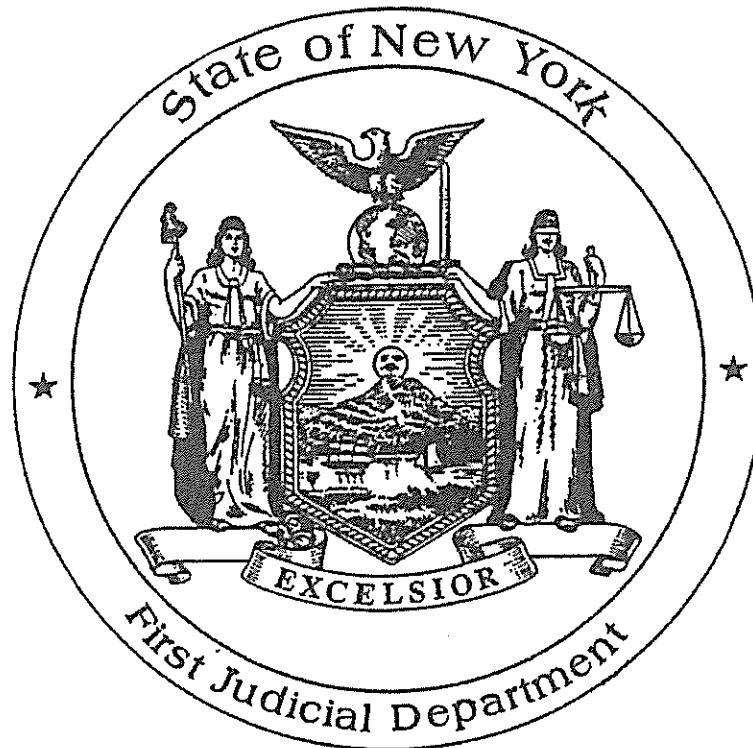


2018 ANNUAL REPORT



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

2018 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

COMMITTEE MEMBERS	1
THE DISCIPLINARY PROCESS	23
Complaints, Investigations and Dismissals	23
Letters of Advisement [22 NYCRR 1240.2(i)]	24
Letters of Admonition [22 NYCRR 1240.2(b)]	24
Applications to the Appellate Division	25
Formal Disciplinary Proceedings [22 NYCRR 1240.7(d)(2)(vi)]	25
Collateral Estoppel	26
Interim Suspensions [22 NYCRR 1240.9]	27
Resignations [22 NYCRR 1240.10]	27
Diversion [22 NYCRR 1240.11]	27
Convictions [22 NYCRR 1240.12]	27
Reciprocal Discipline [22 NYCRR 1240.13]	28
Incapacity [22 NYCRR 1240.14]	28
Reinstatements [22 NYCRR 1240.16, 1240.17]	29
REPRESENTATIVE CASES	30
Interim Suspensions	30
Disbarments	31
Disciplinary Resignations	31
Suspensions as Discipline	31
Suspensions for Medical Disability	32
Public Censures	32
Reinstatements	32
Dishonored Check Investigations	33
Immigration Complaints	33
PUBLIC DISCIPLINE CASES	34
Appendix A: AGC Assignments	56

Appendix B: Office of the Chief Attorney: Attorneys	57
Appendix C: Office of the Chief Attorney: Administrative Staff	58
Appendix D: Annual Report to OCA	59
Appendix E: Budget for Fiscal Year 2018-2019	61
Appendix F: Sample Complaint Form	62

COMMITTEE MEMBERS

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

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

In 2017, two separate volunteer Committees, each with a Chair, Vice-Chair and 19 other members, reviewed and approved staff's recommendations to dismiss, advise, admonish or formally charge respondents. Each volunteer Committee operates independently and meets six times annually.

Below are brief biographies of all of the volunteer 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.

Charlotte Moses Fischman (Chair)

Ms. Fischman is the Co-General Counsel at Kramer Levin Naftalis & Frankel LLP, where she was a litigation partner for many years. She is a *cum laude*, Phi Beta Kappa graduate of Brandeis University and a *magna cum laude* graduate of Columbia Law School, where she was an editor 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 years past, she was an Adjunct Professor of Law at Columbia Law School in the field of ethics; served as President of the National Alliance for the Mentally Ill-NYC Metro (NAMI-Metro); and was a member of the Policy Committee of the predecessor to the Grievance Committee, the Departmental Disciplinary Committee.

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.

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.

Robert M. Abrahams

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

of *Commercial Litigation in New York State Courts* (Thomson West and the New York County Lawyers' Association, 2011-2015). He received his B.A. from Hobart College and his J.D., *with distinction*, from Hofstra University School of Law, where he was editor-in-chief of the *Hofstra Law Review*.

Daniel R. Alonso

Mr. Alonso is currently Managing Director and General Counsel of the global compliance firm Exiger. 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 a member of the Board of Directors of the Fund for Modern Courts; the New York State Bar Association's Committee on Standards of Attorney Conduct; and the Board of Editors of the Journal of Financial Compliance. In 2012-13 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 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 was 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, mid-size and Fortune 500 Companies. She has been recognized by *Super Lawyers* as one of Metro New York's top fifty women lawyers. Ms. Berman graduated *magna cum laude* and *Phi Beta Kappa* from Brown University in 1983. She received her J.D. from Columbia University in 1989 where she was a Harlan Fiske Stone Scholar. Following law school, she clerked for the Honorable Naomi Reice Buchwald of the Southern District of New York. Ms. Berman presently serves as President of the Federal Bar Council Inn of Court and Secretary of the Federal Bar Council. She previously served as Secretary of the Columbia Law School Alumni Association and remains a Board Member. She has also been active in alumni affairs for Brown University. Ms. Berman currently serves on the Board of Day One (www.dayoneny.org), 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. Ms. Bove passed away on August 15, 2018, after a long and courageous battle with cancer.

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 F. 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*.

Catherine A. Christian

Ms. Christian is the New York County District Attorney's Office Special Assistant District Attorney for External Affairs and Chief of the Elder Abuse Unit. After graduating from Dickinson School of Law, she began her legal career as an Assistant District Attorney in the Office's Trial Division under Robert M. Morgenthau. She prosecuted a wide variety of crimes, including, domestic violence and homicides. In 1995, she joined a private law firm, and later served as an Assistant Counsel for the New York State Commission of Investigation. She subsequently served as the Principal Law Clerk to the Honorable Rosalyn Richter. Ms. Christian was reappointed as an ADA in 1998 and assigned to the Office of the Special Narcotics Prosecutor, serving in various positions, including, as a member of the Executive Staff. In 2014, District Attorney

Cyrus R. Vance, Jr., appointed Ms. Christian Chief of the Elder Abuse Unit. Ms. Christian is a member of the Appellate Division First Department's Attorney Grievance Committee and Character and Fitness Committee. From 2007-2008, Ms. Christian was President of the New York County Lawyers' Association.

Daniel D. Chu

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

Richard J. Condon

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

the Senior Command Course at the British National Police College in Bramshill, England.

Ralph C. Dawson

Mr. Dawson, of counsel at Norton Rose Fulbright, US LLP, is engaged in the practice of labor and employment law and civil litigation in the New York office. His practice involves the representation of employers in proceedings before the courts and administrative agencies. He also represents employers in collective bargaining negotiations and in grievance and arbitration proceedings under labor contracts. In the broader employment law area, Mr. Dawson represents employers in courts and in administrative proceedings involving claims of wrongful discharge and claims of employment discrimination brought under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act and related federal and state statutes. He has also represented clients in a variety of commercial disputes involving non-competition, other restrictive covenants, breach of contract and tort claims. He also provides counseling and training to various companies in the securities industry and other industries. Mr. Dawson's interest in public policy matters has led him to collaborate with our Public Finance Department of which he is now a part. In this capacity he has been part of the our teams acting as underwriter's counsel for various financial institutions: (a) graduate of Yale University and the Columbia University School of Law, Mr. Dawson was licensed to practice law in New York in 1977, is also a member of the Washington, D.C. Bar, and is admitted to practice before the United States Supreme Court, various federal district courts and the Courts of Appeal for the Second and Fifth Circuits. He is also a member of American Bar Association, New York City Bar Association, Past Service on: Civil Rights Committee, Metropolitan Black Bar Association of New York, and serves on the Court Appointed Merit Selection Panel for Magistrate Judges in the United States District Court for the Southern District of New York. He has been recognized as a *New York Metro Super Lawyers* in the area of employment & labor from 2012 - 2016.

Peter G. Eikenberry

Mr. Eikenberry is sole proprietor of a two person law firm 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 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 2010.)

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. Ms. Fishman has played an essential role in managing organizations or advising top-level managers. She is skilled at financial, strategic, and performance management and at all aspects of external relations, including fundraising, board relations, and public communications. She has been an active fundraiser for Bank Street College of Education and served as a co-chair of the Development Committee for the School for Children at the Bank Street College of Education. Ms. Fishman has served on a number of nonprofit boards, including the Pratt Center for Community Development and Ansche Chesed synagogue. She holds an MPA from Columbia University and a BA from the School of General Studies, Columbia University and The Jewish Theological Seminary.

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.

Mark S. Gottlieb

Mr. Gottlieb is the business valuation and forensic accounting practice leader at MSG located in New York City. As a recognized expert, Mark's practice is related to various financial issues and litigation. He has over 30 years of experience. Mr. Gottlieb is also frequently appointed by the court as a neutral expert and a current Adjunct Professor at Fordham Law School.

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.

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.

Lisa A. Linsky

Ms. Linsky is a partner in the international law firm McDermott Will & Emery LLP and a resident in the New York City office. As a member of the Trial Group, Lisa focuses her practice on complex litigation, including commercial, products liability, trusts and estates and LGBT civil rights litigation and business-related investigations. Ms. Linsky also serves as outside *pro bono* counsel to the Mattachine Society of Washington DC. The

Mattachine Society is an educational and research non-profit organization that is devoted to recovering documents evidencing LGBT American history by conducting original archival research at the National Archives, Presidential Libraries and public and private repositories. In 2015, Lisa co-lead a team of McDermott lawyers that submitted an amicus brief to the United States Supreme Court in the Obergefell consolidated marriage cases. The partnership between the Mattachine Society and McDermott entails “archive activism” and the rescue of historic governmental documents which establish a paper trail of animus and discrimination exhibited against LGBT Americans dating back to the 1940s. Ms. Linsky was McDermott’s first Partner-in-Charge of Firm-wide Diversity, and created and chaired the Firm-wide Lesbian, Gay, Bisexual and Transgender (LGBT) Diversity and Inclusion Committee from 2006-2014. For 7 years, Lisa was also a member and Officer of the Board of Directors for Lambda Legal, the leading LGBT civil rights legal organization in the United States. She is now a member of Lambda Legal’s National Leadership Council. In 2014, Ms. Linsky became a member of the Board of Directors for the LGBT Community Center of NYC, and co-chairs the annual Fall Women’s Event. Ms. Linsky comes to McDermott with extensive trial and public speaking experience. She was formerly with the Westchester County District Attorney’s Office, where she ran the Special Prosecutions Division, which included the Child Abuse, Elder Abuse and Sex Crimes Bureaus. Ms. Linsky has received countless awards and recognitions for her work in promoting diversity, inclusion and equality including the prestigious Cambers Award for “LGBT Equality Lawyer of the Year” (2016) and the “Paula L. Ettelbrick Award for LGBT Lawyer of the Year” (2016) presented by the Minority Corporate Counsel Association. Ms. Linsky has also authored numerous articles and papers on diversity and inclusion in the legal profession. She is the creator of the Huffington Post Blog, “Out and About: LGBT Legal.”

