

2012 ANNUAL REPORT



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

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First Judicial Department**

**Roy L. Reardon
Chair**

**Jorge Dopico
Chief Counsel**

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SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE

ROY L. REARDON, ESQ.
CHAIRMAN

61 BROADWAY
NEW YORK, N.Y. 10006

October 7, 2013

To The Bar and Public:

On the eve of the completion of my 6-year statutory term as Chair of the First Judicial Department's Disciplinary Committee ("DDC") it is my privilege to present the Annual Report for the year 2012.

Again DDC has enjoyed serving the Court and those who need our help in dealing with issues relating to the conduct of attorneys. The DDC has been an institution recognized nationally as a leader in its field. This status has been maintained by DDC through the dedicated work of Presiding Justice Luis A. Gonzalez, the Justices of the Court, the Honorable Susanna Rojas, the Clerk of the Court, and Jorge Dopico, DDC's Chief Counsel, together with his talented Deputies, Special Trial Counsel, Staff Attorneys, Supervisors, Investigators and Administrative Personnel.

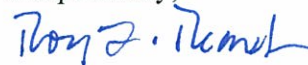
We have also been blessed by the strength of our Policy Committee that provides its skill and wisdom in dealing with policy issues and the general oversight of DDC's day-to-day performance. Most important to our success is the work of our 9 Hearing Panels and their Chairs. The high quality of the written Reports that they consistently issue reflects their knowledge and dedication to deal with those matters that come before them with strength and, where appropriate, with compassion.

Finally, a personal note. Together with the Policy Committee, I have met over the years on a regular basis with the Liaison Committee of the Court. This Committee is the way in which the Court hears issues as to which the Policy Committee feels it needs guidance and where the Court raises issues about which it has an interest or concern. The Presiding Justice participates as part of the Committee. There is no discussion at these meeting of any active undecided case.

We meet with the Liaison Committee in the Court's main conference room. It is a handsome room lined with the portraits of Presiding Justices going back to the Court's beginning. It is a majestic setting. When I have been there I have often found myself thinking about the many historic cases that have come before the assembled Justices over the years at their conferences and where orders, decisions and opinions were arrived at that have shaped the jurisprudence, not just the First Department, but of the State and beyond.

I shall cherish the memory of my time as part of DDC.

Respectfully,



Roy L. Reardon
Chair

CHIEF COUNSEL'S REPORT

Roy L. Reardon, Chairman of the Disciplinary Committee for the past six years, and a long time member, will retire from serving the First Department at the end of 2013, the expiration of his third two-year term as Chair. Roy has devoted much time, effort and energy to his Committee work. He has done it all, from serving on hearing panels to leading the DDC. He has done it with great skill, generosity and passion. His unwavering desire to protect the public from attorney misconduct serves as an inspiration to all. He will be greatly missed. We all thank him for his outstanding service.

In the past year, the DDC has lost both attorneys and staff that cannot be replaced due to budgetary constraints. Even so, we continue to resolve complaints promptly and to send expeditiously to our Court those cases involving serious attorney misconduct. This past year our Court has granted interim suspensions in many cases where the attorneys posed a significant and immediate danger to the public.

I wish to thank Presiding Justice Luis Gonzalez, the Court, the Committee and the staff for their commitment to attorney ethics. We look forward to continuing to serve our Court, the Committee and the public.



Jorge Dopico
Chief Counsel

COMMITTEE MEMBERS

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

In 2012, 65 Committee members served on 10 different Hearing Panels of approximately seven members each, composed usually of six lawyers and one non-lawyer.

In 2013, the Court appointed the following new Committee members:

John M. Callagy, Esq.
Nicholas A. Gravante, Jr., Esq.
Pamela Jarvis, Esq.
David M. Rubin, Esq.
Lawrence S. Spiegel, Esq.
William St. Louis, Esq.
John Warden, Esq.

Thirteen other members of the Committee, including two non-lawyers, serve on the Policy Committee, which reviews proposed admonitions and recommendations to file formal charges. The Policy Committee also considers a wide variety of other matters, including possible rule changes, setting priorities and administrative issues. Members of the Policy Committee in 2012 were Roy L. Reardon, Chair, Christopher Chang, Esq., Ernest J. Collazo, Esq., Haliburton Fales, 2d, Esq., Charlotte Moses Fischman, Esq., Martin R. Gold, Esq., Robert L. Haig, Esq., Myron Kirschbaum, Esq., Marvin Leffler, Alan Levine, Esq., Hon. Eugene Nardelli, Mercedes A. Nesfield, Hon. Joseph P. Sullivan, and Stephen L. Weiner, Esq.

The lawyers of the Committee are drawn from all areas of the profession and from law firms of varying sizes. The 14 non-lawyer members include business executives, a financial adviser and educators.

Below are brief biographies of all of the Committee members who served, with dedication and energy, in 2012, highlighting their diverse accomplishments:

Roy L. Reardon (Chair)

Mr. Reardon is the Chair of the Committee. He is a partner at the law firm of Simpson Thacher & Bartlett. His professional affiliations include the American Bar Association, the New York State Bar Association, and the Association of the Bar of the City of New York. He serves as a Special Master at the Appellate Division, First Department, and is a Fellow of the American College of Trial Lawyers. Mr. Reardon was honored for his lifetime achievements as one of New York's, and the nation's, premier attorneys at the Historical Society of the Courts of the State of New York.

Catherine M. Abate

Ms. Abate is the President and CEO of Community Healthcare Network, a not-for-profit organization dedicated to providing community-based primary care, mental health, and social services to diverse populations in underserved communities. Ms. Abate graduated cum laude from Vassar College and received her law degree from Boston University Law School. She began her professional life as an attorney at the Legal Aid Society in New York City. In 1986 Governor Cuomo appointed Ms. Abate to the position of Executive Deputy Commissioner of the New York State Division of Human Rights; and, in 1988 to the position of Chair of the New York State Crime Victims Board. During the Dinkins administration, she served as Commissioner of both the New York City Departments of Correction and Probation. Ms. Abate was elected as a New York State Senator in Manhattan from 1994 to 1998. While in the Senate, she was the ranking Democrat on the Crime Victims, Crime and Correction Committee, as well as Investigations and Government Operations Committee.

