



# LAT NEWS

NEW YORK STATE  
LAWYER ASSISTANCE TRUST

SWEISGOOD AWARD  
RECIPIENT

**Peter Schweitzer**



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## State Bar Lawyer Assistance Program Volunteer Recognition Event Held

THE NEW YORK STATE BAR ASSOCIATION'S LAWYER ASSISTANCE PROGRAM launched the celebration of its Twentieth Anniversary year with the LAP Volunteer Recognition dinner in early November. The event coincided with the designation of the "Ray of Hope" Award to **MARK OCHS**, Chief Attorney with the Third Department's Grievance Committee, by the Capital District Lawyers Helping Lawyers Committee.

The occasion gave the opportunity to recognize twenty years of service by **LINDA MCMAHON**, who has been in the position of NYSBA LAP Administrative Assistant since the establishment of the program. NYSBA LAC Chairperson **LARRY ZIMMERMAN** presented Linda with a plaque, and he was joined on stage by those former LAC Chairs attending the event. NYSBA President **STEPHEN P. YOUNGER** and President-elect **VINCENT DOYLE** also attended. ■



ABOVE: Third Department Presiding Justice Anthony Cardona, NYSBA Lawyer Assistance Committee Chair Larry Zimmerman, NY Court of Appeals Associate Judge Victoria Graffeo, Chief Disciplinary Counsel and Ray of Hope Award winner, Mark Ochs; Justice Leslie Stein; Third Department Chief Clerk, Michael Novak; Capital District LHL Chairs William Better and Porter Kirkwood.



LEFT: Larry Zimmerman, Committee Chair and Stephen P. Younger—NYSBA President



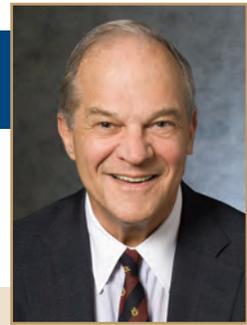
RIGHT: Linda McMahon and Larry Zimmerman.

RIGHT: Linda McMahon, Tim Foley, Sallie Krauss, Chuck Beinhauer; NYSBA LAP Director Patricia Spataro, and Chair Zimmerman.



Treatment works —  
there is hope.

## FROM THE CHAIR By Michael A. Cooper



**T**HIS COLUMN MARKS MY LAST AS CHAIR OF THE NEW YORK LAWYER ASSISTANCE TRUST, a position that I found to be rewarding both professionally and personally. I am pleased to share a recent communication received by the Trust, which highlights the positive impact of the good work done by New York's Lawyer Assistance Programs and the Trust:

*I am belatedly extending my appreciation to you and to the Trust for support in funding the Nassau County Bar Lawyers Assistance Program weekend retreat this past September.*

*I am an attorney suspended from practice as a result of a conviction and federal incarceration on a charge of employing a prohibited person. I am currently engaged in a proceeding before the Departmental Disciplinary Committee of the First Judicial Department. In that proceeding, I am being represented by Avrom Robin, Esq., a fine attorney of generous spirit. After a very long addiction to alcohol, I became sober during my stay at Lewisburg Federal Prison Camp. There I began my involvement in AA and completed a drug and alcohol abuse program. It was an epiphany that not only saved my life but that awakened a new understanding of my relationship with my higher power.*

*When I completed my incarceration in February, I entered the world both humbled and confused. Because of the New York City Bar LAP, I found counseling through Eileen Travis and Don Hewlett and began attending the two weekly lawyers AA programs in Manhattan. It was Bill Hammond who recommended the Nassau Retreat. Being indigent, I believed it to be beyond my means. Nonetheless, Henry Kruman, Annabel Bazante and so many generous LAP activists made it happen for me. My weekend among them was very literally a Godsend.*

*It is my understanding that the Trust helped support that activity and, very specifically, my scholarship. For that noble work, I am deeply grateful. It is my hope that I be permitted in time to give to others, in some small measure, what has so generously been bestowed upon me.*

*Thank you.*

Readers of this newsletter know probably better than most of the valuable work performed by numerous Lawyer Helping Lawyer Committee members and dedicated Lawyer Assistance Program staff, who daily make a difference in the lives of lawyers, judges and law students affected by alcoholism, substance abuse or other mental health issues. I would like to acknowledge their dedication and commitment to serving the profession so well. ■



**New York State Lawyer Assistance Trust Board of Trustees and Staff**

Pictured are NYLAT Board Members and Staff at the Court of Appeals building for a recent quarterly meeting. First row, [L-R], Hon. Sarah Krauss, Charles W. Beinhauer, Michael A. Cooper, Chairperson; Barbara F. Smith, Director; Lawrence A. Zimmerman. Middle row: Eileen C. Travis, Henry E. Kruman, Patricia Spataro, Sarah Diane McShea, Marjorie A. Silver, Susan McDougall, Assistant Court Analyst. Rear row: Terrance M. Bedient, Avrom Robin, William E. Hammond, Charles D. McFaul, Robert P. Guido. Absent when the photo was taken were: Katherine S. Bifaro, Kathleen E. Coughlin, Tomas Gonzalez, Anne M. Grand, Richard P. James, M. Kathryn Meng, Steven F. Seidman.

December 31, 2010 marks the end of terms for the Chair and for several Trustees, to whom great thanks are given for their years of service: Michael A. Cooper, Kathleen E. Coughlin, Tomas Gonzalez, Anne M. Grand, William E. Hammond and Steven F. Seidman.