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 is the Vice Chair of the Character & Fitness Committee. Mr. Moerdler was admitted to the New York Bar 1956. He holds an LLB from Fordham Law School and a BA from Long Island University.

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.

Michael Roberts

Mr. Roberts is a partner in the firm Roberts & Roberts where he litigates real estate and commercial matters. In addition, he does transactional real estate work. He received his Bachelor of Arts degree from Columbia University. He received his JD degree from Cardoza School of Law in New York. He is admitted to practice law in the State of NY, US Court of Appeals, 2nd Circuit, US Eastern District Court and US Court Southern District.

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 Northeast Regional Director for the Financial Industry Regulatory Authority (FINRA) and manages the sales practice examination and surveillance staff in its New York City, Long Island, Boston, Philadelphia, and Woodbridge, New Jersey offices. He also oversees FINRA's national Membership Application Program. Prior to assuming this and other senior roles in FINRA's examination program, 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 of Law School. 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.

Joe Tarver

Mr. Tarver is Vice President of Operations and Risk Management at Educational Alliance, a non-profit agency that has been serving communities in Lower Manhattan for over 130 years. Before joining Educational Alliance, he held a variety of positions in the non-profit, public and private sectors. In New York City, these include Bend the Arc: A Jewish Partnership for Justice where he was a Managing Director of Operations; the Office of the New York City Comptroller where he worked with the Deputy Comptroller of Public Affairs and managed the Division of Community and Government Relations; New York States' LGBT civil rights organization Empire State Pride Agenda where he was Communications Director and later Managing Director of Operations; and Organic, an internet professional services firm, where he was a Business Development Manager. In Washington, DC, Mr. Tarver was Director of the Office of White House Liaison at the U.S. Department of State, Assistant to the Deputy Director of the 1992 Clinton Gore Presidential Transition, and a member of Senior Finance Staff on the 1992 Clinton Gore Presidential Campaign. He worked at public affairs companies Cassidy & Associates and Arnold & Porter Consulting, and was Legislative Assistant to Congressman Solomon P. Ortiz in the U.S. House of Representatives. Mr. Tarver has a M. Philosophy from University of Glasgow, Scotland, and a B. Architecture and BS Architectural Engineering

from University of Texas at Austin.

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

Prior to his appointment to the Attorney Grievance Committee, Mr. Weiner served the First Department: Member: Appellate Division, First Department, Departmental Disciplinary Committee, Policy Committee, 1989-1992, 1997 - , and Hearing Panel, 1986-1989; 1994-1997; Special Counsel to the Court/Disciplinary Committee, 1997 -. Mr. Weiner's service to the Unified Court System includes: Member, State of New York, Unified Court System, Office of Court Administration, The Advisory Committee on Criminal Law and Procedure, 1994-2006. Mr. Weiner's professional memberships and service to the bar included: The Association of the Bar of the City of New York (Member, Special Committee on Long Range Planning, 1993-1996; Subcommittee on Probation of the Executive Committee, 1993-1996; Chair, Council on Criminal Justice, 1990-1993; Chair, Committee on Criminal Justice Operations and Budget, 1987-1990; Member, Delegation to the New York State Bar Association House of Delegates, 1991-1997; Member, Council on Criminal Justice, 1987-1990; Member, Committee on Professional Responsibility, 1986-1987; Secretary: Committee on Criminal Advocacy, 1983-1986; Subcommittee on Sentencing Guidelines, Council on Criminal Justice, 1984-1986; Member, Committee on Criminal Advocacy, 1983-1986; Member, Committee on Criminal Courts, Law and Procedure, 1979-1983; New York State (Delegate, House of Delegates, 1991-1997; Member, Executive Committee, Criminal Justice Section; Co-

Chair, Committee to Improve the Effectiveness of the Criminal Justice System, 1987-; Member: Commercial and Federal Litigation Section; Committee on Complex Litigation and American (Member, Sections on: Litigation; Criminal Justice) Bar Associations: The Legal Aid Society (Member, Board of Directors). Mr. Weiner's public service includes: Co-author: Technical Assistance Report: "An Evaluation of the TRAC-N Program of the Assigned Counsel Plan, New York City - First Department," October. Chairman and Commissioner, New York State Commission on Investigation. Hughes Hubbard & Reed; Assistant District Attorney, New York County. Law Secretary, Hon. Leon B. Polsky, Justice, Supreme Court, State of New York. Special Counsel to the Commission, New York State Commission of Investigation; Hoffinger Friedland; Independent Chairman/Commissioner, State Investigation Commission. Education" Columbia Law School, *cum laude*,: Phi Delta Phi; Columbia College; Lafayette High School.

Toby R. Winer

Ms. Winer is a Financial Consultant, currently serving as Interim Chief Financial Officer for the ACLU. 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.

THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

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

Complaints are date-stamped, numbered and entered into the Committee’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 Committee 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 Committee 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 Committee 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 the Committee 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 the Committee members. One of the volunteer Committees must approve all post-investigation recommendations by a majority vote of those present at a monthly meeting (a quorum of two-thirds of the members is required to conduct business). When matters are dismissed on the merits, the closing letter to the complainant indicates the complainant’s right to request reconsideration of the dismissal within 30 days.

Letters of Advisement [22 NYCRR 1240.2(i)]

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

Letters of Admonition [22 NYCRR 1240.2(b)]

The Committee issues a Letter of Admonition (Admonition) when an investigation reveals that a respondent has violated the New York Rules of Professional Conduct

(Rules¹), but not seriously enough to warrant a formal disciplinary proceeding, 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.

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.² 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 Committee members authorize a formal disciplinary proceeding when there is probable cause that a respondent engaged in professional misconduct warranting the imposition of public discipline, and that such discipline is appropriate to protect the public, maintain the integrity and honor of the profession, or deter others from committing similar misconduct.

A staff attorney's recommendation that a formal petition be filed against a respondent must be based on a demonstration of professional misconduct reviewed by the staff

¹ 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."

² 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, 26th Floor, New York, New York 10010.

attorney's supervisor, and approved by the Chief Attorney and the Committee members. Upon approval, the Committee 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.³ Within 20 days after service of the respondent's answer or, if applicable, a reply, the Chief Attorney's Office 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 "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, 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, in an appropriate case, the Committee may file a motion with the Court applying the doctrine of collateral estoppel, seeking an order finding a lawyer guilty of violating the Rules solely on the basis of prior civil or criminal court decisions without a further hearing. The Court may grant such a motion where the

³ 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.

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 Committee 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 Committee'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 grievance committee having jurisdiction pursuant to 22 NYCRR 1240.7(a)(2), within 30 days. The

Committee 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 Committee 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 Committee’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 Committee or the respondent files a motion with the Court to confirm or disaffirm the Referee’s Report. Serious crime cases result in the same range of sanctions imposed in other formal disciplinary proceedings.

Reciprocal Discipline [22 NYCRR 1240.13]

The Committee 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 Committee 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 Committee 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 Committee 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 2018, the Appellate Division, First Judicial Department, publicly disciplined 67 lawyers as follows: 22 disbarments, 4 resignations by attorneys facing charges (equivalent to disbarment), 32 suspensions and 9 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 2018, the Court suspended 12 attorneys on an interim basis pending resolution of the charges against them in the following cases: *Matter of Richard P. Savitt*, 161 AD3d 109; *Matter of William S. Winters*, 160 AD3d 168; *Matter of Steven R. Donziger*, 163 AD3d 123; *Matter of Mark S. Pomerantz*, 166 AD3d 26; *Matter of Mathew H. Goldsmith*, 159 A.D.3d 188; *Matter Dale J. Morgado*, 167 A.D.3d 66; *Matter of Richard D. Borzouye*, 161 AD3d 73; *Matter of Marshall S. Vayer*, 160 AD3d 232; *Matter of Joram J. Aris*, 162 AD3d 75; *Matter of Ilya Novofastovsky* 164 A.D.3d 64; *Matter of Herbert G. Lindenbaum*, 165 AD3d 53; *Matter of Jessica E. Matic*, 165 AD3d 45.

Disbarments

In 2018, the First Department disbarred seven attorneys (one for a serious crime, three following a petition for reciprocal discipline, and three motions to disbar): *Matter of Anthony J. Zappin*, 160 AD3d 1; *Matter of Michael Frants* 160 A.D.3d 171; *Matter of Mirta Desir*, 163 A.D.3d 52; *Matter of Thomas A. Blumenthal*, 165 AD3d 85; *Matter of Brian D. Thomas* 162 A.D.3d 1; *Matter of Eric P. Gonchar*, 166 A.D.3d 91; *Matter of Steven S. Herzberg*, 163 AD3d 220.

Further, the First Department, pursuant to 22 NYCRR 1240.9(b), disbarred 6 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 Stephan L. Rosenbaum*, 161 AD3d 91; *Matter of Scott A. Spencer*, 161 AD3d 44; *Matter of Evgeny A. Freidman*, 162 AD3d 14; *Matter of Mark S. Pomerantz*, 166 AD3d 26; *Matter of Nytaino Romulus* 155 A.D.3d 14; *Matter Dale J. Morgado*, 167 A.D.3d 66.

Finally, the First Department granted 9 motions to strike the names of attorneys convicted of felonies: *Matter of Edmund C. Duffy*, 159 AD3d 98; *Matter of Keila D. Ravelo*, 163 AD3d 98; *Matter of Keith D. Wellner*, 163 AD3d 154; *Matter of Joel Zweig*, 163 AD 3d 168; *Matter of Pincus D. Carlebach*, 163 AD3d 192; *Matter of Donna M. Conroy*, 167 AD3d 44; *Matter of Samuel Racer*, 165 AD3d 137; *Matter of Darren L. Ofsink*, 166 AD3d 97; *Matter of Donald B. Cohen*, 164 A.D.3d 207.