James M. Altman

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

Dominic F. Amorosa

Mr. Amorosa is a sole practitioner primarily involved in defense of white collar criminal matters. He was graduated from Seton Hall University and Rutgers Camden Law School. Following graduation, he served two years as Assistant United States Attorney in the District of New Jersey and in 1974 became an Assistant United States Attorney in the Southern District of New York where he served as Chief of the Narcotics Unit from 1979 to 1980 and Chief of the Organized Crime Unit from 1980 to 1981.

David Arroyo

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

Patrick H. Barth

Mr. Barth is a sole practitioner engaged in trial and appellate litigation with an emphasis on commercial litigation, including insurance coverage disputes. He is a graduate of Brooklyn College and New York University Law School where he served as Managing Editor of its Law Review. Following his graduation, he served as law clerk to Judge Harry E. Kalodner, United States Circuit Judge for the United States Court of Appeals for the Third Circuit, and as an Associate at Simpson Thacher & Bartlett. In 1975 he was appointed an Assistant United States Attorney for the Southern District of New York where he represented the government in civil litigation until 1977, when he was appointed Chief Appellate Attorney; and, in 1980 appointed Chief of the Civil Division. In 1981 he formed a law firm with two other former Assistant United States Attorneys until 1986. He serves on the Mediation Panel for the United States District Court for the Southern District of New York.

Nina Beattie

Ms. Beattie is a partner in the firm of Brune & Richard LLP. Her practice focuses on white collar criminal and regulatory defense and commercial litigation. Ms. Beattie is a graduate of Dartmouth College and Yale Law School. After graduation, she served as a law clerk to the Hon. Kimba M. Wood in the United States District Court of the Southern District of New York. Ms. Beattie is a member of the Board of Directors of the City Bar Justice Center and the Fund for Modern Courts and a former board member of the New York Council of Defense Lawyers. She is also a member of the New York City Bar Association Committee on White Collar Criminal Law and the New York State Bar Association Committee on White Collar Criminal Litigation.

Peter A. Bellacosa

Mr. Bellacosa is a partner at the firm of Kirkland & Ellis LLP, where he practices in the area of complex commercial litigation. He was graduated from Georgetown University and received his law degree from St. John's University. He is a member of the New York State Bar Association, the Association of the Bar of the City of New York and the Federalist Society for Law & Public Policy Studies.

George Berger

Mr. Berger is a senior litigation partner at Phillips Nizer LLP, where he has practiced law as a commercial litigator and appellate lawyer for his entire career. He also chairs its insurance practice. He is a graduate of the University College of New York University and of the New York University School of Law, where he served as Associate Managing Editor of its Law Review. He has been designated as a Distinguished Neutral by the Center for Public Resources. He is a member of the American Bar Association and of the Association of the Bar of the City of New York.

Sheila S. Boston

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

David Buksbaum

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

John F. Cambria

Mr. Cambria is a partner in Alston & Bird's litigation practice group, in the firm's New York City office. After spending some years at Simpson Thacher & Barlett, he became a partner at Christy & Viener and its successor firm, Salans, where he co-chaired the litigation department and held a number of executive management positions. Mr. Cambria joined

Alston & Bird in 2004. He has almost 35 years of experience in all aspects of civil, corporate and commercial litigation. Mr. Cambria is a graduate of the College of the Holy Cross (summa cum laude) and received his law degree from the University of Pennsylvania Law School. He is admitted to practice before state and federal courts in New York, the Third and Seventh Circuit Courts of Appeal, and the Supreme Court of the United States. Mr. Cambria has also been admitted in numerous state and federal courts throughout the country on a pro hac vice basis. He is a member of the Association of the Bar of the City of New York and the Federal Bar Council. At the Association of the Bar, he is a member of the in-house Counsel/Outside Litigation Counsel Group. Mr. Cambria is also a member of the Board of Directors of the Office of the Appellate Defender, a public interest legal services organization, and is a Board member of the Judges and Lawyers Breast Cancer Alert. He is a member of the College of Holy Cross New York Leadership Council; the Board of Managers of the University of Pennsylvania Law School Alumni Society; and the Historical Society of the Courts of the State of New York. For the past several years, Mr. Cambria has regularly been listed in *The Best Lawyers in America* and *New York Super Lawyers* in the field of commercial litigation.

Nicholas M. Cannella

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

Giorgio Caputo

Mr. Caputo is a Senior Analyst with First Eagle Funds, a New York-based mutual fund company, where he follows the firm's investments in a variety of industries and asset classes. Mr. Caputo is a graduate of Princeton University and Columbia Business School.

John H. Carley

After Rutgers College and military service, John H. Carley was graduated from Yale Law School and began his legal career in New York City, becoming a litigation partner at Rogers & Wells. In 1981 he joined the Reagan Administration, serving first as General Counsel of the Federal Trade Commission(1981-85) and then General Counsel of the Office of Management & Budget in the White House(1985-87). Returning to New York City, he

joined Donovan, Leisure, Newton & Irvine and in 1994 joined the Guiliani Administration briefly. In December 1994, Mr. Carley was appointed New York State Deputy Attorney General for Public Advocacy. In January 1997 he returned to private life as Executive Vice-President and General Counsel of Avis, Inc. In December 1997 HFS, Inc, the parent of Avis, and CUC, Inc. merged to form Cendant Corporation. In April 1998, Cendant disclosed an accounting fraud at the former CUC resulting in a capital market loss of \$20 billion. Mr. Carley joined Cendant to manage all civil, regulatory and criminal investigations and civil litigations resulting from the fraud in which senior executives were implicated criminally and civilly. At the time it was the largest civil fraud in corporate history. In September 2007 Mr. Carley resigned from Cendant to accept then-New Jersey United States Attorney Chris Christie's offer to serve as one of five monitors enforcing deferred prosecution agreements with hip and knee replacement public companies following an industry investigation into consulting practices. After completing this task in April, 2009, Mr. Carley pursued an individual practice.