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# A Good Time of Year to Speak of My Favorite Things

By: Patricia Spataro, New York State Bar Association LAP Director



**SOME OF MY FAVORITE THINGS** are phone calls of gratitude, handwritten notes of thanks, and visits from newly admitted attorneys. And when I say visits, I mean they walk over to my office immediately following the swearing in ceremony ... with families in tow. It is not that I look for thanks, BUT I love to hear that the outcome was positive and to hear the gratitude in their voices – makes me feel that they won't ever take their sobriety for granted.

**WHEN THEY MAKE THE CALL TO LAP** they are desperate – they are often very concerned that they might not get admitted. Past and current addictions and mental health problems as well as prior criminal records all place them in jeopardy of dashed dreams and lost investments.

**A RECENT PHONE CALL** from a very excited newly admitted attorney made me stop to think about what LAPs are doing that helps. I had serious concerns about this particular young applicant's prospects... he did too. And I didn't hesitate to let him know I had serious concerns. But he did follow through with all that was recommended and he was admitted. In regards to what's working, three things come to mind.

**ONE**, the LAP staff and volunteers are doing right by these callers. Granted, we have people who would swim the English Channel if it would help them get admitted and this level of motivation helps the success rate. In addition to having highly motivated clients, LAPs follow a few tried and true guidelines. We all, rightly so, advocate disclosure and of my top 10 most dynamic cases all have been admitted. In fact the only applicant who almost didn't make it was one who didn't disclose. He contacted LAP after his failure to disclose cost him admission. Not disclosing caused him problems that I've not seen with any of those who were honest about worse things than what he was hiding. We also never guarantee that recommendations will get the applicant admitted. Finally, since we don't know exactly what the Character and Fitness Committee will be looking for we take a "leave no stone unturned" approach to our recommendations. To best ensure they pass the test of fitness for this noble profession, we ask a lot of the applicant. BUT no one has argued the point that you'd rather do more and increase your chances of getting in than do less and waylay the process or worse... not get admitted. One woman with a long list of problems was monitored by me for six months and was randomly drug tested to prove she was clean and sober. We both held our breath as she went for her Character and Fitness Committee interview and much to our delight the only additional thing they asked her to do was take a defensive driving course – she did and she was admitted two months later.

**TWO**, the New York State Lawyer Assistance Trust is doing a great job educating law students about the admissions process. Law students who contact LAP in their last year give themselves adequate time to follow through with LAP's recommendations. This time allows for the construction of a thorough, substantive paper trail of treatment and recovery. This process serves the legal community much in the same way as conditional admission except that it is complete before admission – thereby circumventing the detailed logistics that conditional admission would require.

**THREE**, the admissions staff and Character and Fitness Committee members must consider LAP's involvement as credible and appropriately serving the applicant, the profession, and the public. LAPs routinely recommend that the applicant let the Character and Fitness Committee know they have contacted us and have followed all of our recommendations. The communication between the Character and Fitness Committees and LAPs has increased over the years resulting in each party garnering a better understanding of the other's role.

**IT IS A FESTIVE TIME OF YEAR**, a time for celebration and practically all of the applicants who call for help end up with a license to practice law and a reason to celebrate. But it is not the license that matters most... they share with me that it is the lessons learned, it is their sobriety and good health that they celebrate most and this, above all, is my favorite thing. ■

## LARWENCE KING Receives NYLAT Law Student Award

**NYLAT CHAIR MICHAEL COOPER** announced that the 2010 Law Student Award went to Pace University Law School student **LARWENCE KING** for his service as Student LAP representative.

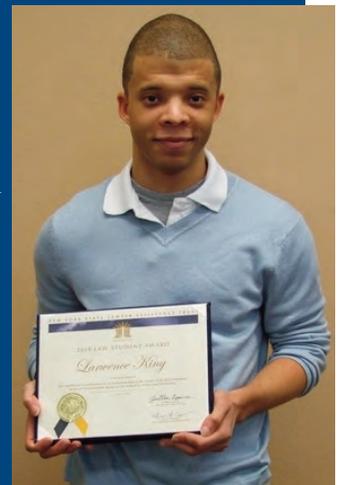
Citing Pace Director of Student Services D'Orazio's nomination, Cooper noted, "Larwence, who goes by Larry, is a first year student who volunteered to act as one of the student representatives after a LAP presentation in September. Larry was willing to commit his time to being a resource for his classmates, in spite of warnings from faculty and administration to focus on his studies during his first semester.

"Larry created a Gmail account separate from the Pace system to ensure absolute confidentiality when contacting him and the other LAP student reps at Pace, and he was

instrumental in providing valuable feedback for the design of a flyer about the services which had been posted around campus.

"A conscientious volunteer, Larry has sat through the student training twice to ensure that he knows how to handle any emergency that might come his way."

Each year, NYLAT solicits nominations from New York-based law schools to recognize the contributions that law students have made to the understanding of the issues of alcoholism, substance abuse and mental health concerns in law school and the legal profession. ■



## Professor Marjorie Silver Receives CoLAP Law Student Wellness Award – 2010

NYLAT Trustee and Touro Law School Professor **MARJORIE SILVER** received the American Bar Association CoLAP “Law Student Wellness” Award in October 2010, at the national conference held in Indianapolis. This year marked the

substance abuse, addiction, and mental illness within the law student population.