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 2018, 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 Harvey K. Newkirk*, 159 AD3d 184; *Matter of Edward N. Kiss*, 163 AD3d 35; *Matter of Edward M. Char*, 163 AD3d 131; *Matter of John O. Shasanmi*, 167 AD3d 85.

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 2018, the Court suspended 19 attorneys for periods ranging from three months to five years: *Matter of Arlene S. Kayatt*, 159 AD3d 101; *Matter of Michael Joffe*, 158 AD3d 11; *Matter of Gary Michael Walters*, 159 A.D.3d 88; *Matter of Jeffrey Michael Blum* 160 A.D.3d 69; *Matter of*

Jessica M. McHale, 162 A.D.3d 117; *Matter of Esmeralda Machado*, 161 AD3d 142; *Matter of Christopher W. McHallam*, 160 AD3d 89; *Matter of Steven A. Colarossi*, 161 A.D.3d 100; *Matter of Stanley L. Cohen*, 159 AD3d 113; *Matter of Victor G. Sison*, 161 AD3d 24; *Matter of David Charles Berman*, 162 A.D.3d 21; *Matter of Aaron D. Frishberg*, 163 AD3d 103; *Matter of Gino L. Giorgini*, 166 AD3d 43; *Matter of Thomas A. Farinella*, 163 AD3d 27; *Matter of Kenneth Linn* 163 A.D.3d 120; *Matter of Jonathon R. Steinberg*, 63 A.D.3d 634; *Matter of Don A. Carlos Jr.* 166 A.D.3d 55; *Matter of William J. Alford* 166 A.D.3d 80; *Matter of Joshua A. Messian*, 166 AD3d 153.

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 2018, the Court suspended one attorney on these grounds: *Matter of Marcus K. Nagel*, 161 AD3d 95.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (*see* 22 NYCRR 1240.2[c]). In 2018, the First Department issued public censures in nine cases: *Matter of Leslie R. Jones Thomas*, 159 A.D.3d 35; *Matter of Jeffrey A. Leighton* 158 A.D.3d 23; *Matter of Alexandra E. Mora*, 163 AD3d; *Matter of Charles C. Simpkins*, 163 AD3d 195; *Matter of Nicholas R. Doria*, 165 AD3d 33; *Matter of Kevin J. McNeely*, 163 A.D.3d 227; *Matter of John H. Jankoff*, 165 A.D.3d 58; *Matter of David E. Schorr*, 166 AD3d 115; *Matter of Jay A. Goldberg*, 166 AD2d 58.

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 2018, the Court granted 12 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 discipline in 2018 are reviewed below:

Matter of John H. Jankoff, 165 A.D.3d 58 (1st Dept 2018)

The Court publicly censured Jankoff for counseling a client to engage in illegal and fraudulent conduct, misrepresenting himself in his professional experience, and conspiring to circumvent federal regulations for client's own financial interests, in violation of Rules 1.2(d) and 8.4(h). Jankoff had been featured in the related *60 Minutes* episode entitled "Lowering the Bar" documenting lawyers that advised, a West African National on Money Laundering. (Staff Attorney Sinan Aydiner)

Matter of Nytaino Romulus 155 A.D.3d 14 (1st Dept 2018)

The Court suspended Romulus pursuant to 22 NYCRR 1240.9 (a)(1) and (3), because he failed to respond to the Committee's numerous letters and voice messages requesting that he address the allegations in the first complaint, failed to appear for an examination under oath pursuant to a judicial subpoena, failed to respond to the Committee's motion for interim suspension, and willfully non-complied with the Committee's investigation. (Staff Attorney Sinan Aydiner)

Matter of Jonathon R. Steinberg, 63 A.D.3d 634 (1st Dept 2018)

On January 10, 2019, The Court suspended Steinberg for one-year, as a result, of failure to pay duly imposed sanctions, commenced a fraudulent conveyance action that lacked merit, and sent an ex-parte email to the judge overseeing a matter in which the attorney represented the defendant and attacked the judge's ruling, in violation of Rules 3.3(f)(2), 3.5(a)(2), 8.4(d)(h), (22 NYCRR 1200.0). (Staff Attorney Sinan Aydiner)

Matter of Victor G. Sison, 161 AD3d 24 (1st Dept 2018)

In a November 16, 2016 order, the New Jersey Supreme Court found that Sison violated New Jersey Rules of Professional Conduct 8.4(b) and 8.4(d) based on his improper adjudication and "ticket-fixing" while acting as a Municipal Court Judge in Jersey City in concert with his colleagues between 2004 and 2007. Accordingly, the New Jersey Supreme Court ordered that Sison be suspended from the practice of law for three months, effective December 16, 2016. Our Court thereafter reciprocally suspended Sison for three months, finding that the New Jersey sanction was in general accord with New York precedent involving arguably similar misconduct. (Staff Attorney Sean A. Brandveen)

Matter of Jay A. Goldberg, 166 AD2d 58 (1st Dept 2018)

Beginning in 1997, then New York State Assemblyman Sheldon Silver referred to Goldberg, his friend for more than 60 years, two clients, major real estate developers, Glenwood Management (Glenwood) and The Witkoff Group (Witkoff), to handle their tax certiorari matters. Goldberg agreed to share with Silver a percentage of the legal fees his firm received (25% of Glenwood's fees, and 15% of Witkoff's fees) but did not give the clients written notice that Silver was assuming joint responsibility for their representation and was receiving a share of the legal fees. Both clients were made aware of the arrangement December of 2011. While Glenwood signed a revised retainer agreement formally consenting to the arrangement, Witkoff did not, but signed a side letter acknowledging its awareness of the arrangement and continued to use Goldberg's services. After formal charges were filed, Goldberg and the Committee filed a joint motion requesting that Goldberg be publicly censured on consent based on a joint stipulation in which Goldberg admitted to engaging in the above-described misconduct and thereby violating DR 1-102(A)(7); DR 2-107(A)(1) and (2) of the Code of Professional Responsibility (for conduct prior to April 1, 2009) and rule 1.5(g) (1) and (2) and rule 8.4(h) of the Rules of Professional Conduct (for conduct thereafter). The Court, citing mitigating factors and finding that the misconduct was limited to violations of the fee sharing rules and lacked aggravation, granted the parties' joint motion and publicly censured Goldberg. (Staff Attorney Kevin P. Culley)

Matter of David E. Schorr, 166 AD3d 115 (1st Dept 2018)

The Court granted a joint motion for discipline by consent wherein Schorr admitted that he violated Rule 8.4(d), conduct prejudicial to the administration of justice. Schorr's misconduct stemmed from a court conference, during his own divorce, wherein he covertly made an unauthorized recording through the use of his cell phone. More specifically, on October 9, 2013, during a court conference before Supreme Court Justice Deborah Kaplan, Schorr used his iPhone to make a video recording but captured no images since his iPhone was inside his inner jacket pocket. In April 2015, the Committee issued Schorr a private admonition for violating Rule 3.3(f)(3) and Rule 8.4(d). By a May 6, 2015 letter, Schorr rejected the admonition and requested formal proceedings be commenced. But Schorr then went to federal court to hamper such proceedings. The federal litigation generated findings by the Second Circuit that our Court found binding on Schorr and establishing of his liability under Rule 8.4(d). At the resultant sanction hearing, Schorr finally admitted his misconduct and offered a range of mitigation: Schorr had no disciplinary history; he had never been sanctioned by any court for his misconduct; he had enjoyed limited experience in the practice of law when the misconduct took place; he went on to represent several domestic relations clients *pro bono*; he cooperated with the Committee's investigation; and he displayed professional, courteous and respectful behavior towards the Committee's staff counsel and the Referee. Schorr was publicly

censured. (Staff Attorney Kevin M. Doyle)

Matter of Anthony J. Zappin, 160 AD3d 1 (1st Dept 2018)

The Court issued an order, pursuant to the doctrine of collateral estoppel based upon the February 29, 2016 order and decision issued in Zappin's divorce and custody action, (Zappin v. Comfort, Sup. Ct. NY County, Cooper, J., Index No.: 301568/14). The Supreme Court's decision and order granted Zappin's wife sole custody of their then two-year old son. Zappin's misconduct consisted of his repeatedly perpetrating acts of domestic violence against his wife; falsely testifying at a custody trial; knowingly introducing falsified evidence during the proceedings in the form of altered text messages; presenting misleading testimony through his expert witnesses; demonstrating disrespect for the court and counsel, by *inter alia*, flouting the judicial directives of three judges; filing a disciplinary complaint against a court-appointed psychiatric expert witness; sending his wife, an attorney, text messages, threatening her with the loss of her license to practice law and professional ruin; baselessly accusing his father-in-law of being a child sexual abuser who could harm Zappin's son; and engaging in frivolous and abusive litigation against his wife, her parents, and her attorneys. By an unpublished order of October 17, 2016, this Court granted the Committee's motion, finding Zappin guilty of professional misconduct and referred the matter to a referee to recommend the appropriate sanction. On December 19, 2016, the sanction hearing was held before a Referee, who recommended that Zappin be disbarred. The Committee moved to affirm the Referee's report and recommendation of disbarment. Zappin opposed the motion and filed three motions seeking affirmative relief. The Court denied each of Zappin's motions for affirmative relief. On March 8, 2018, the Court disbarred Zappin, striking his name from the roll of attorneys. (Staff Attorney Kevin M. Doyle)

Matter of Scott A. Spencer, 161 AD3d 44 (1st Dept 2018)

The Court immediately suspended Spencer on February 21, 2017, pursuant to 22 NYCRR §1240.9(a)(1) and (3). Spencer's suspension stemmed from his failure to cooperate with the Committee's investigation into a complaint filed by Spencer's former wife that alleged that he had failed to comply with directives of a final judgment of divorce issued by a Florida circuit court. Spencer refused to appear for further examination under oath, as directed by judicial subpoena, and he also failed to provide a supplemental submission, to which Spencer had agreed. Spencer did not interpose a response to the motion. On April 17, 2018, the Court disbarred Spencer, pursuant to 22 NYCRR §1240.9(b), on the grounds that he had neither responded to nor appeared for further investigatory or disciplinary proceedings within six months from the date he was suspended from the practice of law. (Staff Attorney Kevin M. Doyle)

Matter of John O. Shasanmi, 167 AD3d 85 (1st Dept 2018)