Aurora Cassirer

Aurora Cassirer is a well-known and well-respected litigation partner at Troutman Sanders whose varied practice includes many business, banking, bankruptcy, real estate, employment and professional liability matters. She is a graduate of New York University School of Law. Ms. Cassirer has substantial experience acting as a receiver and monitor appointed in connection with SEC proceedings, has served as Receiver for Starr & Co., LLC, and Starr Investment Advisors, LLC in the SEC v. Kenneth Ira Starr matter, and has served as the Chapter 11 Trustee in a complex bankruptcy case, the Estate of David Schick (1996—2004), which generated various litigations and reported decisions. She is currently involved in several attorney general investigations relating to debt collection as well as other consumer-related matters. Ms. Cassirer's publications and speaking engagements include: The Association of the Bar of the City of New York, "Whistleblower Provisions of the Dodd-Frank Act," May 2011; Brean Murray Growth Conference, Beijing, "The Trend in Securities Litigation in the United States," June 2011; Credit and Collection News Webinar, "Understanding the CFBP and State Attorney General's Regulatory Issues Relating to Debt Collection," March 2013. Since 2008, she has been cited annually in Super Lawyers as an outstanding business litigator. Ms. Cassirer is on the firm's Executive Committee. She is a member of the New York Bar Association; New York State Women's Bar Association; and the American Bar Association; The National Association of Federal Equity Receivers (NAFER). She is chair of the Advisory Board of Kids in Need of Defense (KIND), and is on the Board of Trustees of Jerusalem College of Technology.

Christopher E. Chang (Member of the Policy Committee)

Mr. Chang is in private practice in New York City. His area of practice is commercial and criminal litigation in federal and state courts. A graduate of New York University (B.A. '75) and Cornell Law School (J.D. '78), Mr. Chang was an Assistant District Attorney in the Manhattan District Attorney's Office under Robert M. Morgenthau from 1978 to 1982. Mr. Chang is currently a member of the New York State Judicial Institute on Professionalism in the Law and was formerly a member of the Chief Judge's Committee on Profession and the Courts (Craco Committee) and Commission on Public Access to Court Records, the Franklin H. Williams Commission on Minorities in the Judiciary, and the Board of Directors of The Legal Aid Society in New York City. From 1991 to 2001, Mr. Chang was Chair of the Judiciary Committee of the Asian American Bar Association of New York. Mr. Chang is a former member of the Cornell University Council. In October 2002, Mr. Chang received the Millennium Award from the Franklin H. Williams Commission on Minorities in the Judiciary for his efforts in promoting diversity in the New York judiciary and court system.

Catherine A. Christian

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

Ernest J. Collazo (Member of the Policy Committee)

Mr. Collazo has practiced labor and employment law for more than 35 years. He began his career with the NLRB following his graduation from Columbia Law School. Two years later, he became an associate at Simpson Thacher & Bartlett and, within five years, became a partner. Ten years later, Mr. Collazo left to establish the predecessor firm to Collazo Florentino & Keil LLP, a boutique firm practicing management-side labor and employment law and litigation. Mr. Collazo is a Fellow of the College of Labor and Employment Lawyers, a member of the Council on Foreign Relations and the Advisory Committee to the Rules Committee of the Second Circuit, and a former member of the Advisory Committee to the NYS Ethics Commission. He serves or has served on the boards of the Federal

Defenders of NY; the September 11th Fund; the New York Community Trust; and the Washington Office on Latin America. As a City Bar member, he served on the Executive Committee, the Committee on Professional and Judicial Ethics, the Committee on Labor and Employment, the 2011 Nominating Committee, and as its representative to the NYSBA House of Delegates and its 2009 and 2010 Nominating Committees.

Ralph C. Dawson

Mr. Dawson has practiced law for more than 35 years, is a member of the firm of Fulbright & Jaworski L.L.P., and primarily engages in the practice of labor and employment law and civil litigation. He is a graduate of Yale College and of Columbia University School of Law. He is a member of the American Bar Association, and the New York City Bar where he served on the Judiciary Committee and the Civil Rights Committee. He also serves on the Screening Panel for Magistrate Judges for the United States District Court for the Southern District of New York.

Leonard F. DeLuca

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

Sheldon H. Elsen

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

years were spent as Chair of a hearing panel, and he has served on the Professional Ethics Committee of the New York City Bar Association.

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

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

Rosalind S. Fink

Ms. Fink practices employment law as counsel to the firm of Brill & Meisel. She is a graduate of Barnard College and Yale Law School. She served as an Assistant Attorney General in New York and was the Director of the Office of Equal Opportunity and Affirmative Action at Columbia University and an associate professor of political science at Barnard College. She is a long-term member of the House of Delegates of the New York State Bar Association and has been an active member of the New York County Lawyers' Association for over 40 years, serving as its first woman President in 1997-98. Ms. Fink also chaired the ABA's Back to Business project, aimed at assisting women who have taken time off mid-career to raise families or for other personal reasons. Ms. Fink also was one of the founding members and is the immediate past president of the New York American Inn of Court, which is affiliated with the New York City Bar Association.

Charlotte Moses Fischman (Special Counsel to the Policy Committee)

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

William P. Frank

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

Ruth W. Friendly

Ms. Friendly received her B.A from Smith College and her M.A from Teachers College, Columbia University. She taught in the Scarsdale Public Schools for 17 years. She is Vice-President and Senior Editor of Fred Friendly Seminars a non-profit organization whose programs have appeared on PBS for over 25 years. She is a Commissioner on the State Of New York's Commission on Judicial Nomination and has served as a member of the Independent Judicial Election Qualification Commission, First Department, New York State. She also serves on the Boards of Riverdale Neighborhood House and Riverdale Senior Services in the Bronx.