In presenting the award, CoLAP Chair **BUTCH CHILDERS** recognized that “Professor Marjorie Silver utilizes her role as law school professor and New York Lawyer Assistance Trust member to raise awareness of Lawyer Assistance-related issues, particularly as they have an impact on law students. Her personal and professional experiences have motivated her to help others through education, resources and support. Her contributions, among others, include authoring the ‘Course in a Box,’ a core curriculum and teaching guide on the professional responsibility implications of LAP issues; and serving as Chair of the NYLAT Law School Assistance Committee, which organizes annual meetings of law school administrators on LAP topics, has developed a “model drug and alcohol policy” for law schools; prepared assistance-related informational brochures targeted to law students and created the online e-zine ‘Wellness @ Law School.’”

Professor Silver has an international reputation as a teacher, speaker and writer on emotional competence, psychological-mindedness, legal education, lawyering, and professionalism. She is a contributing author and the editor of *The Affective Assistance of Counsel: Practicing Law as a Healing Profession* (Carolina Academic Press 2007). ■

*Barbara Smith, NY LAT Director, with Marjorie Silver*



first year for presenting the award, and five recipients from around the country were recognized for their work.

The Commission on Lawyer Assistance Programs (CoLAP) has the mandate to educate the legal profession concerning alcoholism, chemical dependencies, stress, depression and other emotional health issues, and to assist and support all bar associations and lawyer assistance programs in developing and maintaining methods of providing effective solutions for recovery.

The American Bar Association approved the award to be presented to a law school, law student, law faculty or staff who has made a significant contribution to law student assistance, as defined by furthering the goals of the Law School Assistance Committee of the American Bar Association's Commission on Lawyer Assistance Programs.

The Law Student Wellness Award recognizes significant initiatives or contributions toward law student mental and physical wellness through prevention, education, intervention, and treatment of



## American Bar Association's Commission on Lawyer Assistance Programs' National Conference Held in Indianapolis

**I**N OCTOBER, INDIANA — THE HOOSIER STATE, FITTINGLY AT THE CROSSROADS OF AMERICA, welcomed the CoLAP twenty-third annual conference with the theme “Lawyers Helping Lawyers – since 1988.” Conference Chair **LAURA GATRELL** [LAP Director, TN] and Vice Chair **TERRY HARRELL** [LAP Director, IN] hosted the four-day event, featuring national experts on such varied topics as “the science of happiness,” “stress and compassion fatigue in the legal profession,” “the movement of grace”, “addiction, the loss of self, recovery, the discovery of self,” “judging aging” and panels on law student wellness and disciplinary issues.

Treatment providers from the US and Canada, which focus on treating addictions, mood disorders, mental health issues, etc., participated.

**TERRANCE BEDIENT**, Vice-President of the Medical Society of New York, spoke on the topic “AA and Lawyer Assistance Programs,” which focused on the availability of AA to professionals involved in assessing, referring, treating and rehabilitating alcoholics, strategies in accessing AA assistance and involvement, transitioning between professional treatment and AA, and having AA provide continuing support on an ongoing basis.

**DANIEL LUKASIK, ESQ.** of Buffalo [pictured] was a featured speaker on the

topic of LAPs’ work with lawyers with depression. Lukasik, who created the popular [WWW.LAWYERSWITHDEPRESSION.COM](http://WWW.LAWYERSWITHDEPRESSION.COM) website, addressed the sustainability of support groups and the development of continuing legal education programs specifically on depression.

The conference was followed by a weekend meeting of the International Lawyers in Alcoholics Anonymous (ILAA).

Save the date for next year’s CoLAP conference scheduled to take place on September 13-16 in Tampa, Florida. ■



**ABOVE: Hon. Sallie Krauss,**  
*Chair of the CoLAP Judicial Assistance Initiative;*  
**CoLAP Chair Hon. Robert “Butch” Childers;**  
*NYLAT Trustee Terrance Bedient, and NYLAT Director Barbara Smith.*



**Daniel Lukasik, Esq.**



## Award Recipient— Mark Ochs, Dishes up Hope at the LAP Volunteer Dinner

BY PATRICIA SPATARO, NYSBA LAP DIRECTOR

**O**N NOVEMBER 4 A DINNER WAS HELD TO HONOR THE NYSBA LAWYER ASSISTANCE PROGRAM VOLUNTEERS. *It is an annual event that in some small way recognizes the heroic work our volunteers do. Do you know that when I put out a message that a colleague needs help I get responses within minutes from those available to help? Do you know that in order to do this the volunteers have to quickly put their responsibilities and their lives safely on hold? Do you know that sometimes they leave the comfort of their beds in the middle of the night to assist a colleague? Do you know that LAP would not exist without volunteers who stand ready to provide compassionate, competent assistance? Well, now you know and now you know why it is that we honor them with a special event each year.*

*In the midst of honoring the volunteers we also recognize an individual who demonstrates support for LAP's mission and compassion for impaired lawyers with the Ray of Hope Award. The award was named for the outstanding work of Ray Lopez, the State Bar's first LAP director. This year's Ray of Hope award recipient was Mark Ochs. Mark is Chief Attorney at the Committee on Professional Standards. At first glance Mark does not appear to be a likely candidate for an award from the Lawyer Assistance Program. After all, Mark investigates and prosecutes attorneys who violate the rules of conduct ... even those who are impaired ... even those whose impairment drove them to the wrongdoing.*

***BUT after a second glance** you'll see that Mark was the perfect candidate for the Ray of Hope Award.*

*Mark Ochs retired from his position with the Committee on Professional Standards a few weeks after the dinner. He shared with us that receiving the award was one of the most gratifying and humbling things ever to happen to him. It is no coincidence that we've heard similar sentiments from lawyers whose lives and careers have been saved by the efforts that began with the beautiful friendship of Humphrey and Claude aka Mark and Ray. ■*

## On Receiving the Ray of Hope Award

By Mark Ochs

**I WANT TO THANK THE CAPITAL DISTRICT LAWYERS HELPING LAWYERS COMMITTEE** for selecting me for this year's Ray of Hope award. I am delighted to share this occasion with my wife Lori, my friends, family and co-workers. My daughters wanted to be here but are not because Dad's a drag and he told them it was more important for them to teach the next day and attend college classes.

