources and methods to increase our impact in the community and also our efforts to educate and encourage our lawyers.

As the new President of the NYCLA Foundation, my priority is to build upon the very spirit that defines our work and traditions in law by investing in the development of a plan that will serve to strengthen the financial and moral support of our current programs. As you know, NYCLA’s pro bono programs are a top priority to the Association and to the Foundation. Equally, such is the Hon. Harold Baer and Dr. Suzanne Baer Minority Judicial Internship Program, which provides opportunities to law students from a wide array of backgrounds. Currently, NYCLA depends on the generous donations of its Members, as well as that of a few outside foundations, and corporate donors. Although we have done well to support our programs in the past, we can and must do more. While I only mentioned two of the many initiatives we have at NYCLA, I hope to emphasize that we have truly scratched the surface in terms of what we can do to support and develop all our programs.

So we must charge forward and begin to plan and take action, and become creative, innovative, and enterprising when it comes to doing business, fundraising, and serving the patrons of our community. Yes, we still need your confidence and support to encourage you to keep giving to NYCLA, as we cannot continue this work without you. However, I also hope that you will keep an open mind as well roll out new ideas, initiatives, and build new relationships with other organizations and companies that can AND WILL support NYCLA’s work.

See Sigmund on page 9

Jad Damouraj, Esq., is an Associate at Trivella & Forta, LLP and Chair of the NYCLA Labor & Employment Law Committee. Erich J. Baer, Esq., Law Office of Michael Botton, LLC, is a member of the NYCLA Labor & Employment Law Committee. Stephen McQuade, Esq., is an Associate at Balin Adler & Hyman, LLP, and Chair of the NYCLA Labor & Employment Law Committee.

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Lew Tessier, President New York County Lawyers’ Association

NYCLA CYBERBULLYING

Continued from page 2

potentially facing cyberbullying. The New York City Human Rights Law (NYCRL) defines cyberbullying as “willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices that is intended to frighten, harass, cause harm to, extort, or otherwise target another.” Although this provision does not constitute an independent cause of action under the NYCRL, conduct that underlies the provisions of the law can potentially constitute a cause of action currently authorized under the NYCRL.

According to the legislative intent of the NYCRL, Section 8–107(1) (a) of the NYCRL makes it “an unlawful discriminatory prac- tice... for an employer or an employee or agent thereof, because of the actual or per- ceived national origin, race, color, creed, national origin, gender, disability, marital status, partner- ship status, sexual orientation or alienage or citizenship status of any person, to refuse to hire or employ or to harm or to discharge from employment such person or to discrim- inate against such person in compensa- tion or in terms, conditions or privileges of employment.”

To establish discrimina- tion under the NYCRL, a plaintiff must demonstrate “by a preponderance of the evidence that [he/she] has been treated less well than other employees because of [his/her] protected class of employee[s]”. Furthermore, the NYCRL imposes strict liability on an employer for the dis-criminatory acts committed by its employ- ees where (1) the offending employee or agent “exercised managerial or supervisory responsibility;” (2) the employer “knew” of the employee’s or agent’s discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropri- ate corrective action; and (3) the employer “should have known of the employee’s or agent’s discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.”

Extrapolating these principles and apply- ing them to the NYCRL, employers should be vigilant regarding activity on social media sites that they administer and/or sponsor, par- ticu- larly because employers in the City of New York may be held to be strictly liable for dis- criminatory acts perpetrated by its employees.

Further, employees should be vigilant regard- ing the effective and efficient investigation of complaints filed by employees regarding potentially discriminatory posts, blog entries, pictures, and other similar representations that appear to have been made by other, fellow employees, especially when taken in context with an employee’s status in the workplace. In the event that complaints are found to be legitimate, employers should take swift, remedial actions, in order to address said complaints, to limit its exposure to liabil- ity, and to prevent future, similar abuses from occurring.

Additionally, the potential liability that can originate from cyberbullying in and out of the workplace, how employers deal with the increased risk of liability without action, and whether the law offers a solution. New York has recently passed a law that prohibits employers from terminating employees for an employee’s exercise of his or her constitutional right to freedom of speech.