Matthew Gaier

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

David R. Gelfand

Mr. Gelfand is a partner in the firm of Milbank, Tweed, Hadley & McCloy LLP, and served as the practice group leader of Milbank's national litigation department from 2001 through 2009. He is a graduate of Vanderbilt University School of Law. Mr. Gelfand is admitted to practice before the bars of the State of New York and the District of Columbia, the U.S. Supreme Court, the U.S. Court of Appeals for the Second, Fifth, Seventh, Tenth and Eleventh Circuits, and the U.S. District Courts for the Southern and Eastern Districts of New York, and the Eastern District of Wisconsin. He is a member of the Board of Directors of The Fund for Modern Courts, a nonprofit organization committed to improving the

administration of justice in New York. Mr. Gelfand is also a member of the American Bar Association and D.C. Bar Association, and the Association of the Bar of the City of New York where he served in the Committee on Judicial Administration.

Robert J. Giuffra

Mr. Giuffra is a senior and litigation partner at Dougherty, Ryan, Giuffra, Zambito & Hession. He was graduated from St. John's University School of Law and received his Masters of Law from Brooklyn Law School. Mr. Giuffra acts as Appellant/Respondent counsel in cases in the New York Court of Appeals; Appellate Divisions; and United States Court of Appeals, and serves as trial attorney representing litigants in both state and federal courts. His bar admissions include: New York State; United States Supreme Court; United States Court of Appeals for the First, Second and Third Departments and the United States Tax Court. He is a member of the American Bar Association; New York State Bar Association and Maritime Law Association of the United States.

Robert E. Godosky

Mr. Godosky is the managing partner at Godosky & Gentile, P.C. The firm, founded by Richard Godosky and Anthony Gentile, practices primarily in the area of personal injury representing plaintiffs in all types of accident cases. Mr. Godosky was graduated from Fordham University School of Law. He is a member of the Board of Directors of the New York State Trial Lawyers Association, a member of the New York County Lawyers Association and the New York State Bar Association.

Martin R. Gold (Special Counsel to the Policy Committee)

Mr. Gold is a Senior litigation partner in the firm of SNR Denton (US) LLP. From 1965 to 1968, he was an Assistant United States Attorney in the Southern District of New York. Mr. Gold has been an adjunct Professor of Law at Cardozo Law School and has served as a member of the boards of the Lawyers' Committee for Civil Rights Under Law and New York Lawyers for the Public Interest. He is a fellow of the American College of Trial Lawyers, and is a member of the American Bar Association, the New York State Bar Association, the New York City Bar Association, the New York County Lawyers and the Federal Bar Council.

John D. Gordan, III

Mr. Gordan, III, was a litigation partner at Morgan, Lewis & Bockius LLP, from which he retired as Senior Counsel in June 2011. A graduate of Harvard Law School, he clerked for Judge Inzer B. Wyatt of the United States District Court for the Southern District of New York from 1969 to 1971. He was an Assistant United States Attorney for the Southern District of New York from 1971 to 1976, serving as Chief Appellate Attorney from 1973 to 1975 and Executive Assistant U.S. Attorney from 1975 to 1976.

Richard M. Greenberg

Mr. Greenberg is the Attorney-in-Charge of Office of the Appellate Defender, a not-for-profit indigent criminal defense firm, the oldest indigent defense organization in New York City other than The Legal Aid Society. The Appellate Defender provides high quality, client-centered appellate and post-conviction representation, and trains new lawyers in the practice of appellate advocacy. Mr. Greenberg has been in that position since 1996, and has been involved in the practice of criminal law for nearly 35 years. He currently serves on the Committee on Courts of Appellate Jurisdiction of the New York State Bar Association, and has previously served on the City Bar Association's Council on Criminal Justice, as well as its Judiciary, Professional Responsibility, and Criminal Law Committees. Mr. Greenberg also currently serves on the Appellate Courts Committee of the New York County Lawyers Association, and is a member of the New York State Defenders Association, the National Legal Aid and Defender Association, and the National Association of Criminal Defense Lawyers.

Maura Barry Grinalds

Ms. Grinalds is a litigation partner at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. She is a graduate of Harvard College and Harvard Law School. Her practice includes securities, corporate and commercial litigation in federal and state courts and domestic and international arbitration proceedings. Ms. Grinalds is active in pro bono activities, and serves on the Schools and Scholarships Committee of Harvard College. She co-edited a New York Legal Ethics Narrative on the American Legal Ethics Library, www.law.cornell.edu/ethics.

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

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

volume treatise, entitled Commercial Litigation in New York State Courts, and of two other multi-volume treatises.

James W. Harbison, Jr.

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

Gerard E. Harper

Mr. Harper is a litigation partner of Paul, Weiss, Rifkind, Wharton & Garrison LLP, and has headed the firm's ethics committee since 1991. He has served on the ethics committees of the New York State, City, and County bar associations, including service as chair of the NYCLA Committee. He is a graduate of Rutgers College and New York University School of Law, where he was Editor-in-Chief of the *Law Review*, and, before joining Paul, Weiss, was law clerk to U.S. Circuit Judge George E. MacKinnon of the U.S. Court of Appeals for the D.C. Circuit.

Peter C. Harvey

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

Brian C. Mck. Henderson

Mr. Henderson serves as Senior Advisor to the Chairman of Espirito Santo Financial Group, S.A., and is based in New York, New York. He also serves on the Board of Espirito Santo Bank, Florida and the Board of Espirito Santo Investment Holdings Ltd., U.K. Prior to joining Group Espirito Santo, Mr. Henderson devoted over 36 years to the financial services industry, including 22 years at Merrill Lynch & Co. and 14 years at the Chase Manhattan Bank. Most of his responsibilities at both Merrill Lynch and Chase were in international investment and commercial banking, with his last position at Merrill Lynch & Co. as Senior Vice President and Chairman of Global Public Sector.