**THE FIRST THING THAT CAME TO MIND** when Bill Better told me I had been nominated for this award was that this is one of the most gratifying and humbling things ever to happen to me. The second thing that came to mind was . . . Are you people nuts giving me this award! Isn't this like giving the fox the keys to the hen house?

**BUT, AS MUCH AS IT WOULD APPEAR THAT WE ARE AT OPPOSITE ENDS OF THE SPECTRUM,** grievance counsel, at least in the Third Department under the leadership of Presiding Justice Cardona, last year's recipient of this award, have for many years attempted to address attorney misconduct by looking at the whole picture. That is how best to protect the public while at the same time assisting where possible the impaired attorney.

**WHEN I FIRST STARTED IN THIS FIELD** in the late 1970s, alcohol, drug abuse and mental illness were almost never raised as an issue by respondents in disciplinary cases. Of course, that did not mean these problems did not exist. The impaired attorney, either due to addiction to alcohol or drugs would not bring it up out of fear that disclosure could lead to a more significant sanction. This was particularly so with an addiction to illegal drugs.

**ATTORNEYS OFTEN OPTED** to face the charges with the hope they could beat them or receive a short suspension followed by a quick return to practice. The alternative was to try to mitigate the misconduct by acknowledging an impairment, which could, by itself, result in a lengthy suspension or leave the attorney under the grievance committee's microscope for years to come.

**THINGS CHANGED IN 1986**, when the concept of a stayed suspension was first addressed by the Third Department. The court had just suspended an attorney for six months for neglect, failure to communicate with clients and failure to cooperate with the committee. Before the suspension went into effect, the attorney retained counsel who obtained a stay from Justice Howard Levine then of the Appellate Division. In his papers, the attorney attributed his misconduct to the fact that he was an alcoholic. Prior to his suspension he was unable to face the reality of his drinking problem and shame and embarrassment caused him to default in the proceeding. His alcoholism was not offered as an excuse but to explain or mitigate his conduct.

**JUDGE LEVINE GRANTED A STAY** and counsel and I were tasked with securing a plan for supervision of the attorney's practice by the State Bar's Committee on Lawyer Alcoholism. The plan that was created required intensive involvement in an Alcoholics Anonymous program and full cooperation with the attorney appointed to monitor his practice. It provided for periodic reports to be filed with the court by the monitor and specified that should the attorney fail to remain abstinent or should he commit any new acts of professional misconduct, the supervision would immediately terminate and the matter would revert to the court for further disciplinary proceedings.

**SUCH A CONCEPT** put the State Bar in a difficult position. While they were helping a fellow member who had a problem, the Bar Association was also agreeing to report the attorney's violation to the court with the likelihood the attorney would be receive significant discipline.

**THE APPELLATE DIVISION ACCEPTED THE PLAN** and directed an 18-month period of supervision noting it was satisfied that the monitoring plan would permit this sole practitioner to continue to earn a livelihood on a trial basis while at the same time protecting the public.

**AND THEY ALL LIVED HAPPILY EVER AFTER...** In that case, no, not at all. Disciplinary problems continued and the attorney was censured, then suspended for six month and thereafter suspended for 3 years. He was however reinstated in 1998 some 13 years after the first decision and appears to have remained problem free.

**SO, WAS THIS A FAILURE? NO.**

**THE GROUNDWORK HAD BEEN LAID** and Ray Lopez and I — like Humphrey Bogart and Claude Raines in Casablanca — embarked on the beginning of a beautiful friendship. This is really why my daughters are not here. They hate it was I quote old movies.

**THE FIRST TIME** Ray and I sat down to look at long term goals was here at the State Bar Center at Christmas time. It seemed a little odd walking to the room where we were meeting, passing table full of alcohol for a party that night. Over the years, I worked with Ray Lopez, and since Ray's retirement, with Pat Spataro on a number of stayed suspensions, supervise admissions and reinstatements and diversions, with the goal continuing to be what it was in 1987, help an attorney as long as the public and profession were being protected. Some have been successful, others not.

**WE HAVE SEEN** attorneys who sought a monitoring plan and a stayed suspension or diversion, as a way of avoiding a stiffer sanction without any real intention or desire to follow through with sobriety. Most of these cases have been doomed to failure. Other times the misconduct has been too significant, such as where the attorney engaged in fraud or stole client funds.

**IN SOME CASES** the attorney has been serious about becoming sober, but in doing so it unearthed mental health issues which compromised the attorney's ability to function. This latter problem has been addressed in large part by LAPs expansion into helping attorneys suffering from depression or other mental health issues. In a few cases the attorney was suspended but LAP continued to assist in hopes of turning the attorney's life around. The attorney is not an attorney but he or she is in a better place and sometimes that the best you can hope for.