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4 Evening Bridge the Gap:  
A Program for Newly Admitted Attorneys

16 NY Credits: 3 Ethics; 7 PP/LPM; 6 Skills  
16 NJ Credits: 3 Ethics; 13 General  
Transitional and Non-transitional

By attending the 4 sessions held on Wednesday evenings beginning September 10, and continuing on September 17, October 1 and October 8, newly admitted attorneys can complete their first or second year New York MCLE requirements.

If you can’t attend all 4 sessions, mix and match the sessions that fit your needs and your schedule. These sessions also serve as great refreshers for more experienced attorneys looking to learn about new practice areas, brush up on their skills or learn about recent developments in the law.

Topics include:
  ° BYOD: Using Personal Devices in the Workplace  
  ° Ethics  
  ° Privilege and e-discovery  
  ° What You Need to Know About Privacy Law  
  ° 12 Cases from the Past Year Every Real Estate Attorney Should Know

Check our website for updates and September course schedule!

www.NYCLA.org
Employee Engagement: A Great Defense Against Workplace Problems

By Russ Korins, Esq.

In their passion to win, they don't have the listeners' needs. Focus on your purpose/objectives and your difficult to focus on the task at hand! Prepare yourself.

By Russ Korins, Esq.

As the other articles in this issue of New York County Lawyer demonstrate, there are many ways an employee can cause problems in a workplace. There are also many legal rules and remedies attorneys use to address these problems. But what if you could do something proactively to lower the chance that these problems occur in the first place? Even better, what if you could rally all employees around a common set of goals and values, so that brought into a united mission, their energy goes into working together rather than working at each other.

This has been a hot topic among chief executives and business owners of companies large and small, as businessespeople now have a better understanding than ever of what it means to increase employee engagement. This is also valuable knowledge for anyone, like a partner at a firm, who work with HR and talent management executives on hiring and retaining the best employees in a competitive marketplace.

To learn more about this, I spoke with Jeremy Wortman, Ph.D., whose career in talent management has included leading employee engagement initiatives at a large online brokerage, teaching on organizational psychology, and consulting to business leaders across the country on talent management issues.

1. RK: What do you mean for an employee to be “engaged?”

2. JW: When we say an employee is engaged, it is a function of three things. First, they are emotionally connected to their organization, meaning they feel proud to be a member. Second, they are psychologically connected, meaning they believe in the organization’s mission, vision, and values. And finally, because of these two aspects, they will go above and beyond the call of duty for the organization and are much less likely to leave. For an engaged employee, the workplace is much more than a cubicle and a to-do list. It has a greater meaning in the employee’s mind.

3. RK: So it makes sense that a lack of engagement would be related to the number of problems a company has with employees. JW: That’s right. In fact, study after study has shown that disengaged employees undo all of the great work of engaged employees by spreading negativity and behaving counterproductively. That’s why companies are more attentive than ever to making sure that rate of employee engagement is as high as possible. It saves these problems by engaged employees and the high costs of turnover after they leave.

4. RK: What are some of the day-to-day interactions and larger programs that make a difference in employee engagement?

5. JW: You’re right that it’s both day-to-day interactions and larger programs because both are so important. Take a simple conversation between a manager and one of his or her direct reports about job performance. The words used in that conversation and how the manager motivates the employee to do a better job. The time management can make a big difference in how the employee feels about the company.

6. Companies put a lot of effort into coaching supervisors and managers into having these conversations in a way to make employees feel more connected and engaged, regardless of how positive or negative their feedback is. In fact, years of evidence have proven that what is the most critical driver of employee engagement is the employee’s direct supervisor.

7. RK: What about other kinds of company-wide programs?

8. JW: Businesses all over the country are doing all kinds of things, but here are a couple of examples. Many companies have employee recognition programs that highlight those who demonstrate desirable qualities and behaviors. Recognized employees are leading examples of how to work together with colleagues, show integrity in decisions and judgment, and put clients or customers first, for example. Another example is what companies are doing with intransist and the way executives communicate with employees. The way these messages are delivered through words, video, and internal news makes a difference.

A chief executive or business owner might use language of collaboration and common goals to inspire the desired behavior, rather than commanding or patronizing. They are showing support for those people who work for them.