By order dated November 15, 2018, the Court accepted Shasanmi's resignation, pursuant to 22 NYCRR §1240.10, effective *nunc pro tunc* to August 15, 2018. In Shasanmi's affidavit, he acknowledged that he was the subject of an investigation by the Committee involving allegations of professional misconduct regarding his failure to open an attorney trust account; his failure to maintain bookkeeping records; his use of a personal bank account as a depository for his clients' escrow funds and, above all, his use of those funds, which exceeded \$600,000, for his personal purposes. Shasanmi disclosed that in July 2018, he was indicted in Supreme Court, New York County, on two counts of grand larceny in the second degree, a Class C felony and one count of criminal possession of a forged instrument in the third degree, a class A misdemeanor. The Committee urged the Court's acceptance of Shasanmi's resignation. Pursuant to Judiciary Law §90(6-a), Shasanmi was directed to make restitution to Second Providence Church in the amount of \$601,874.99 and to reimburse the Lawyers' Fund for Client Protection for any award(s) made to Second Providence Church in connection with its loss caused by his misconduct. (Staff Attorney Kevin M. Doyle)

Matter of Michael Joffe, 158 AD3d 11 (1st Dept 2018)

The Court suspended Joffe, on January 4, 2018, for the period of two years, pursuant to Rules 1.1(a), 1.3(a),(b), 1.16(e), 8.4 (c), and 8.4(d). In 2016, the Committee brought 10 charges against Joffe. The charges stemmed from Joffe's neglect of two immigration matters, his false statements, and his submission of forged documents to the Committee during its investigation. Eight of the ten charges were sustained after hearing. Joffe was found guilty of professional misconduct based upon his incompetence, his neglect of two immigration matters, his false statements, and his submission of forged documents to the Committee. Sanction after hearing took into account the vulnerability of Joffe's two immigration clients; his prior disciplinary history; and his lack of genuine remorse. It took into account as well Joffe's partial refunds to his aggrieved clients; his representation that the unpaid balances would be remitted in the near future; and Joffe's voluntary payment of child support. (Staff Attorney Kevin M. Doyle)

Matter of Gino L. Giorgini, 166 AD3d 43 (1st Dept 2018)

In this matter, which arose from a disciplinary matter transferred from the Second Department, the Court suspended Giorgini on September 25, 2018, for a period of three months, effective October 25, 2018. Giorgini was suspended for violating former N.Y. Code Prof. Resp. DR 7-106(c)(6), (22 NYCRR 200.37 (c)(6)), 1-102 (A)(5) (22 NYCRR 1200.2(a)(5)0, and 1-102(A)(7) (22 NYCRR 1200.3(a)(7) because the written comments he made to two different Second Department trial courts exceeded the bounds of zealous advocacy and were derogatory, undignified, and inexcusable. Giorgini subjected one court to scornful sarcasm and belittlement, which resulted in that court's warning

Giorgini away from such conduct. Giorgini went on, however, to accuse another court of blatant political bias and corruption. The Referee recommended dismissal of three of the six charges, the three which arose from Giorgini's first episode abusing the judiciary. The Court sustained all the charges, upholding the Committee's prosecutorial discretion in the wake of the inter-departmental transfer. More, the Court deemed suspension rather than the recommended censure fitting, given Giorgini's disregard of the warning he had enjoyed and his justifying his misconduct instead of displaying genuine remorse. (Staff Attorney Kevin M. Doyle)

Matter of Joram J. Aris, 162 AD3d 75 (1st Dept 2018)

Aris was under investigation for his handling of three estates of deceased clients where he or his wife were named executors, including one where the main beneficiary was a not-for-profit organization that he controlled. Although he provided some documentation at the Committee's request and appeared at an examination under oath, he failed to comply with the Committee's subpoena and produce any recent bank account records or tax filings for the three estates or the not-for-profit. The Committee independently subpoenaed the bank records for one estate, where he had been appointed a temporary administrator to marshal the estate's assets. The records revealed that Aris had misappropriated \$510,000 of its funds for personal purposes unrelated to the estate, including paying his childrens' college tuition, his own credit card bills, his psychotherapist's fees and his own state and federal tax bills. On May 10, 2018, Aris was suspended for failure to comply with lawful demands of the Committee and for other uncontroverted evidence of professional misconduct. Aris was subsequently disbarred. (Staff Attorney Jeremy S. Garber)

Matter of Harvey K. Newkirk, 159 AD3d 184 (1st Dept 2018)

The Court accepted the resignation of Newkirk, who had been convicted in the Southern District of New York of the federal felony of wire fraud. The Court had previously determined that the felony of which he was convicted constituted a "serious crime."

Matter of Newkirk, 141 AD3d 178 (1st Dept 2016). The conviction arose from misrepresentations Newkirk made on behalf of a client to finance the client's acquisition of Maxim Magazine. Newkirk falsely represented to two lenders that his client's father, a wealthy businessman, was providing collateral for the loans. As a result of his and his client's fraudulent conduct, one lender lost \$3.1 million. In accepting his resignation, the Court directed Newkirk to make restitution to the lender in the amount of \$3.1 million less any amounts already repaid by himself, his co-defendant or a third party, and to reimburse the Lawyers' Fund for Client Protection for any amounts that it may have paid out with regard to this loss. (Special Trial Attorney Jeremy S. Garber)

Matter of Donald B. Cohen, 164 A.D.3d 207 (1st Dept 2018)

On August 30, 2018, the Court automatically disbarred Cohen, *nunc pro tunc* to January 16, 2018 pursuant to Judiciary Law §90(4)b), based upon his felony conviction. Specifically, Cohen was convicted, upon his plea of guilty, in Supreme Court, New York County, on January 15, 2018, of two counts of offering a false instrument for filing in the first degree, in violation of Penal Law §175.35(1). Cohen admitted to filing his 2015 New York State tax return, on which he failed to report at least \$147,300 in taxable personal income, which he had withdrawn from his IOLA account and used for household expenses. Cohen also filed a 2014 New York State tax return for his domestic partner on which he omitted taxable income that she had received. On April 4, 2018, Cohen was sentenced to one year incarceration on each count to run concurrently. (Special Trial Attorney Jeremy S. Garber)

Matter of Alexandra E. Mora, 163 AD3d 1 (1st Dept 2018)

Mora was publicly censured, as reciprocal discipline, pursuant to 22 NYCRR 1240.13 on the basis of a deferred suspension imposed by the Supreme Court of Louisiana, Mora admitted to mishandling her trust account by commingling personal funds with client funds and failing to keep adequate records for her trust account, which in one case led to a dishonored check. The conduct for which Mora was disciplined in Louisiana constitutes misconduct in New York, in violation of Rule 1.15(a) of the New York Rules of Professional Conduct. As the Court noted, as a general rule, it gives great weight to the sanction imposed by the jurisdiction in which the misconduct occurred. New York does not have a sanction equivalent to deferred suspension, but censure is in accord with New York precedent for similar misconduct. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Stephan L. Rosenbaum, 161 AD3d 91 (1st Dept 2018)

By order dated November 20, 2013, as part of a mass suspension for failure to file registration statements and pay registration fees, the Court suspended Rosenbaum. Rosenbaum continued to practice, and on March 28, 2017, Rosenbaum's suspension was extended, pursuant to 22 NYCRR 1240.9(a)(2), for violating the mass suspension order, and on the basis of misconduct immediately threatening the public interest involving his failure to return a \$100,000 loan he took from an elderly client. The Court tempered its sanction in part because Rosenbaum asserted that he would comply with the attorney registration. On April 17, 2018, pursuant to 22 NYCRR 1240.9(b), the Court disbarred Rosenbaum for failing to respond or appear for further investigatory or disciplinary proceedings within six months from the date of the order of suspension. Rosenbaum never complied with the registration requirements and failed to make restitution to the Lawyers' Fund for Client Protection which granted a \$100,000 award to Rosenbaum's client, reimbursing her for Rosenbaum's dishonest conduct. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Evgeny A. Freidman, 162 AD3d 14 (1st Dept 2018)

On May 2018, the Court disbarred Freidman, pursuant to 22 NYCRR 1240.9(b), since he was interimly suspended on July 13, 2017, under 22 NYCRR 1240.9(a)(3), and failed to respond or appear for further investigatory or disciplinary proceedings within six months from the date of the order of suspension. The misconduct that led to Freidman's interim suspension [152 AD3d 89], stemmed from his failure to cooperate with the Committee's *sua sponte* investigation into dishonored checks drawn against his IOLA account. Just days after the Court issued its order on May 1, 2018, Freidman pled guilty to a tax felony, on the basis of which he would have been disbarred by operation of law. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Steven R. Donziger, 163 AD3d 123 (1st Dept 2018)

Premised on the doctrine of collateral estoppel, by decision and order dated July 10, 2018, the Court found Donziger guilty of professional misconduct, in violation of DR1-102(A)(4), DR1-102(A)(5), DR7-102(A)(6), DR7-105, DR7-110(A) and DR7-110(B) of the Lawyer's Code of Professional Responsibility (Code) and Rules 3.4(a)(5), 3.5(a)(1), 8.4(a) and 8.4(d) of the Rules of Professional Conduct based on the findings adverse to Donziger by Judge Lewis A. Kaplan of the United States District Court for the Southern District of New York, in *Chevron Corp. V. Donziger*, 974 F. Supp. 2d 362 (S.D.N.Y. 2015). Judge Kaplan found that Donziger had engaged in coercion, fraud, bribery and other misconduct in connection with obtaining a judgment in Ecuador. On the basis of the uncontroverted evidence of misconduct, the Court suspended Donziger on July 10, 2018, pursuant to 22 NYCRR 1240.9(a)(5) and ordered a sanction hearing. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Edward N. Kiss, 163 AD3d 35 (1st Dept 2018)

On May 15, 2018, the Court accepted Kiss' resignation. The Court had previously interimly suspended Kiss on May 11, 2017 [152 AD3d 129], pursuant to 22 NYCRR §1240.9(a)(5), based on his conversion and/or misappropriation of at least \$27,500 of client funds. The Committee moved to disbar Kiss pursuant to 22 NYCRR §1240.9(b), in February 2018 on the grounds of his failure to appear for further investigatory or disciplinary proceedings. In response to the Committee's motion, Kiss submitted an affidavit of resignation, which was accepted by the Court, *nunc pro tunc*, to March 29, 2018. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Marcus K. Nagel, 161 AD3d 95 (1st Dept 2018)

By letter dated October 30, 2017, New York County Supreme Court Justice Kathryn E. Freed advised the Committee that based upon Nagel's appearance before her in a pending eviction action, she questioned Nagel's fitness and capacity to practice law. A psychiatrist evaluated Nagel and reported that Nagel had developed a delusion that his co-

op had hired people to sabotage him at work and to harass and assault him at home in order to force him out of his apartment. The doctor found that Nagle lacked insight into his psychiatric disorder and could not represent himself in housing or any other court. On the basis of his incapacity by reason of mental infirmity, on April 17, 2018, the Court immediately suspended Nagel, pursuant to 22 NYCRR 1240.14(b). (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Joshua A. Messian, 166 AD3d 153 (1st Dept 2018)