**I SALUTE YOU FOR BEING ONE OF THE NATION'S LEADERS** in assisting impaired attorneys and thank you for acknowledging the small contribution that I, my committee and the court may have made. ■



**T**HE 2010 SWEISGOOD DINNER SPONSORED BY THE SUFFOLK COUNTY BAR ASSOCIATION'S LAWYER HELPING LAWYER COMMITTEE was held on November 18. Each year, the SCBA's Lawyer Helping Lawyer Committee presents the Sweisgood Award to an individual who has shown commitment to Lawyer Assistance issues, provided exemplary services and served as an inspiration to the profession

## Suffolk County Lawyer Helping Lawyer Committee Honors Nassau Bar LAP Director

This year's honoree is **PETER SCHWEITZER**, the Nassau County Bar Association's Lawyer Assistance Program Director. Schweitzer has held that position since 2006, and his enthusiasm for the work to be done is boundless.

The award is named in honor of Father Peter Sweisgood, an advocate for those with alcoholism or chemical dependency and long-term member of the Long Island Council of Alcoholism, committing himself to education, prevention and advocacy.

SCBA LHL Chairs **ARTHUR OLMSTEAD** and **ROSEMARIE BRUNO** led the program, recognized the dignitaries in the audience including SCBA

President **SHERYL RANDAZZO**, Director **SARAH JANE LACOVA** and NCBA Director **DEENA EHRlich**, along with representatives from the Executive Committee of both bar associations. Other officials were State Bar LAP Committee Chair **LARRY ZIMMERMAN**, NYC Bar LAP Director **EILEEN TRAVIS**, Brooklyn Bar LHL Chair and NYLAT Trustee **SALLIE KRAUSS**, NYLAT Trustee **HENRY KRUMAN** and NYLAT Director **BARBARA SMITH**, along with numerous LHL Committee members.

New York City Bar Lawyer Assistance Program Committee Chair **GARY REING** was the guest speaker. ■



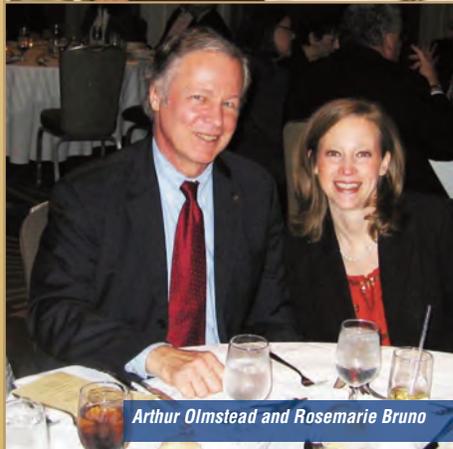
Gary Reing



Charles Rosen, Rosemarie Bruno, Christopher Repetti, James Gavin



SCBA President Sheryl Randazzo, center, with other dinner attendees.



Arthur Olmstead and Rosemarie Bruno



[L-R] NYLAT Director Barbara Smith, NYC Bar LAP Director Eileen Travis, NYLAT Trustee Hon. Sallie Krauss, and NYSBA LAC Chair Larry Zimmerman

## Peter Schweitzer's remarks on receiving the Sweisgood Award:



Peter Sweisgood, Rosemarie Bruno and Arthur Olmstead

### “ One Day at a Time... ”

I was at a weekend retreat in a Hudson Valley monastery and was sitting during dinner next to a monk who had been a monk, left the order, got married, had children who grew up and left, then his wife died. He decided to return to monastic life.

I felt I had to opportunity to ask this guru a major question: "What do you recommend to live life?"

The meal consisted of mashed potatoes. He took his fork and stuck it into the mashed potatoes to make a point. "Peter, learn to live life one day at a time." He then took the fork out of the potatoes and resumed the meal.

### Question!

At my first meeting to understand alcoholism I asked the question: "How do I stop my wife from drinking?" The leader of the group said: "Come back next week."

The following week a woman sitting in front of me asked: "How do I stop my husband from drinking?" I immediately raised my hand and stated: "I know the answer, you come back next week!"

### Advice—

In *Letters to a Young Poet*, Rainer Maria Rilke offered this advice, (which Peter cited as guidance for those involved in Lawyer Assistance efforts):

"Be patient toward all that is unsolved in your heart and try to love the questions themselves.

"Do not now seek the answers, that cannot be given to you because you would not be able to live them. And the point is, to live everything.

"Live the question now. Perhaps you will then gradually, without noticing it, live along some distant day in to the answer... ■

## Judging Aging

*Wilfred G. van Gorp*, Professor of Clinical Psychology at Columbia University College of Physicians & Surgeons, spoke at the recent ABA CoLAP conference on the topic of aging, upon invitation of the CoLAP Judge Assistance Initiative. What follows are some specifics Dr. Gorp provided.

**T**HE JUDICIARY IN THE UNITED STATES HAS BEEN REFERRED TO AS THE "THE NATION'S PREMIERE GERIATRIC OCCUPATION" (Posner, 1995) A reporter from the *St. Petersburg Times* joked that John McCain could run for president at age 72, but judges in Florida are forced to give up office at age 70.