9. RK: Is engagement important at companies of all sizes?

10. JW: Absolutely yes. What we’re talking about is not just a concern at large corporations with thousands of employees. Engagement is also crucial at smaller businesses as well. A bad apple in a small group has the potential to bring down an entire team. If there are poor interactions in a small business, their effects will influence the dynamics of everyone. So smaller companies may not have the same size budgets for employee engagement programs, but they still need to be attentive to this and address the same issues on a smaller scale. I’ve seen good news is that a lot of the tactics we have been talking about don’t take a lot of money.

11. RK: In our previous conversations about employee engagement, you’ve talked a lot about “modeling.” What do you mean by that?

12. JW: Modeling means showing employees what it means to do what is valuable, proper, and desired. It is so important. We all come from different backgrounds with different professional experience and different goals and expectations. If you’re going to get me to buy into this common cause and mission, you can help me by showing me how I’m supposed to act. The employee recognition programs I described earlier are one way to do that. Show me what it means to work with integrity and define what that means. Another example is ethics. Rather than just telling me that being ethical is important, show me examples of employees who act ethically in day-to-day situations I recognize and understand, so I can emulate their behavior when the time comes. All employees within any size organization are always looking upwards to learn what behaviors are really desired and rewarded.

13. RK: Why do you think employee engagement has become such a talked-about topic in recent years? What changed?

14. JW: The psychology of employees and the group dynamics in business are very complex. We needed a solid understanding of why people act the way they do in different situations to look at how we can motivate and inspire employees individually and collectively.

15. Science has come a long way in the last twenty years, and there has never been a more exciting time in our field. Companies large and small understand that employee engagement is one of the great opportunities they have not only to prevent the problems that delinquent employees may cause, but also to inspire their teams to do even more of what it takes to drive a company towards its business goals.

Jeremy Wortman, Ph.D., is Founder of HBD Initiatives, a training, management, and organizational development consultancy. He can be reached at jwortman@hbdinitiatives.com and 408-817-4902.
Recent Events

On May 23, NYCLA and the Justice Resource Center co-sponsored the seventh NYC Youth Law Conference at New York Law School. One hundred thirty students from six public high schools attended a plenary session on computer forensics and workshops on criminal law and civil rights issues. The third edition of NYCLA’s NYC Youth Law Manual was launched and provided to participants.

NYCLA’s Annual Meeting

On May 29th NYCLA held its Annual Meeting, which included the induction of Lewis Tesser as NYCLA’s 60th President. The meeting was followed by a reception to celebrate the Association’s accomplishments over the past year and the induction of the new Officers and Directors. In addition, the Eppler Prize was awarded to The Criminal Justice Section for its Report and Recommendations on Bail Reform in New York State, which was published in January 2014. The Kobak Prize was presented to the Alternate Dispute Resolution (ADR) Committee and the Professional Ethics Committee for innovative programs and The President’s Commendation, a new honor, was awarded to the Task Force on Judicial Budget Cuts to recognize its superior contribution to NYCLA and to the justice system. You can view Lewis Tesser’s Annual Meeting remarks here: (https://www.facebook.com/photo.php?v=10152107957856766)

NYCLA Hosts Youth Law Day

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(Left to right): Lisa Grumet, Associate Director, Diane Abbey Law Center for Children and Families, New York Law School; Lew; Jasmine Brancati, 11th grader at New Dorp High School in Staten Island and winner of the cover art design contest for the 2014 NYC Youth Law Manual.
Recent Events

NYCLA Hosts First Annual Young Lawyers’ Awards and Reception

On June 12th NYCLA’s Young Lawyers’ Section held its first awards and reception to honor attorneys and law students for their contributions to the legal profession. 2014 Awards and recipients included: The NYCLA YLS Rising Leader of the Bar Award given to Samuel B. Cohen, Esq., Partner, Stecklow Cohen & Thompson; The NYCLA YLS Law Student Award given to Judith Leibowitz, Law Student, New York Law School (class of 2015); and The NYCLA YLS Appreciation Award given to Brett Ward, Esq., Partner, Blank Rome LLP.

Federal Courts Committee Summer Party

On June 10th NYCLA’s Federal Courts Committee hosted its annual summer party at Battery Gardens Restaurant. Gregg Kanter, the former Federal Courts Committee Chair, received the Federal Courts Committee’s David Y. Hinshaw Award.