The Court granted the joint motion for discipline by consent and suspended Messian from the practice of law for five years, *nunc pro tunc* to October 31, 2017. Messian's misconduct, involved the intentional conversion of significant funds over a four-month period in 2015, at a time when he was suffering from narcotics addiction. In mitigation, Messian accepted responsibility; had an unblemished disciplinary history; fully cooperated with the Committee; made full restitution to the affected clients and expressed remorse. Messian voluntarily sought inpatient treatment at a residential drug and alcohol facility for his narcotics addiction, subsequently sought outpatient treatment and continues to attend meetings at least five times a week at Narcotics Anonymous. Messian has remained drug-free since May 2016, and since May 2017 has retained full-time (non-legal) employment. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Keith D. Wellner, 163 AD3d 154 (1st Dept 2018)

By order dated July 19, 2018, on the basis of his felony plea and pursuant to Judiciary Law §90(4)(a) and 22 NYCRR §1240.12(c)(1) the Court struck Wellner's name from the roll of attorneys. Wellner entered a plea in the United States District Court for the Southern District of New York to six felony counts stemming from his participation in a conspiracy to commit fraud on investors in Weston Capital Asset Management, a registered investment adviser. Wellner was the general counsel, chief operating officer, and chief compliance officer for Weston. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Pincus D. Carlebach, 163 AD3d 192 (1st Dept 2018)

By order dated August 9, 2018, the Court entered an order striking Carlebach's name from the roll of attorneys in New York, pursuant to Judiciary Law §90(4)(a) and (b) and 22 NYCRR §1240.12(c)(1), *nunc pro tunc* to May 3, 2018. On May 3, 2018, Carlebach entered a plea of guilty in Supreme Court, New York County, to a scheme to defraud, a class E Felony, and grand larceny in the second degree, a class C felony. Carlebach admitted that he engaged in an ongoing course of conduct with the intent to defraud and to obtain property with a value in excess of \$1,000.00. Specifically, Carlebach, while representing clients in bankruptcy matters, engaged in a scheme by which he embezzled \$1.83 million in escrow funds from his IOLA account and used those funds for personal expenses. Carlebach also admitted that he committed second-degree larceny by stealing

over \$50,000 of property from SH575 Holdings LLC. On March 28, 2018, Carlebach also pleaded guilty in the Southern District of New York to embezzling \$30,000 from a client's bankruptcy estate. Previously, by order dated November 21, 2017, Carlebach was immediately suspended from the practice of law based on his conversion and/or misappropriation of funds in connection with a bankruptcy related real estate transaction [156 AD3d 44]. (Deputy Chief Attorney Naomi F. Goldstein)

Matter of Richard D. Borzouye, 161 AD3d 73 (1st Dept 2018)

By motion dated on October 4, 2017, the Committee sought the immediate suspension of Borzouye from the practice of law, due his failure to appear for an examination under oath pursuant to a subpoena. On January 2, 2018, the Court granted the Committee's motion and suspended Borzouye until further order of the Court. By motion dated October 29, 2018, the Committee sought an order to disbar Borzouye for his failure to respond or appear and participate in either the investigatory and disciplinary proceedings within six months, pursuant to 22 NYCRR 1240.9(b). On January 15, 2019, the Court disbarred Borzouye. (Staff Attorney Jun H. Lee)

Matter of Thomas A. Farinella, 163 AD3d 27 (1st Dept 2018)

In July 2010 the Committee filed 45 Charges against Farinella, which included allegations he engaged in a pattern of misconduct, including neglect of legal matters, failure to carry out contracts of employment, failure to return client files as requested, failure to return unearned fees, and failure to cooperate with the Committee's investigation. The referee sustained 30 Charges. Prior to the sanction hearing, on November 17, 2011 the Court suspended Farinella on the basis that he was suffering from a mental infirmity, pursuant to 22 NYCRR 603.16 (c) (1). On October 10, 2013 the Court reinstated Farinella to the practice of law under the condition that respondent be monitored for three years by the New York State Bar Association's LAP Program. On February 2015, the Committee filed 37 supplemental charges against Farinella alleging, in part, that he intentionally converted client funds. The Referee sustained 22 charges of the supplemental charges, including the charge of intentional conversion. The Court found that Farinella presented exceptional mitigation warranting a lesser sanction. The Court suspended Farinella for two years, effective *nunc pro tunc*, to the date of his disability suspension. (Staff Attorney Jun H. Lee)

Matter of Brian D. Thomas 162 A.D.3d 1 (1st Dept 2018)

The Court disbarred the attorney pursuant to 22 NYCRR 1240.15, because, after his license was suspended, he engaged in the unauthorized practice of law, even though he was aware of his suspension. (Deputy Chief Attorney Vitaly Lipkansky)

Matter of Ilya Novofastovsky 164 A.D.3d 64 (1st Dept 2018)

The Court suspended the attorney pursuant to NYCRR 1240.9(a)(3) because he failed to cooperate with the Committee's investigation. While Novofastovsky answered three out of the four complaints filed against him, he did not submit his IOLA account ledger as requested by the Committee and did not answer the fourth complaint. Although Novofastovsky was warned of the consequences of his noncompliance, he persisted and defaulted on the motion to suspend. (Deputy Chief Attorney Vitaly Lipkansky)

Matter of Don A. Carlos Jr. 166 A.D.3d 55 (1st Dept 2018)

The Court suspended Carlos for two and a half years, pursuant to 22 NYCRR 1240.8(a)(5) (Discipline by Consent), because he negligently misappropriated client funds, commingled personal funds with client and/or third- party funds, used his escrow account to shield funds from collection by tax authorities, failed to maintain bookkeeping records, provided false deposition testimony and false written statements to the Committee, and he failed to pay income taxes (Deputy Chief Attorney Vitaly Lipkansky)

Matter of Aaron D. Frishberg, 163 AD3d 103 (1st Dept 2018)

By order dated June 28, 2018, this Court suspended Frishberg for a period of six months. In 2016, the Committee brought six charges against Frishberg. In January 2017, Frishberg stipulated to four of the six charges, admitting his failure to comply with three deadlines for perfecting an appeal. Specifically, Frishberg failed to provide competent representation in violation of RPC 1.1(a); failed to act with reasonable diligence and promptness in representing a client in violation of RPC 1.3(a); neglected a legal matter entrusted to him in violation of RPC 1.3(b); and engaged in other conduct that adversely reflected on his fitness as a lawyer in violation of RPC 8.4(h). The Referee sustained the four admitted charges and the two disputed charges. In mitigation, Frishberg averred that he had a lasting medical condition, that his psychiatrist of 40 years retired and his mother passed away. Frishberg must enroll in and successfully complete the Lawyer Assistance Program (LAP) for one year. (Staff Attorney Norma I. Melendez)

Matter of Richard P. Savitt, 161 AD3d 109 (1st Dept 2018)

The Committee charged respondent with three violations of the Rules of Professional Conduct in connection with his appearance at trial in *Davler Media Group, LLC v. Astro Gallery of Gems*, when the judge in that matter denied respondent's demand that she recuse herself from the case. The charges alleged that respondent engaged in undignified and discourteous conduct and conduct that is prejudicial to the administration of justice. After respondent failed to respond to the charges, the Committee moved for an order: 1) finding respondent in default in responding to the petition of charges and deeming all the allegations contained therein admitted; 2) immediately suspending respondent based upon his default; and 3) referring the matter to a Referee for the issue of sanction only.

Respondent opposed the Committee's motion on the grounds that he was never personally served with the petition and cross-moved to dismiss the petition on the grounds that he had a meritorious defense to the charges and that his time to respond to the petition of charges had not started to run because the Committee failed to file the affidavit of service with the Court. The Court held that respondent failed to rebut the Committee's evidence of proper service, that jurisdiction was properly attained over respondent where the petition of charges was delivered to "Connie" at respondent's actual place of business and then mailed the next day to his office, and any defects in the affidavit of service or the failure to timely file the affidavit could be properly cured by deeming it filed *nunc pro tunc*. In addition, the Court found that respondent was given notice of the petition of charges via the Committee's e-mails to him sent pursuant to his instructions. Respondent was found in default and the charges were deemed admitted. As a result, respondent was interimly suspended and a hearing on the issue of sanctions was directed to be held. (Staff Attorney Elisabeth A. Palladino)

Matter of Arlene S. Kayatt, 159 AD3d 101 (1st Dept 2018)

The Committee brought seven charges against respondent alleging violations of Rule 1.15(d)(1)(I), (ii), and (viii) for failure to keep required bookkeeping records; Rule 8.4 (c) (conduct involving dishonesty, fraud, deceit, or misrepresentation; Rule 8.4(d) (conduct prejudicial to the administration of justice; and Rule 8.4 stemming from, among other things, respondent's misuse of two escrow accounts as business/personal accounts which she allegedly used to shield personal funds from tax authorities. The Committee also charged respondent with misuse of a third party's personal bank accounts to shield her funds from tax authorities. The Referee found that the record established that for most of her 25 year career that respondent improperly used her escrow accounts as a dual depository for client/third party funds and her business/personal funds in violation of Rule 1.5(b)(1) and sustained charge one. The Referee did not sustain any other charge and recommended that respondent be suspended for four months. The Hearing Panel affirmed the Referee's liability findings except it also recommended sustaining charge two, finding that respondent's bank statements alone did not comply with Rule 1.15(d)(1) and sustained charge seven to cover both charge one and two. The Hearing Panel recommended that respondent be suspended for two months. The Court found that the record supported sustaining charges one, two, three and seven regarding respondent's admitted improper use of her escrow account as a dual depository for client/third party funds and her business/personal funds in clear violation of Rule 1.15(b)(1). In addition, the Court found that the record supports the finding that respondent failed to maintain required bookkeeping records for the two escrow accounts at issue. As to charge four, which alleged that in using her escrow accounts to shield business/personal funds from the IRS, respondent also violated Rule 8.4 (conduct prejudicial to the administration of justice), the Court found that this charge was properly dismissed because Rule 8.4(d) is

more appropriately applied to misconduct which occurs within the context of litigation. As to charges five and six, which pertained to respondent's alleged misuse of a third party's account to defraud the IRS, the Court found that these charges were properly dismissed because: 1) they were not escrow accounts; 2) there was no evidence that the funds withdrawn from these accounts were actually subject to a lien or levied against; 3) caselaw relied upon by Committee involved only escrow accounts, not third party accounts, and the Committee did not present any caselaw in which it was found that the manner in which the third party accounts were used constituted professional misconduct; and 4) the Referee and Hearing Panel credited respondent's and the third party's testimony that the primary intent was to enable respondent to survive financially and not to defraud the IRS. Based on the Court's finding, the sustaining charges one, two, three, and seven, the Court suspended respondent for two years. (Staff Attorney Elisabeth A. Palladino)