Certainly, the decline in speed of motor and mental processing constitute the greatest change in function associated with aging; motor speed follows a predictable curve across the lifespan, peaking in adolescence and young adulthood, beginning a clear decline as one enters his or her 30's, and markedly declining beyond one's 40's. Other factors that affect the speed of processing are an individual's health status, which may reduce effect of age on speed by 15-20% ; experience or familiarity with the task reduces the effect of age; and the type of tasks involved — verbal tasks show less effect of age on speed than nonverbal (spatial) tasks.

Normal aging specifically affects episodic memory but not autobiographical or semantic memory. Normal aging affects *recall* but *recognition* is far less affected; thus, reminders and notes are extremely helpful to normal older adults.

Executive functions, that is, those consisting of problem solving, dealing with novelty, planning, mental flexibility, discriminating between relevant and irrelevant information, and anticipation of cause-effect relationships, are particularly vulnerable to the effects of age, and older adults tend to perform more poorly than younger adults on tasks of concept formation, mental flexibility, and planning. Older adults tend to think in more concrete terms than young adults, and the mental flexibility diminishes with age, with the steepest declines occurring after age 70.

Older individuals with experience have a greater body of knowledge on which to draw upon in decision making; and they tend to favor accuracy over speed and spend more time checking their work for accuracy than younger persons.

To maximize the probability of successful aging, Dr. Gorp suggested working to maintain optimal health, including aerobic exercise, which benefits the cognitive functioning; eating a "Mediterranean Diet" which has been shown to significantly reduce the risk of Mild Cognitive Impairment and Alzheimer's disease. ■

# NYSBA LAWYER ASSISTANCE COMMITTEE UPDATE

By Lawrence A. Zimmerman, LAC Chair



**2010 MARKS THE 20TH ANNIVERSARY OF THE NYSBA LAWYERS ASSISTANCE PROGRAM.** Enormous strides have been made in the last twenty years to advance the mission of this program. Simply, the mission of the LAP is to save lives and to save the careers of attorneys, law students and other legal professionals and their families, from the destruction wrought by alcoholism, drug addiction and depression. Over the course

of the last twenty years, the LAP has worked tirelessly to educate the profession regarding alcoholism, drug addiction and other mental health issues which afflict our profession at higher rates than found in the general population. As of 2010, the LAP has established of a statewide network of Lawyers Helping Lawyers Committees in virtually every major county in the State of New York—some 21 in number. In 1990, when LAP was established, few of these committees existed.

In addition, the NYSBA LAP has conducted hundreds of educational CLE programs throughout the state not only to educate the profession, but also to de-stigmatize impairment due to these diseases and to assist in fostering cultures in our constituent law firms where intervention, treatment and recovery are the norm, rather than the exception. Throughout the last twenty years, successful efforts have been made to attract new volunteers to assist in the LAP effort. Amazingly, however, many of the volunteers who originally were the pioneers of the LAP movement continue to actively participate in the program and to work with impaired attorneys and assist in their recovery.

In early 2010, the LAC drafted the Model Policy on Impairment and sought to have it adopted by the NYSBA House of Delegates. In April, 2010, the Model Policy on Impairment was adopted by the NYSBA House of Delegates, which urged that it be adopted throughout the state. During the remainder of 2010, the Lawyers Assistance Committee continued the important work of promoting and disseminating the Model Policy on Impairment. Representatives of the LAC have met with numerous County bar associations and have succeeded in getting those bar associations to adopt the Model Policy and to promote its adoption by their constituent members. To date, the following County bar associations have adopted the Model Policy on Impairment and have encouraged their constituent membership to adopt and adapt the Model Policy in their firms and offices:

**BROOKLYN BAR ASSOCIATION**

**COLUMBIA COUNTY BAR ASSOCIATION**

**DELAWARE COUNTY BAR ASSOCIATION**

**ERIE COUNTY BAR ASSOCIATION**

**NASSAU COUNTY BAR ASSOCIATION**

**QUEENS BAR ASSOCIATION**

**SCHENECTADY COUNTY BAR ASSOCIATION**

**SUFFOLK COUNTY BAR ASSOCIATION**

The LAC continues to meet with a number of County Bar Associations across the state and anticipates continuing success in this area.

During 2010, the LAC initiated an effort to make its committee meetings more accessible to its many volunteer members throughout the state and to increase its membership as an on-going process. To that end, the LAC inaugurated a Western New York meeting in Buffalo. The meeting was hosted by the Erie County LHL Committee (one of the oldest such committees in the state). The LAC regional meeting immediately preceded the Erie County LHL annual Twelve Step Weekend Retreat. This Western New York regional meeting will be in addition to the three regular meetings of the committee, its Spring Retreat and its already established regional meetings in Suffolk County. That regional meeting precedes the Peter Sweisgood Award Dinner hosted by the Suffolk County LHL.

Each year at the annual NYSBA meeting in New York City, the LAC presents a substantive CLE on topics related to its mission. In 2011, the LAC will present a CLE entitled “Representing the Impaired Attorney” which will assist the profession in understanding many of the issues surrounding impairment and its inter-relationship with the disciplinary process. All are invited to attend and participate.

Members of the LAC continue to meet with staff members and attorneys from the Grievance Committees in each of the four departments in the state. These efforts are to sensitize the Grievance Committees to issues involving attorney impairment. The various judicial departments have begun to refer an increasing number of impaired attorneys for monitoring by LAC volunteers.

LAC volunteers have also made numerous presentations to law school classes to raise awareness of impairment due to depression and alcohol and drug addiction. The number of law students seeking assistance in their dealings with the various Character and Fitness Committees has grown dramatically.