Mr. Henderson serves on the following not-for-profit boards: Vice Chairman of The Atlantic Council of the United States; Harvard Project on American Indian Economic Development, John F. Kennedy School of Government, Harvard University; The Institute for the Study of Diplomacy, School of Foreign Service, Georgetown University; Manhattan School of Music International Advisory Council and Board of Trustees and the Fort Apache Heritage Foundation.

Mr. Henderson is a graduate of Georgetown University's School of Foreign Service. He also attended the University of Barcelona and Edinburgh University. Mr. Henderson is married, with three daughters.

Seymour W. James, Jr.

Mr. James is the Attorney-in-Charge of the Criminal Practice at The Legal Aid Society. He is a graduate of Brown University and Boston University Law School. Mr. James is the President of the New York State Bar Association, a former President of the Queens County Bar Association, and a member of the American Bar Association House of Delegates. He serves as a member of the New York State Justice Task Force, the New York State Permanent Sentencing Commission, the Committee on Character and Fitness for the Second Judicial Department, and the Independent Judicial Election Qualification Commission for the 11th Judicial District.

John J. Jerome

Mr. Jerome is of counsel in the firm of Sullivan and Cromwell, LLP, in the Firm's Restructuring and Bankruptcy Group. He joined the Firm in July 2011 with more than 40 years of experience in various legal matters. He is a graduate of St. John's University Law School. Mr. Jerome is admitted to state and federal courts in New York and Pennsylvania, as well as to the U.S. Supreme Court. He has served as an official mediator for the U.S. Bankruptcy Court, Southern District of New York. He is a member of the American Bankruptcy Institute, the American Bar Association, the International Insolvency Institute and the New York City Bar Association, where he chaired the Bankruptcy and Reorganization Committee. Mr. Jerome has served as president of the Judd Foundation and as a trustee of the New York State Archives Partnership Trust.

Alan R. Kaufman

Mr. Kaufman is a partner in the firm of Kelley Drye & Warren LLP where he is principally engaged in white collar criminal defense work and represents clients who are under investigation by the Securities and Exchange Commission. He is a graduate of Lehigh University and New York University School of Law. Following his graduation, he served as a law clerk for Judge Paul Weick of the United States Court of Appeals for the Sixth Circuit. He joined the United States Attorney's Office in the Southern District of New York in 1973, where he served as Chief of the Official Corruption Unit and Chief of the Organized Crime Strike Force Unit. In 1980, he and Don Buchwald left the U.S. Attorney's Office and formed Buchwald & Kaufman. In 1999, he returned to the United States Attorney's Office as Chief of the Criminal Division where he served until 2002, and then rejoined his firm, which merged with Kelley Drye in June 2007.

Alfreida B. Kenny

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

Myron Kirschbaum (Special Counsel to the Policy Committee)

Mr. Kirschbaum is a Special Counsel in the firm of Kaye Scholer, LLP, where he is engaged in complex business litigation and securities and insurance law. He received his law degree from Harvard University where he was Editor of the Harvard Law Review. After graduation, he served as a law clerk in the United States Court of Appeals for the Second Circuit.

Marvin Leffler (Member of the Policy Committee)

Mr. Leffler has been president of Town Hall Foundation for the past 32 years. His principal activities and positions include: trustee associate, New York University; member of Mayor's Midtown Citizens Committee; Panelist, American Arbitration Association; President (retired), Flexible Fabricators, Inc.; member, New York Regional Board Anti-Defamation League; former Chair of the Board, National Council of Sales Organizations; past Co-Chair and Director, NYU Alumni Association; author of Sales Books published by Prentice Hall and Lecturer; listed in Who's Who in the East, and Who's Who in America.

Alan Levine (Member of the Policy Committee)

Mr. Levine is a litigation partner in Cooley LLP, formerly Kronish Lieb Weiner & Hellman LLP, and a member of its Management Committee. He was graduated from the Wharton School of the University of Pennsylvania and the New York University School of Law where he was an Editor of the Law Review. Following graduation he clerked for the Hon Lee P. Gagliardi in the United States District Court, Southern District of New York and then served for five years as an Assistant United States Attorney in the Southern District of New York.

He joined Kronish Lieb in 1980 and was its Managing Partner from 1996 until its merger with Cooley Godward in 2006. Mr. Levine has served in the House of Delegates of the NYSBA and the ABA and as chair of committees of each. He was Chair of the Board of the Legal Aid Society from 2006-2010. He is a Fellow of the American College of Trial Lawyers and has served as Chair of its NY Downstate Committee.

Nancy B. Ludmerer

Ms. Ludmerer is counsel in Davis Polk & Wardwell LLP's Litigation Department. She graduated from the University of Pennsylvania and Boalt Hall School of Law (UC-Berkeley). Her practice focuses on complex commercial and securities cases, and she also has an active pro bono practice. In addition to representing indigent clients in matrimonial and immigration matters, most recently she was co-counsel with the Legal Aid Society and other agencies in a landmark lawsuit brought on behalf of prisoners with mental illness throughout the New York State prison system. She serves as a Civil Court Small Claims Arbitrator in Kings County, and has been a mentor in firm-sponsored alliances with New York City public high schools. She is the author of articles on legal topics in *The American Lawyer*, *The Journal of Medical Ethics* (London), and *Vogue Magazine*, and of fiction in *The Kenyon Review*, *Cimarron Review*, and other literary journals. Ms. Ludmerer is a trustee of the SAJ Synagogue.