Matter of Thomas A. Blumenthal, 165 AD3d 85 (1st Dept 2018)

Pursuant to the doctrine of reciprocal discipline, under 22 NYCRR 1240.13, the Court disbarred Blumenthal from the practice of law, which was predicated upon the discipline imposed by the New Jersey Supreme Court. The New Jersey Supreme Court disbarred Blumenthal for violating New Jersey RPC 1.15(a) for knowingly misappropriating funds designated for one real estate transaction to pay for disbursements in another, as well as RPC 1.8(a), 8.4(c), and 8.4(d), for improper business transactions, and engaging in conduct that involved dishonesty, fraud, deceit or misrepresentation, and that was prejudicial to the administration of justice. (Staff Attorney Kathy W. Parrino)

Matter of Steven S. Herzberg, 163 AD3d 220 (1st Dept 2018)

The Court immediately disbarred Herzberg pursuant to Judiciary Law §§90(2), 486, without further proceedings based on overwhelming evidence that he continued to operate his law firm after he was suspended by the Court. On July 18, 2017, the Court suspended Herzberg pursuant to 22 NYCRR §1240.9(a)(3), based on his failure to cooperate with the Committee's investigation of eight dishonored checks drawn against his law firm's IOLA account. Herzberg willfully engaged in the unauthorized practice of law, took on new legal matters, held himself out as an attorney in good standing, continued to use his escrow accounts, and failed to notify the court, and other parties' counsel within 10 days of his suspension. (Staff Attorney Kathy W. Parrino)

Matter of William S. Winters, 160 AD3d 168 (1st Dept 2018)

Pursuant to the doctrine of reciprocal discipline, under 22 NYCRR 1240.13, the Court suspended Winters, predicated upon the discipline imposed by the Supreme Court of New Jersey. Winters' suspension stemmed from an order dated April 30, 2015, wherein the New Jersey Supreme Court temporarily suspended him for his refusal to cooperate with

an investigation by the New Jersey Office of Attorney Ethics (OAE), concerning his handling of attorney trust account funds. In November 2015, the OAE filed a formal disciplinary complaint alleging that Winters' failure to produce requested information constituted a continuing failure to cooperate with its investigation of his alleged knowing misappropriation of client funds, in violation of New Jersey Rule of Professional Conduct 8.1(b). By order dated April 6, 2017, the New Jersey Supreme Court adopted the decision of the Disciplinary Review Board, censuring Winters for violating New Jersey RPC 8.1(b), and continued his temporary suspension. (Staff Attorney Kathy W. Parrino)

Matter of Marshall S. Vayer, 160 AD3d 232 (1st Dept 2018)

By order of October 21, 2010, this Court suspended Vayer from the practice of law, as part of a mass suspension proceeding for failing to file attorney registration statements and pay biennial registration fees, in violation of Judiciary Law §468-a. The Committee then moved to immediately disbar Vayer, pursuant to Judiciary Law §§90(s) and 486, without further proceedings, for his engaging in the unauthorized practice of law in violation of the Court's October 21, 2010 suspension order. In his answer, Vayer acknowledged that he continued to practice law after his suspension but claimed it was not intentional because he was unaware of his suspension. Vayer explained that he failed to renew his registration and stopped meeting his CLE requirement around 2001 because he was engaged in major litigation and was confronted with stressors in both his professional and personal life. Vayer was contrite and upon learning of his suspension, he suspended his law practice, took steps to pay back his registration fees and became current with his CLE obligations. Although Vayer was willfully ignorant of his registration responsibilities, this is not a case where any clients, or opponents, were harmed by his conduct. By order dated March 29, 2018, the Court denied the Committee's motion to disbar but continued Vayer's suspension, pursuant to 22 NYCRR 1240.9(a)(5). The Committee has since filed formal charges against Vayer for engaging in the unauthorized practice of law. (Staff Attorney Kathy W. Parrino)

Matter of Jessica E. Matic, 165 AD3d 45 (1st Dept 2018)

The Court interimly suspended Matic from the practice of law, pursuant to 22 NYCRR 1240.9(a)(1) and (3), for her failure to appear pursuant to subpoena and to comply with lawful demands of the Committee. Matic's suspension stemmed from a complaint the Committee received in November 2017 from a non-profit organization that assists borrowers who have become victims of mortgage rescue scams. The complaint was filed on behalf of an alleged victim against Matic. During 2017 and 2018, the Committee sent Matic numerous letters to both her business and residential address. Delivery of these letters was confirmed, but no answer was submitted by Matic. On June 14, 2018, the Committee personally served Matic with a subpoena issued by this Court, directing her to appear on June 28, 2018, to give testimony in the investigation. Matic failed to appear at

the Committee's offices or contact the Committee regarding her default. (Staff Attorney Kathy W. Parrino)

Matter of Edward M. Char, 163 AD3d 131 (1st Dept 2018)

By order entered on July 18, 2007, the Court granted the Committee's motion, seeking Char's interim suspension from the practice of law based on his failure to cooperate with the Committee's investigation of three complaints, including one involving eight dishonored checks, totaling more than \$56,000, drawn against Char's law firm's IOLA account. Thereafter, Char sought an order, pursuant to 22 NYCRR 1240.10, approving his resignation and disbaring him from the practice of law. Char acknowledged that the allegations against him included his willful misappropriation of client funds that he could not successfully defend himself against the allegations. On July 18, 2018, the Court accepted Char's resignation from the practice of law, disbaring him, and striking his name from the roll of attorneys, effective *nun pro tunc* to April 16, 2018. (Staff Attorney Kathy W. Parrino)

Matter of Christopher W. McHallam, 160 AD3d 89 (1st Dept 2018)

Pursuant to the doctrine of reciprocal discipline, under 22 NYCRR 1240.13, the Court suspended McHallam for a period of three months, which was predicated upon discipline imposed by the Supreme Judicial Court of the Commonwealth of Massachusetts. The Massachusetts disciplinary proceedings arose from McHallam's representation of a plaintiff in a defamation action which was filed in 2006 and dismissed on summary judgment in 2010. McHallam led his client to believe that the case had been reinstated, that he was working to obtain a monetary award or settlement, and that he had secured an award of over \$1 million for his client. McHallam's client learned in 2015, that there had been no further litigation and no settlement had been obtained. By order of July 21, 2017, the Massachusetts court accepted McHallam's resignation and struck his name from the roll of attorneys, effective August 20, 2017. The Committee filed a motion for reciprocal discipline because his misconduct in Massachusetts would violate New York Rules of Professional Conduct 1.4(a)(1)(iii), 1.4(a)(3), 8.4(c), and 8.4(h). The Committee submitted, however, that a three month suspension was more analogous to the discipline imposed here as the client did not suffer any harm. (Staff Attorney Kathy W. Parrino)

Matter of Michael Frants 160 A.D.3d 171 (1st Dept 2018)

On April 2, 2009, this Court suspended Frants for failure to file attorney registration statements and pay biennial registration fees. On September 17, 2009, The Minnesota Supreme Court disbarred Frants, because he, inter alia, intentionally misappropriated client funds in excess of \$10,000. He failed to promptly notify the Committee of his discipline in Minnesota. Frants' misconduct in Minnesota violated the following provisions of the former Code of Professional Responsibility which were in effect at the

time of his misconduct: DR-102 (a)(4) (conduct involving dishonesty, fraud, deceit, or misrepresentation); (a)(5) (conduct that is prejudicial to the administration of justice); DR 9-102 (a) (prohibition against misappropriation off client funds and commingling); (b) (obligation to maintain client and/or third party funds in an attorney special account); (c)(3) (obligation to maintain complete records of client or third party funds and to render appropriate accounts concerning such); (c)(4) (failure to promptly pay or deliver to client or third party person as requested funds or property which they are entitled to receive); (d) (failure to maintain required bookkeeping records). The Court granted the Committee's motion for reciprocal discipline, and disbarred Michael Frants. (Staff Attorney Lance Philadelphia)

Matter of Jeffrey Michael Blum 160 A.D.3d 69 (1st Dept 2018)

The Court suspended Blum for six-months, pursuant to reciprocal discipline in connection with misconduct committed in Kentucky. The Kentucky Supreme Court found that respondent threatened the opposing counsel in an ongoing civil matter, engaged in conduct intended to disrupt a tribunal, and without basis, had repeatedly impugned the personal integrity of the administrative hearing officer who oversaw his client's matter. The Kentucky Supreme Court also accepted the findings of the Federal District Court and Circuit Court of Appeals, through which Blum unsuccessfully sought to challenge the adverse administrative determination against his client, that Blum engaged in repeated disruptive conduct, in defiance of multiple warnings. This Court found that Blum's conduct in Kentucky violated the following provisions of the former code of Professional Responsibility, which were in effect at the time of his misconduct: (1) DR 1-102(A)(5) prohibiting conduct prejudicial to the administration of justice; (2) DR 7-102(A)(1) prohibiting filing a suit, asserting a position, conducting a defense, delaying a trial, or taking other action on behalf of a client when the lawyer knows, or when it is obvious, that such action would serve merely to harass or maliciously injure another; (3) DR 7-106(C)(6) prohibiting undignified or discourteous conduct that is degrading to a tribunal; and (4) DR 8-102(B) prohibiting making knowingly false accusations against a judge or other adjudicatory officer. (Staff Attorney Lance Philadelphia)

Matter of Eric P. Gonchar, 166 A.D.3d 91 (1st Dept 2018)

The Court disbarred Gonchar for violating a suspension order by engaging in the unauthorized practice of law, and continuing to hold himself out as a licensed New York attorney, and giving substantive legal advice on real estate matters to attorneys at the law firm where he was employed. (Staff Attorney Orlando Reyes)

Matter of Jessica M. McHale, 162 A.D.3d 117 (1st Dept 2018)

The Court suspended the attorney for three months, as reciprocal discipline for a five-year disbarment imposed by the Bankruptcy Court for the Western District of North Carolina,

for the attorney's neglect of a debtor's bankruptcy case and other misconduct. (Staff Attorney Orlando Reyes)

Matter of Leslie R. Jones Thomas, 159 A.D.3d 35 (1st Dept 2018)

The Court publicly censured the attorney for failing to finalize a client's divorce action for 16 years. (Staff Attorney Orlando Reyes)

Matter Dale J. Morgado, 167 A.D.3d 66 (1st Dept 2018)