Finally, several studies undertaken in the 1990’s demonstrated that lawyers (as an occupational group) suffered from significantly elevated levels (i.e. well above the rates found in the general population) of depression and alcohol and drug addiction. At least one of these studies called for additional research in this area in an effort to understand what it is about the practice of law which increases the emergence of these diseases. Both the NYLAT and the LAC have been actively working with current researchers in this area to develop a survey tool and CLE for New York lawyers to continue this area of research. ■

## ATTORNEY ARRESTED

BY G.



“**A**ttorney Arrested on Drug Charges, DWI,” read the headline in the local newspaper. I set the paper down slowly, let out a drag of smoke from my trembling cigarette, and drifted into the second from last stage of suicide, the planning stage. This was my bottom, and the pain and despair was so intense that hanging seemed a comfortable path to relief, a blessed solution.

Within hours of the newspaper’s publication, I started receiving phone call after phone call from friends and family. My dark and desperate fantasy of the final solution was being unexpectedly interrupted and diluted by expressions of love and support and hope. My colleagues, my clients, judges, secretaries, clerks, all were offering support and encouragement. They were all reminding me that I was so much more than a lawyer, that I was a person in need, and that I was worthy of the love and support that they were all willing to give. It was the power of this love and support, coming from so many places in my community that chased away my dark and destructive despair, and replaced it with hope and light, and pointed me toward the painful, yet beautiful, path of recovery.

When I smelled like last night’s whiskey, no one called me and offered their care or concern. When I’d walk into a bar after night court, just for a drink or two, but would not get home until three or four, no one said a word. When I was on my self-destructive path, blazing toward the bottom like a red-hot comet shooting across the sky, no one seemed to notice, or worse, no one seemed to care. Why did I have to crash and burn before all of my communities’ love and support rescued me? Why did I have to hit bottom before my friends and family rushed in with the warm embrace of their caring and loving arms?

The line that separates my life between active alcoholic and recovering alcoholic is the blessed gift of despair, drawn across my universe by one single act; the act of surrender. Once I passed over that line, everything changed, not only the signals I sent out, but also the messages I received. On the side of active alcoholic stood a tall beacon of false pride, sending out messages of defensiveness, self-sufficiency and strength, all neatly housed

inside a hard-covered shell. Any attempt to express concern for my drinking would be received and rejected as judgment. My friends and family were afraid that their concern would be misinterpreted as ridicule, hypocrisy or elitism. Either way, any notion they may have had to express concern about my drinking was most assuredly dissuaded by my own subtle signals, given off by the way I walked and talked; the subtle message given off by most alcoholics to friend and family alike: I’m fine. Mind your own business.

Cross over the line of blessed despair and into the world of recovering alcoholic, and where the beacon of false pride once stood, now stands the stripped down essence of my being, humility. It is this humbled vulnerability, this utter surrender to my disease that changed not only the signals I was sending, but the messages I received. The strut of false pride and the hard-covered shell of blind confidence designed to cover my shame and guilt was now replaced with an absolute realization that I too am every bit as flawed as every other. The subtle signal I was now sending was this: I am no better and I am no worse. I just need help and understanding. I cannot do this alone.

Once my friends and family received this new message, their fears of having their concerns misinterpreted and rejected vanished. They were no longer afraid of being accused of acting holier-than-thou. They could sense that I was now ready to receive their love and support. It is not the crash-and-burn bottom that marks the change of signals sent and received. It was surrendering to my disease that finally created the symbiotic balance between the signals sent and the messages received; the humbling realization of my own vulnerability invited the natural impulses of humanities’ most treasured virtue, to express care and concern to those in need.

## Positive Attitude & Gratitude

BY Barbara Smith, NYLAT Director

Another year of difficult economic times may not readily conjure positive thoughts and gratitude in you, but perhaps if it did, you might feel better. Recently, I’ve returned to reading more about resilience and how attitudes can help to shape our reality. A recent blogpost [lawyerswellbeing.com/blog] dealt with the concept of gratitude, which began with humor –

*Who is a grateful person?*

*An optimist sees the glass as half full.*

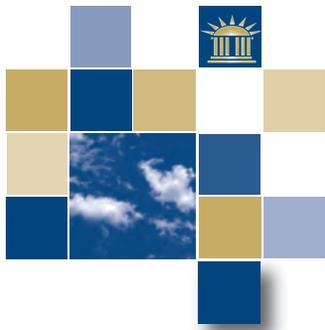
*The pessimist sees the glass as half empty.*

*The grateful person is happy to have a glass.*

The blogger, Harvey Hyman, attributes the anecdote to Robert Emmons, Ph.D., a psychology professor at UC Davis, and expert on the science of gratitude. Emmons might ask you to consider how you live your life – is it built on gratitude or pervasive complaint, do you count your blessings or your burdens? Your basic orientation (gratitude vs. negativity) can have a huge impact. Dr. Emmons’ studies show that people who are grateful exercise more, sleep better, enjoy better health, live longer, have more satisfying relationships, and more success at work.

If you are interested in learning more about practicing gratitude, you may wish to read Emmons’ book “Thanks! How the New Science of Gratitude Can Make You Happier.”\*

This article first appeared in the 2010 Solo/Small Firm Newsletter.



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ALBANY, NEW YORK 12207  
WWW.NYLAT.ORG

**Where do you turn?** Friends, family members and colleagues can play a role in identification and treatment of an addict by becoming familiar with the symptoms of the disease. The organized bar has several alternatives for obtaining assistance.