Arthur M. Luxenberg

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

William A. Maher

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

Roger Juan Maldonado

Mr. Maldonado is a litigation partner at Balber Pickard Maldonado & Van Der Tuin, PC. His practice concentrates on complex civil litigation concerning real estate transactions, copyright infringement, employment matters and education law. Mr. Maldonado serves as the New York City Bar (NYCB) designated member of the Board of Directors of the New York Community Trust and as Chair of the NYCB Council on Judicial Administration. Mr. Maldonado also serves as a Vice-President and member of the Board of Directors of United Neighborhood Houses of New York and as a Referee for the New York State Commission on Judicial Conduct. Mr. Maldonado previously served as a Vice-President of the NYCB, as a member of the Mayor's Advisory Committee on the Judiciary and as a Co-Chair of the Real Estate and Probate Litigation Committee of the American Bar Association's Litigation Section. Mr. Maldonado is a graduate of Yale Law School and Yale College.

Emily F. Mandelstam

Ms. Mandelstam serves as president of the board of trustees of Trinity School (an independent, co-educational school in Manhattan for kindergarten through 12th grade) and as a trustee of Bronx Lab School (a public high school in the Bronx). She has worked as a newspaper reporter in New York City and in South Africa. Ms. Mandelstam has also served as a writer, researcher, and policy analyst at various non-profit organizations in New York City and Washington, DC, including the NAACP Legal Defense and Educational Fund and the National Immigration Forum. Ms. Mandelstam holds a B.A. (with honors) from Harvard University; an M.Phil. (in Criminology) from the University of Cambridge (England); and an M.Sci.(in Journalism) from Columbia University.

Robert P. McGreevy

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

Robert J. McGuire

Mr. McGuire is a graduate of Iona College and St. John's University Law School where he was Editor in Chief of the Law Review. He also has a LL.M. from New York University

Law School. After serving as an Assistant United States Attorney in the Southern District of New York from 1962 to 1966, he became a named partner in McGuire and Lawler, with an emphasis on white collar investigations and defense. In 1978, he was appointed Police Commissioner of the City of New York and served until 1983. Thereafter, he served as Chair and Chief Executive of Pinkerton's Inc., and subsequently, President of Kroll Associates, an international investigation firm. He has served on many boards and Commissions, and is currently the Vice Chair of the Police Athletic League.

Maria D. Melendez

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

Hon. Eugene Nardelli (Member of the Policy Committee)

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

Mercedes A. Nesfield (Member of the Policy Committee)

Ms. Nesfield is the retired Director of the Office of Equal Opportunity of the New York City Board of Education. She holds a B.A. from Brooklyn College and a Masters Degree in Educational Administration from Baruch College. She has served as the Executive Assistant to the President of the Board of Education of the City of New York and as Executive Director and Executive Assistant to the Chair of the New York City Commission on Human Rights.

Fredric S. Newman

Mr. Newman is a founding partner of the firm of Hoguet Newman Regal & Kenney where he is engaged in commercial litigation and business counseling. He is a graduate of Harvard College and received his law degree from Columbia Law School. Before founding his present firm, he worked as a litigation associate at White & Case and served as Assistant General Counsel, Vice President, and General Counsel of Philip Morris, USA. Mr. Newman has served on various boards of civic and nonprofit institutions and currently serves on the National Advisory Board of the Johns Hopkins Berman Bioethics Institute.

Jacob Pultman

Mr. Pultman is a partner at Allen & Overy LLP, where he practices in the area of commercial litigation and regulatory investigations. He is a graduate of Brooklyn College of the City University of New York and received his J.D. from Yale Law School. He is a member of the New York State Bar Association and the New York State Trial Lawyers Association.

Roland G. Riopelle

Mr. Riopelle is a partner in the firm of Sercarz & Riopelle, LLP, where he litigates primarily criminal cases and the occasional complex civil case. He is a graduate of the Boalt Hall School of Law. After law school, Mr. Riopelle clerked for a Federal District Judge and later served as an Assistant United States Attorney in the Southern District of New York from 1992 to 1998. He is a member of the American College of Trial Lawyers. He is a member of the executive board of the New York Council of Defense Lawyers, and serves as the Secretary/Treasurer of that organization. He is also a member of the National Association of Criminal Defense Lawyers. He is an active member of the New York State Bar Association and the Association of the Bar of the City of New York, where he has chaired the Criminal Advocacy Committee, served on the Criminal Courts and Judiciary Committees, and chaired or participated in various Continuing Legal Education programs.

Robin Stratton Rivera

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

Barbara K. Rothschild

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

William T. Russell

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

Barbara A. Ryan

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

Karla G. Sanchez

Ms. Sanchez is the Executive Deputy Attorney General for Economic Justice at the New York Attorney General's Office. She was formerly a partner at Patterson Belknap Webb &

Tyler LLP, concentrating her practice in commercial and intellectual property litigation (including patents, trade dress and false advertising). She was graduated cum laude from Fordham University School of Law where she was a member of the Order of the Coif, an Editor of the Fordham Intellectual Property, Media & Entertainment Law Journal, President of the Latin American Law Students Association and a member of the National Trial Advocacy Team. Her undergraduate degree is from Columbia College. Prior to joining Patterson Belknap, Ms. Sanchez served as a law clerk to the Honorable Deborah A. Batts, U.S. District Court, Southern District of New York. Ms. Sanchez was named on of the "40 under Forty" by Crain's New York Business and listed on Hispanic Business's "100 Most Influential Hispanics."

Kathleen M. Scanlon

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

Karen Patton Seymour

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

Eugene P. Souther

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

of the New York State Bar Association; was a delegate to the House of Delegates of the American Bar Association; and served as Vice Chairman of the International Bar Association.

Carla Kerr Stearns

Ms. Kerr Stearns is Executive Director of New Yorkers for Growth, a nonpartisan PAC devoted to supporting fiscally responsible candidates for State office. She is a graduate of Stanford University and Stanford Law School. As a litigator at Hughes Hubbard & Reed LLP for 25 years, including 16 years as a partner, she litigated major cases through the federal system, including two constitutional cases resolved by the United States Supreme Court, and served frequently as a media commentator on First Amendment and liberty interest issues. She retired from law firm practice in 2012 to pursue her current work in law and politics.