The Court initially suspended respondent on an interim basis pending further disciplinary proceedings based on his failure to cooperate with the Committee's investigation of a complaint. Because respondent failed to respond to nor appear for investigatory or disciplinary proceedings within six months from the date of respondent's suspension, pursuant to 22 NYCRR 1240.9, the Court disbarred respondent. (Staff Attorney Yvette Rosario)

Matter of Steven A. Colarossi, 161 A.D.3d 100 (1st Dept 2018)

Pursuant to 22 NYCRR 1240.13, the Court imposed reciprocal discipline on respondent for his misconduct in Massachusetts based on his connection with the probate of his late father's estate. Respondent was suspended for six months in New York. (Staff Attorney Yvette Rosario)

Matter of Mirta Desir, 163 A.D.3d 52 (1st Dept 2018)

The Court disbarred respondent pursuant to the reciprocal discipline provision of 22 NYCRR 1240.13 based on misconduct in Florida for neglect, failure to return an unearned fee, as well as intentional conversion of client funds. (Staff Attorney Yvette Rosario)

Matter of Kevin J. McNeely, 163 A.D.3d 227 (1st Dept 2018)

Pursuant to 22 NYCRR 1240.13, respondent was censured based upon his consent and the findings of the District of Columbia Court of Appeals which imposed a 30 day suspension, stayed, and three years of probation for misconduct arising from a patent representation. The misconduct for which respondent was disciplined constituted misconduct in New York and public censure was warranted, even though New York had no sanction equivalent to that imposed by the District of Columbia. (Staff Attorney Yvette Rosario)

Matter of Mathew H. Goldsmith, 159 A.D.3d 188 (1st Dept 2018)

Pursuant to 22 NYCRR 1240.9(a)(1), (3), and (5), the Court suspended respondent on an interim basis pending further disciplinary proceedings based on his failure to comply with the Committee's investigation of two complaints, and for converting/misappropriating

and commingling client funds. Specifically, respondent deposited checks he received on behalf of his client into his own business/operating account and improperly commingled, converted and misappropriated those funds. (Staff Attorney Yvette A. Rosario)

Matter of Jeffrey A. Leighton 158 A.D.3d 23 (1st Dept 2018)

Mr. Leighton was an experienced attorney and a partner at his firm. The Committee charged Leighton with violating rules 8.4 (c) and (h) because he fabricated and falsely entered 94.8 hours into his law firm's billing records between March 2012 and September 2013. Leighton did not financially benefit, nor were the clients billed for the fabricated hours because Leighton removed the false entries before the bills were sent to the clients. Leighton testified that he only wanted to give his colleagues and his firm the impression that he was busier than he actually was. In mitigation, Leighton had never been the subject of a disciplinary investigation in his 34 years of practice, he fully cooperated with the Committee, expressed genuine remorse and embarrassment, and lost his partnership at his firm. The parties moved pursuant to 22 NYCRR 1240.8(a)(5), for the imposition of a public censure. The Court granted the motion and censured Jeffrey Leighton. (Staff Attorney Remi E. Shea)

Matter of Kenneth Linn, 163 A.D.3d 120 (1st Dept 2018)

The Committee charged criminal defense attorney Kenneth Linn with violating rules 1.2(d) (scope of representation), 1.7 (a)(2) (conflict of interest), and 8.4 (b) and (h) (conduct that adversely reflects) when he purchased heroin multiple times from a client, while representing him on a drug possession and sale matter. This was not the first time Linn's drug problems led to sanctions. In 1987, Linn was suspended for a third time, because he failed to appear at 40 court appearances in one month. Linn's misconduct here appeared to be a lapse after a long period of sobriety and when he was unable to refill his medical prescription in pain killers to reduce extreme pain. The parties moved pursuant to 22 NYCRR 1240.8(a)(5) for discipline on consent. In light of the significant factors in mitigation, Linn's advanced age, cooperation with the Committee, acceptance of responsibility, expressions of remorse, and the fact that he voluntarily met with the Lawyer Assistance Program in September 2017 and tested negative for heroin, the Committee and Linn agreed that a one-year suspension was appropriate. By order dated June 28, 2018, The Court suspended Kenneth Linn for one-year and directed him to participate in the Lawyer Assistance Program for one-year, with both to run concurrently. (Staff Attorney Remi E. Shea)

Matter of William J. Alford 166 A.D.3d 80 (1st Dept 2018)

The Committee charged Alford with engaging in misconduct involving failure to file a Notice of Claim for a client who wanted to sue the City of New York, and falsely informed the client and the Committee that he had; failing to respond to a client's letters

regarding money orders Alford was to send him and failing to respond to the Committee's letters in violation of rules 1.3(b) (diligence), 1.4(c) (communication), 8.4(c), (d), and (h) (conduct that adversely reflects). In 2013, Mr. Alford was admonished for failing to promptly refund an unearned fee; and in 2015 he was admonished for failing to file a notice of appeal in a criminal matter. The Committee and Alford stipulated to the following factors in mitigation: that he traveled to and from Atlanta to care for his dying sister at the time the Committee was investigating the complaint by the second client; he was a solo practitioner; and, his conduct was limited in scope. The parties moved pursuant to 22 NYCRR 1240.8 (a) (5), for the imposition of a three-month suspension. The Court granted the motion and suspended Alford. (Staff Attorney Remi E. Shea)

Matter of Gary Michael Walters, 159 A.D.3d 88 (1st Dept 2018)

The Court reciprocally suspended Walters for 2 ½ years, effective *nunc pro tunc* to January 18, 2017, pursuant to 22 NYCRR 1240.13, based on discipline imposed by the Supreme Court of California. Respondent was found to have practiced law while administratively suspended, maintained personal funds in his trust account and paid business and personal expenses from that account, and failed to cooperate with disciplinary authorities. Walters received notice of charges against him in California and chose to enter stipulations admitting the charges and consenting to discipline. (Staff Attorney Denice Szekely)

Matter of David Charles Berman, 162 A.D.3d 21(1st Dept 2018)

The Court reciprocally suspended Berman for two years, *nunc pro tunc* to May 14, 2017, pursuant to NYCRR 1240.13, based upon discipline imposed by the Supreme Court of New Jersey, for failing to keep client reasonably informed, withdrawing from representation improperly, and failing to cooperate with disciplinary authorities. Berman was provided with sufficient notice and an opportunity to be heard in the New Jersey proceeding. Further, misconduct disciplined in New Jersey constituted misconduct in this state in violation of New York Rules of Professional Conduct. (Staff Attorney Denice Szekely)

Matter of Charles C. Simpkins, 163 AD3d 195 (1st Dept 2018)

The Court granted a joint motion for discipline by consent wherein Simpkins admitted to violating Rules of Professional Conduct. Specifically, Simpkins admitted to the unlawful use of a credit/debit card to make purchases and that he made false statements thereafter regarding the incident. In light of significant factors in mitigation, including Simpkins' cooperation; his admitted conduct and acceptance of responsibility; Simpkins' successful completion and ongoing involvement in the Lawyer's Assistance Program; his expressions of remorse, and his willingness to make restitution, Simpkins was publicly censured. (Deputy Chief Attorney Raymond Vallejo)

Matter of Nicholas R. Doria, 165 AD3d 33 (1st Dept 2018)

The Court previously ordered Doria suspended from the practice of law based on his failure to register with OCA and pay biennial registration fees, in violation of Judiciary Law §468-a. Doria remains suspended. The Court publicly censured Doria, pursuant to Judiciary Law §90(2) and 22 NYCRR 1240.13, predicated upon Doria's similar discipline by the Supreme Court of New Jersey. Specifically, Doria charged an excessive fee and failed to return a significant portion of the fixed fee. The conduct for which Doria was disciplined in New Jersey constituted a parallel disciplinary violation in New York, and Doria was publicly censured. (Deputy Chief Attorney Raymond Vallejo)

Matter of Mark S. Pomerantz, 166 AD3d 26 (1st Dept 2018)

Pomerantz was interimly suspended from the practice of law as he failed to cooperate with the Committee's investigation. Pomerantz had been in willful contempt for failing to comply with court orders in connection with his financial obligations in a matrimonial matter with his former wife, which evinced a shocking disregard for the judicial system. [158 AD3d 26] The Court subsequently disbarred Pomerantz pursuant to 22 NYCRR 1240.9(b), for failing to respond or appear for further investigatory or disciplinary proceedings within six months of the date of the order of his suspension. (Deputy Chief Attorney Raymond Vallejo)

Matter of Herbert G. Lindenbaum, 165 AD3d 53 (1st Dept 2018)

Lindenbaum was interimly suspended, pursuant to Judiciary Law §90(4)(d), based upon his conviction of a "serious crime." Specifically, Lindenbaum pleaded guilty in the United States District Court, for the Southern District of New York, to evasion of payment of income taxes, in violation of 26 USC §7201, a felony under federal law. Lindenbaum admitted that from 1999 through 2013, he attempted to evade paying taxes by sending business checks directly to his wife's account, paying personal expenses from his business accounts and clients' accounts, paying family members for work they did not perform, cashing checks made out to his business accounts, and closing and opening certain business accounts to avoid IRS levies. Lindenbaum was sentenced, in accordance with his plea agreement, to time served and placed on supervised release for three years, with six months of home confinement. Lindenbaum was ordered to pay restitution of \$3,392,211 and an assessment of \$100. (Deputy Chief Attorney Raymond Vallejo)

Matter of Esmeralda Machado, 161 AD3d 142 (1st Dept 2018)

Pursuant to the doctrine of reciprocal discipline, under 22 NYCRR 1240.13, the Court suspended Machado from the practice of law because she engaged in the unauthorized practice of law in New Jersey and was permanently barred from appearing *pro hac vice* in New Jersey. The misconduct for which Machado was disciplined in New Jersey constitutes misconduct in New York under New York Professional Conduct Rules

3.3(a)(1), 5.5(a), and 8.4(c), (d). Machado was suspended for two years because of the serious nature of her deliberate pattern of misconduct, her lack of remorse, her showing an utter lack of integrity by misusing a law school friend to twice sponsor her for *pro hac vice* admission in New Jersey and her continuing to practice law in New Jersey after her *pro hac vice* status was automatically terminated. (Deputy Chief Attorney Raymond Vallejo)

Matter of Stanley L. Cohen, 159 AD3d 113 (1st Dept 2018)