**Patricia Spataro** is the Director of the New York State Bar Association Lawyer Assistance Program. **Paul Curtin** is the Coordinator in the Fourth Department; they may be reached by calling 800-255-0569. **Lawrence Zimmerman** is the NYSBA LAC Committee Chair; he may be reached at (518) 429-4242.

**Eileen Travis** is the Director of the New York

City Bar's Lawyer Assistance Program, **Donald Hewlett** is the Clinical Associate; they may be reached at (212) 302-5787. **Gary Reing** is the Chair of the NYC Bar LAP Committee; you may reach him at (914) 245-7609. **Peter Schweitzer** is the Director for the Nassau County Bar Association's LAP; you may call him at (516) 747-4070.

You need not be a bar association member to receive their Free, Confidential advice. All LAP services are confidential under Judiciary Law §499.

Many local bar associations have volunteer committees who can provide advice and support to lawyers affected by alcohol and substance dependency:

#### BROOKLYN BAR ASSOCIATION

Lawyers Helping Lawyers Committee  
Sarah Krauss (718) 637-7561  
Kathleen Higgins (718) 422-0053

#### BRONX COUNTY BAR ASSOCIATION

William Peterman (718) 515-6000

#### BROOME COUNTY BAR ASSOCIATION

Lawyer Assistance Program  
Tom Schimmerling (607) 435-6225

#### CAPITAL DISTRICT

Lawyers Helping Lawyers Committee  
William Better (518) 758-1511  
Porter Kirkwood (607) 832-5358

#### BAR ASSOCIATION OF ERIE COUNTY

Lawyers Helping Lawyers Committee  
Katherine S. Bifaro (716) 852-1777

#### COMMITTEE TO ASSIST LAWYERS WITH DEPRESSION

Daniel Lukasik (716) 852-1888

#### DUTCHESS COUNTY BAR ASSOCIATION

Lawyer Assistance Committee  
Lee Klein (845) 454-9200

#### JAMESTOWN COUNTY BAR ASSOCIATION

Peter Yoars (716) 338-0413

#### JEFFERSON COUNTY BAR ASSOCIATION

Lawyers Helping Lawyers Committee  
David Antonucci (315) 788-7300

#### MONROE COUNTY BAR ASSOCIATION

Lawyers Concerned for Lawyers Committee  
Terry E (585) 233-3598

#### NASSAU COUNTY BAR ASSOCIATION

Lawyer Assistance Program Committee  
Annabel Bazante (516) 776-7030  
(888) 408-6222 [24 hour crisis hotline]

#### ONEIDA COUNTY BAR ASSOCIATION

Lawyer Assistance Committee  
Tim Foley (315) 369-3544

#### ONONDAGA COUNTY BAR ASSOCIATION

Lawyer to Lawyer Committee  
Bill Morgan (315) 476-2945  
Noreen Shea (315) 476-3101

#### QUEENS COUNTY BAR ASSOCIATION

Lawyers Assistance Committee  
Robert C. Carlsen (718) 366-0058  
Arthur Terranova (718) 291-4500 ext. 224

#### RICHMOND COUNTY BAR ASSOCIATION

Jonathan Behrins (718) 442-4500

#### ROCKLAND COUNTY BAR ASSOCIATION

Lawyer Helping Lawyer Committee  
Benjamin Selig (845) 942-2222  
Barry Sturtz (845) 369-3000

#### SARATOGA COUNTY BAR ASSOCIATION

Lawyer Assistance Committee  
Richard Zahnleuter (518) 280-1974  
Neil Weiner (518) 348-7900

#### SCHENECTADY COUNTY BAR ASSOCIATION

Lawyer Assistance Program Committee  
Vincent Reilly (518) 285-8425

#### SUFFOLK COUNTY BAR ASSOCIATION

Lawyers Helping Lawyers  
Arthur Olmstead (631) 697-2499  
Rosemarie Bruno (631) 979-3480

#### TOMPKINS COUNTY BAR ASSOCIATION

Lawyer Helping Lawyer Committee  
Richard Wallace (607) 272-2102

#### WESTCHESTER COUNTY BAR ASSOCIATION

Committee on Alcohol and Substance Abuse  
Charles Goldberger (914) 949-6400

## UPCOMING EVENTS

### 2011 SAVE THE DATE

#### NEW YORK STATE BAR ASSOCIATION 2011 ANNUAL MEETING

**MONDAY, JANUARY 24, 2011 THROUGH**

**SATURDAY, JANUARY 29, 2011**

The Hilton New York, 1335 Avenue of the Americas, New York City.

When contacting the hotel mention the New York State Bar Annual Meeting, a block of rooms have been reserved for January 20, 2011 - January 29, 2011. The special room rate will be available until December 21st or until the group block is sold-out, whichever comes first. For more information contact Kathy Heider at (518) 463-3200 or [kheider@nysba.org](mailto:kheider@nysba.org)

#### NYSBA LAWYER ASSISTANCE PROGRAM 21ST ANNUAL SPRING RETREAT

**MAY 13-15, 2011**

Silver Bay, Lake George, New York.

For registration information, please contact Patricia Spataro, NYSBA LAP Director at 518.487.5685 or [pspataro@nysba.org](mailto:pspataro@nysba.org)

If you have an event you would like to post, please contact Sue McDougall at (518) 285-4547 or [smcdouga@courts.state.ny.us](mailto:smcdouga@courts.state.ny.us)