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

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

Ronald J. Sylvestri, Jr.

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

Foundation and Friends of Saint Dominic. Mr. Sylvestri earned a Bachelor of Science degree in 1996 from Babson College in Wellesley, Massachusetts where he majored in Investments and Economics.

Natica von Althann

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

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

Mr. Weiner is in private practice in his own firm specializing in complex commercial litigation and white collar investigations. He is a graduate of Columbia College and also received his cum laude law degree from Columbia University School of Law. He has been a member of the Disciplinary Committee since 1986 and the Policy Committee since 1989. He was Chair of the New York State Commission of Investigation for over eight years. He is a member of the Association of the Bar of the City of New York and has been Chair of its Criminal Justice Council and its Committee on Criminal Justice operations and Budget; the American Bar Association; and a former member of the Board of Directors of the Legal Aid Society.

Susan Welsher

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

Milton L. Williams, Jr.

Mr. Williams is a partner at the law firm of Vladeck, Waldman, Elias & Engelhard, which is a plaintiff's employment law firm. Prior to joining the Vladeck firm in January of 2009, he

was a Deputy General Counsel and the Chief Compliance Officer at Time Inc. He had been at Time Inc. since 1997. Before coming to Time, Mr. Williams was in private practice and served as Assistant U.S. Attorney in the U.S. Attorney's Office for the Southern District of New York and was an Assistant District Attorney in the New York County District Attorney's Office. He is a graduate of Amherst College and the University of Michigan Law School in Ann Arbor.

Frank H. Wohl

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

Richard R. Zayas

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

Gonzalo Zeballos

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

Sarah E. Zgliniec

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

A BRIEF OVERVIEW OF THE DISCIPLINARY PROCESS

Complaints, Investigations and Dismissals

The disciplinary process usually commences with the filing of a complaint against an attorney, who is referred to as a “respondent.” Some 2883 matters were opened in 2012, primarily based on complaints from clients, but also from other attorneys and members of the public at large. The Committee also opened *sua sponte* investigations based on information which appeared in judicial opinions, professional journals, referrals from the judiciary, dishonored check notifications from the Lawyers’ Fund for Client Protection, newspaper accounts and other sources.

Complaints are date-stamped, numbered and entered into the Committee’s computer system, which generates a printout of the respondent’s disciplinary history with the Committee, as well as current information from the respondent’s registration with the Office of Court Administration. The complaint is then screened by a staff attorney, who makes a preliminary recommendation as to whether the Committee has jurisdiction, or whether the complaint should be referred to another public agency or disciplinary committee. If it appears that there is no substantial misconduct, but there has been a breakdown of communication between the lawyer and the client, staff may refer the matter for mediation by the mediation panel of the New York County Lawyers’ Association, the Association of the Bar of the City of New York, or the Bronx County Bar Association.

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

If the complaint involves the same substantial and material allegations that will be decided in pending litigation, the Committee may defer the matter pending resolution of the litigation, which may result in a judgment binding on the respondent. Staff’s recommendation to close a matter pending resolution of an ongoing litigation must be approved by a lawyer member of the Committee. In such cases, the Committee will independently monitor the progress of the litigation with a view to reopening the complaint upon resolution of the litigation. If it otherwise appears that the complaint has no merit, a lawyer member of the Committee may dismiss the matter after the initial screening.

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

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

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

The staff attorney who is assigned to the matter may obtain further documentation, using subpoenas when necessary, may interview witnesses, including the complainant, and may question the respondent on the record and under oath (examination under oath, deposition).

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

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

Admonitions

The Committee issues a Letter of Admonition when an investigation reveals that a respondent has violated the New York Rules of Professional Conduct (Rules), but not seriously enough to warrant a public sanction. For example, an admonition might be issued if a respondent neglected only one legal matter and there were mitigating factors.

The New York Rules of Professional Conduct, 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, signed by the Presiding Justice of each of the four departments. These rules replaced the Lawyer's Code of Professional Responsibility, previously referred to as the "Disciplinary Rules."

Although it is private and remains confidential, an admonition is a finding of professional misconduct and becomes a part of the respondent's permanent disciplinary record. The admonition will be considered in determining the extent of discipline imposed in the event that there are future charges of misconduct against a respondent (see 22 NYCRR 605.5[b]). A staff attorney's recommendation to issue an admonition is reviewed by a Deputy Chief Counsel and the Chief Counsel, and must be approved by two Policy Committee members. Admonitions are not given without admissible and substantial proof of misconduct. If a respondent refuses to accept an admonition, he or she may request that the Committee file formal charges instead. In that case, staff must be able to prove the misconduct, by a preponderance of the evidence, before a Referee; or, the respondent may ask for reconsideration of the admonition by the Chair. In that case the Chair sustains, or vacates the admonition. In 2012, the Committee issued 71 Letters of Admonition, covering 84 separate complaints. (An admonition may be based on more than one complaint against a respondent.) Seldom do respondents demand a hearing; more often they accept the admonition, or request reconsideration from the Chair.

Formal Charges

A staff attorney's recommendation that formal charges be filed must be based on a demonstration of professional misconduct reviewed by the staff attorney's supervisor, a Deputy Chief Counsel, and approved by the Chief Counsel and two lawyer members of the Policy Committee. When formal charges are approved, the Chief Counsel requests that the Court appoint a Referee to hear the charges. Under the Court's rules, all hearings on formal charges are conducted by Court-appointed Referees. Respondents have the right to appear, to be represented by counsel, to cross-examine staff witnesses, and to present their own witnesses and exhibits. The proceedings before the Referee are transcribed, and are conducted in two separate parts, liability hearing and sanction (mitigation and aggravation evidence) hearing. A Referee cannot proceed with a sanction hearing until he or she indicates that at least one charge will be sustained. A Referee should make a finding on the charges shortly after the end of the liability hearing. The Referee almost always asks the parties to submit memoranda regarding liability and sanction. When the hearing, liability and sanction, is concluded, the Referee must file a written Report and Recommendation within 60 days containing findings of facts, conclusions of law and, charges sustained or dismissed, and recommendation as to sanction (Report).