The Court granted the joint motion for discipline by consent suspending Cohen from the practice of law for 2 ½ years, effective as of the date of his interim suspension, April 14, 2015. Specifically, Cohen pleaded guilty to federal tax offenses, 26 USC §§7212(a) and 7203, obstructing and impeding the IRS and failure to file income tax returns, which are defined as “serious crimes” and which conduct violated New York Rule of Professional Conduct 8.4. The mitigating factors included, *inter alia*, Cohen’s candor about his conduct; acceptance of responsibility; sincere remorse and contrition; his filing of all outstanding federal and state tax returns for 2005 through 2010 covering all the years he had failed to file tax returns; his payment of outstanding taxes totaling \$118,000 for tax years 2006 through 2009; his representation of many indigent clients; his *pro bono* work in international human rights matters and his previously unblemished record. (Deputy Chief Attorney Raymond Vallejo)

Matter of Edmund C. Duffy, 159 AD3d 98 (1st Dept 2018)

The Court disbarred Duffy based on his federal felony conviction. Specifically, Duffy pleaded guilty in the United States District Court, for the Southern District of New York, to possession of child pornography, in violation of 18 USC §§ 2252(a)(5)(B), (b)(2) and 2. Duffy’s conviction was predicated on his use of a filing sharing program whereby, over a period of approximately 5 years, he downloaded images of child pornography to his personal computer. Duffy was sentenced to a term of probation of 5 years and ordered to pay \$9,000 in restitution, forfeit \$256,000, perform 1,800 hours of community service, participate in a computer internet monitoring program and register as a sex offender. (Deputy Chief Attorney Raymond Vallejo)

Matter of Keila D. Ravelo, 163 AD3d 98 (1st Dept 2018)

The Court automatically disbarred Ravelo, pursuant to Judiciary Law §90(4)b), based upon her federal felony conviction. Specifically, Ravelo was convicted, upon her plea of guilty, in the United States District Court for the District of New Jersey, to conspiracy to commit wire fraud, in violation of 18 USC §§ 1343 and 1349 and tax evasion, in violation of 26 USC §7201. Ravelo was sentenced to five years imprisonment, with three years of supervised release. Ravelo’s conviction stemmed from her involvement in a conspiracy with her husband by which she defrauded two law firms (where she was employed as a

partner) along with a client of approximately \$7.8 million by submitting false invoices for litigation support services purportedly rendered by two entities formed by Ravelo and her husband. (Deputy Chief Attorney Raymond Vallejo)

Matter of Joel Zweig, 163 AD 3d 168 (1st Dept 2018)

The Court automatically disbarred Zweig pursuant to Judiciary Law §90(4)(a) and (b), and 22 NYCRR 1240.12(c)(1), based upon his federal felony conviction. Specifically, Zweig pleaded guilty, in the United States Court, for the Northern District of California, to obstruction of justice and perjury, under 18 USC §§ 1503 and 1623(a), respectively. Zweig admitted that he knowingly created a false and fraudulent declaration and affidavit submitted in federal court to support false damages claims and to obstruct the court's investigation. Zweig's conviction stemmed from his role in creating and transmitting false court documents for his friend, whose company, a pet retail store chain, had commenced a federal breach of contract action against a pet food manufacturer. Zweig created a phony 2008 New York City commercial property lease and a phony 2011 assignment of the lease to his friend's company, with forged signatures and notarizations. Respondent was sentenced to concurrent prison terms of 56 months, a three-year term of supervised release and was ordered to pay restitution in the amount of \$167,713.48. (Deputy Chief Attorney Raymond Vallejo)

Matter of Donna M. Conroy, 167 AD3d 44 (1st Dept 2018)

The Court disbarred Conroy pursuant to Judiciary Law §90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1), based upon her federal felony conviction. Specifically, Conroy was convicted upon her plea of guilty, in the United States District Court, for the District of New Jersey, of making false entries to deceive the Federal Deposit Insurance Corporation (FDIC) and First State Bank (FSB) in violation of 18 USC §1005, and conspiracy to deceive the FDIC and FSB and to influence the FDIC in violation of USC §§ 371, 1005, and 1007. Conroy's conviction stemmed from her participation in and concealment of a fraudulent infusion of capital into FSB (following a determination by regulators that the bank was insufficiently capitalized), which involved lying to the FDIC and others about the fraudulent capital infusion and subsequent loans to cover it up. Conroy admitted that she and her co-conspirators attempted to conceal the misuse of FSB's own funds to generate the \$7 million capital infusion. Conroy consented to the entry of a forfeiture money judgment against her for \$37,500, which she acknowledged represented the proceeds of her criminal conduct in violation of 18 USC §1005. (Deputy Chief Attorney Raymond Vallejo)

Matter of Samuel Racer, 165 AD3d 137 (1st Dept 2018)

The Court disbarred Racer pursuant to Judiciary Law §90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1), effective *nunc pro tunc* to May 9, 2012, the date of Racer's conviction.

Specifically, Racer was convicted, upon his plea of guilty, of one count of grand larceny in the third degree, a class D felony, in violation of Penal Law § 155.35. Racer admitted that between January and February 2010, he stole property from two individuals and that the value of the property exceeded \$50,000. Respondent was sentenced to 20 days of community service, five years' probation, and ordered to pay \$40,425 in restitution to the Lawyers' Fund for Client Protection. (Deputy Chief Attorney Raymond Vallejo)

Matter of Darren L. Ofsink, 166 AD3d 97 (1st Dept 2018)

The Court disbarred Ofsink, pursuant to Judiciary Law §90(4)(a) and (b) and 22 NYCRR 1240.12(c)(1), effective *nun pro tunc* to October 18, 2017. Specifically, Ofsink was convicted, upon his plea of guilty, in the United States District Court, for the Eastern District of New York, of conspiracy to commit securities fraud, in violation of 18 USC § 371 and 15 USC §§ 78j(b) and 78ff. Ofsink's conviction stemmed from his participation in a conspiracy to defraud investors by manipulating and inflating the stock price of a publicly traded company. Ofsink admitted to defrauding more than 10 victims and that he personally profited from his crime by \$292,409.11, which amount represented the proceeds of the stock that he sold. Ofsink consented to an entry of a forfeiture money judgment. (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*
Mark S. Gottlieb*
Keisha-Ann G. Gray
Eve Rachel Markewich
Charles G. Moerdler
Frederic S. Newman
Lee S. Richards III
Michael Roberts
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
Catherine A. Christian
Richard J. Condon*
Darrell S. Gay
Nicholas A. Gravante, Jr.
Robert L. Haig
Danielle C. Lesser
Lisa A. Linsky
Elliot Moskowitz
Ricardo E. Oquendo
Edward M. Spiro
Joe Tarver*
Anne C. Vladeck
John L. Warden

*Public Member

^Passed Away

2018

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
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

Appendix C: Office of the Chief Attorney: Administrative Staff

Investigators

George Cebisch, Chief
Anthony Rodriguez

Paralegals

Joel Peterson
Robert F. Murphy, Investigator/Paralegal
Reginald E. Thomas, 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

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

Appendix D:**ATTORNEY DISCIPLINE ACTIVITIES**PERIOD COVERED: 2018

FIRST JUDICIAL DISTRICT - FIRST DEPARTMENT

I. MATTERS PROCESSED

A. Matters Pending at Start of Period	1245	
B. New Matters During Period	2933	
C. Closed Matters Reactivated During Period	56	
D. Total Matters To Be Processed During Period (A+B+C)		4234
E. Total Matters Disposed Of During Period		(2884)
F. Matters Pending at End of Period		1350

II. MATTERS DISPOSED OF BY COMMITTEE**Cases** **2** **Matters**

A. Rejected As Failing to State a Complaint	1306	1463
B. Referred To Other Disciplinary Committees	362	370
C. Referred To Other Agencies	156	171
D. Dismissed or Withdrawn	530	552
E. Dismissed Through Mediation	2	2
F. Letter of Advisement	72	77
G. Letter of Admonition	59	64
H. Reprimand (after hearing)	0	0
I. Referred to Appellate Division (Disciplinary Proceeding)	147	185
Total Disposed of During Period ("Matters" same as <i>I., E.</i> above)	2634	2884

III. CASES PROCESSED IN ALL COURTS

A. Cases Pending at Start of Period		57
1. Disciplinary Proceedings	39	
2. Other	18	
B. Cases Received at Start of Period		425
1. Disciplinary Proceedings	103	
2. Other	322	
C. Total to be Processed During Period		482

ATTORNEY DISCIPLINE ACTIVITIES (2018)**D. Cases Closed**

1. Disbarred	22	
2. Disciplinary Resignations	4	
3. Suspended ^③	32	
4. Censured	9	
5. Privately Censured ^④	1	
6. Remanded to Grievance Committee	19	
7. Discontinued	7	
8. Dismissed	1	
9. Reinstatements Granted ^⑤	188	
10. Reinstatements Denied	6	
11. Non-Disciplinary Resignations	47	
12. All Other Dispositions	90	
13. Total Closed	426	(426)

E. Total Cases Pending at End of Period

1. Disciplinary Proceedings	35	
2. Other	21	
		56

- 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: (19) definite, (12) interim, and (1) indefinite suspensions.
- ④ Reported as "Private Reprimand" until September 2016, now "Admonition by Court Order."
- ⑤ Includes (176) reinstatements following suspensions for failing to register (468-a default), (12) disciplinary reinstatement and (0) non-disciplinary reinstatements.

Appendix E: Budget for Fiscal Year 2018-2019

Attorney Grievance Committee Budget
Fiscal Year April, 2018 - March, 2019

	<u>Allocation</u>
Personal Service Total:	\$ 4,363,458.00
<u>Non-Personal Service:</u>	
Office Supplies	22,884.00
EDP Supplies	3,046.00
Postage Only	20,038.00
Legal Reference & Subscriptions	12,060.00
Miscellaneous Supplies and Materials	3,560.00
Travel General	2,035.00
Rentals of Equipment	22,796.00
Repairs of Equipment	4,092.00
Shipping	-
Printing General	3,495.00
Telephones	4,091.00
Building and Property Services	4,725.00
Records Management Services	15,651.00
Professional Services - Expert Witnesses	-
Other Court Appointed Services	40,291.00
Other General Services	9,895.00
Professional Services Per Diem Court Reporters	170.00
Transcript Costs General	68,229.00
Computer Assisted Legal Research	-
Equipment - New/Replacement	-
Non-Personal Service Total:	\$ 237,058.00
TOTAL BUDGET FISCAL YEAR 2017-2018	\$ 4,600,516.00

Appendix F: Sample Complaint Form

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
ATTORNEY GRIEVANCE COMMITTEE
61 BROADWAY, 2ND 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:

Have you brought a civil or criminal action against this attorney? _____

If so, name of court: _____ Index No. _____

1. PLEASE SEND THE ORIGINAL PLUS ONE COPY OF YOUR COMPLAINT. PLEASE INCLUDE TWO COPIES OF YOUR SUPPORTING DOCUMENTS. DO NOT send your original supporting documents