(Lef to right): Elliott Wales, former Federal Courts Committee Chair; Stewart Aaron, former Federal Courts Committee Chair; Gregg Kanter, former Federal Courts Committee Chair; Richard Williamson, former Federal Courts Committee Chair; Mike McNamara, former Federal Courts Committee Chair; and Vince Chang, current Federal Courts Committee Chair.
The Committee on Professional Ethics accepts both written and telephone inquiries on ethics matters and provides advisory opinions. For additional information, call the members listed below.

Questions to the Hotline are limited to an inquiring attorney’s prospective conduct. The Hotline does not answer questions regarding past conduct, the conduct of other attorneys, questions that are being litigated or before a disciplinary committee or ethics committee, or questions of law. This notation shall not be construed to contain all Hotline guidelines. For a full discussion of Ethics Hotline guidelines, please see the article “Guidelines on NYCLA’s Ethics Hotline,” published in the September 2006 issue of New York County Lawyer.

September 1-15
Barry Temkin
212-804-4221

September 16-30
Glen Schleyer
212-558-7284

October 1-15
Ellen Yarashefsky
212-790-0386

October 16-31
Sarah Jo Hamilton
914-725-2801

November 1-15
Phil Schaeffer
212-819-8740

November 16-30
Whitney Elliot
973-623-9448

December 1-15
Gordon Eng
203-769-8812

December 16-31
David Willenberg
212-837-6880

Please Note: Assignments are subject to change.
All libraries have changed, and the NYCLA Library has changed too. The NYCLA Library contains a superb historical print collection and a core New York collection in print. Most other current resources are now available only in digital format, and the digital resources are extensive. Lexis, Westlaw/WestlawNext, LexisNexis, and other databases are now the primary way to access cases, statutes and administrative materials, secondary source materials, and finding tools in the NYCLA Library.

Today’s practitioner needs to be able to perform research on Lexis, Westlaw/WestlawNext and other databases, as needed, for their unique secondary source materials. The NYCLA Library offers training in Lexis and WestlawNext every month. Check the schedule and register on the CLE Calendar on the NYCLA website at www.nycla.org.

Asking the Library Staff for assistance is a great timesaver. Often times, we can point you to desired materials or point you to resources you were unfamiliar with.

To develop expertise in legal research read the main treatises and databases on the subject. I usually refer to Zimmerman’s Research Guide, an online encyclopedia for legal researchers by Andrew Zimmerman. The Guide can be found at law.lexisnexis.com/libraries/zimmerman. There is no charge, no sign-in, and no password to gain access to the Guide. While the Zimmerman’s Research Guide is hosted by Lexis, it is broad and deep in its coverage and has references to all publishers’ titles and websites. Zimmerman’s Research Guide covers international and foreign research resources in addition to U.S. law.

My second favorite research resource is the current edition of Fundamentals of Legal Research, 9th Edition (2009), by Bar-kan, Merkly, and Danna. Like Zimmerman’s Guide, this treatise is broad and deep. This book can be purchased at store.westlaw.com, the publisher, or new or used through amazon.com.

Gibson’s New York Legal Research Guide, 4th Edition (2014), by Bill Marz and Karen Spencer, is a great book if you plan to develop expertise in New York research. Twenty chapters of the book are devoted to New York State Legal Research and 12 chapters focus on New York City Legal research. This book can be purchased at order@wshein.com. To see information about the publication go to www.wshein.com.


For home access to legal research materials, most NYCLA Members qualify for the New York State Library-Attorney Borrower’s Card, which is available to New York State residents who are admitted to practice law in New York. For information about this free internet-based access to substantial legal and non-legal databases, contact Dan Jordan at djordan@nycla.org for an application for the NYSL-ABC.

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SIGMOND
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The wheels have been set in motion and we are transitioning into a new phase of business planning which includes aggressive fundraising and strategic planning. The first of our projects was to invest in and hire Stephanie Rivers as our new Director of Development, and we did. Stephanie Rivers started with NYCLA in May and we did. The first of our projects was to invest in and hire Stephanie Rivers as our new Director of Development, and we did.

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