The Chair then refers the Referee's Report to a Hearing Panel, usually consisting of at least six lawyers and a non-lawyer member of the Committee. The Hearing Panel reviews

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

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

Serious Crimes

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

Applications to the Appellate Division

Public discipline requires an order of the Court. The Committee applies to the Court by motion or petition which includes the record of the disciplinary proceedings and the Court action requested. When the Court decides to impose a public sanction, it issues an order and a written opinion which is almost always published in the New York Law Journal and is otherwise public. In matters involving a hearing on charges, the Committee files a petition, reviewed and signed by the Chair, with the Court to confirm a Hearing Panel's Determination; or, the Chief Counsel files a motion to disaffirm a Hearing Panel's Determination.

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

Referee/Hearing Panel on the issue of sanction only. Mostly, the Court assigns collateral estoppel cases directly to a Hearing Panel.

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

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

Hearings before Referees and Hearing Panels are normally closed to the public, except in rare cases when a respondent waives confidentiality. The Referees conduct hearings like trials, taking testimony and receiving exhibits in accordance with the rules of evidence. The Referees have broad discretion as to what is considered relevant and admissible evidence. A transcript is made of the entire proceeding. If the Court imposes public discipline, the entire record is available for public inspection at the First Department Committee on Character and Fitness located at 41 Madison Avenue, 26th Floor, New York, New York 10010.

REPRESENTATIVE PUBLIC DISCIPLINE CASES

In 2012, the Appellate Division, First Judicial Department, publicly disciplined 65 lawyers as follows: 13 disbarments, 10 resignations by attorneys facing charges (equivalent to disbarment), 29 suspensions and 13 public censures. Several cases prosecuted by Committee staff attorneys that have become a matter of public record in 2012 are reviewed below:

Matter of John G. Lynch, 95 AD3d 121 (1st Dept 2012)

By Order dated September 18, 2008, the Appellate Division immediately suspended the attorney based on his conviction of two “serious crimes” involving his use of a consultant barred by federal law from participating in union activities, and failure to pay state income taxes, respectively. Following a sanction hearing, the Appellate Division found in aggravation, based on the attorney’s admissions, that he had embezzled approximately \$296,000 from a labor union and suspended him for five years retroactive to September 18, 2008, the date that he was originally suspended. (Staff Counsel Orlando Reyes)

Matter of John P. Harris, 97 AD3d 96 (1st Dept 2012)

The Appellate Division immediately suspended the attorney pursuant to 22 NYCRR 603.4(e)(1)(i) based on his failure to comply with the Committee’s investigation by refusing to be examined under oath and produce escrow account records. The Appellate Division also immediately suspended the attorney pursuant to 22 NYCRR 603.4(e)(1)(iii) based on bank records and the negative inference drawn from his invocation of his Fifth Amendment Privilege, that together showed that he had engaged in professional misconduct by misappropriating, or converting, client funds. (Staff Counsel Orlando Reyes)

Matter of Richard P. Caro, 97 AD3d 148 (1st Dept 2012)

By Order dated June 14, 2010, the Appellate Division gave collateral estoppel effect to two court decisions and found that by lying under oath and destroying material evidence the attorney had engaged in conduct prejudicial to the administration of justice, and involving dishonesty and deceit. Following a sanction hearing, the Appellate Division suspended the attorney for six months. (Staff Counsel Orlando Reyes)

Matter of Amy R. Weissbrod-Gurvey, 102 AD3d 197 (1st Dept 2012), lv dismissed 20 NY3d 1085 (2013)

By Order dated March 18, 2008, the Appellate Division gave collateral estoppel effect to three court decisions sanctioning the attorney and found that by repeatedly advancing frivolous and vexatious litigation she had, inter alia, engaged in conduct prejudicial to the administration of justice, and involving dishonesty and deceit. Following a sanction hearing, the Appellate Division found in aggravation, based on the attorney’s admissions,

that she did not intend to pay the sanctions against her and suspended the attorney for six months and barred her from seeking reinstatement without first paying the sanctions. (Staff Counsel Orlando Reyes)

Matter of Brian H. Reis, 96 AD3d 53 (1st Dept 2012)

Respondent was initially suspended for uncontroverted evidence of conversion and failure to cooperate with the Committee. Respondent failed to answer the numerous complaints filed against him. The Committee subpoenaed respondent to produce his bank records and ledgers for his escrow account. Respondent then answered that he was asserting his Fifth Amendment privilege and declined to answer the complaints and produce his escrow account records. The Court found that respondent cannot assert the Fifth Amendment privilege to bypass his duty to produce records or documents that he is required to maintain pursuant to the New York Rules of Professional Conduct. (In 2013, respondent was disbarred and subsequently indicted by the New York County District Attorney's Office.) (Staff Counsel Kathy Wu)

Matter of Ted W. Gallagher, 97 AD3d 254 (1st Dept 2012)

Respondent works for the New York City Department of Housing Preservation and Development. He was arrested for stealing from an art gallery, Bergdorf Goodman, and a supermarket. Respondent's arrests resulted in a conviction for petit larceny with a sentence of conditional discharge for one year. Thereafter, the Committee began a serious crime proceeding against the attorney. Respondent submitted mitigation that he suffered from chronic long-term depression which was related to his shoplifting compulsions. The Court publicly censured respondent and required him to complete one year of psychotherapy for shoplifting to be monitored by the New York City Bar Lawyer Assistance Program. (Staff Counsel Kathy Wu)

Matter of Theresa Lizzio, 102 AD3d 162 (1st Dept 2012)

Respondent was employed by the New York City Department of Probation and conducted probation violation hearings. In a number of cases, respondent either forged a Supreme Court Justice's name or printed the names of the judges on a judicial subpoena without the judge's permission or authority. The matter was referred to the Kings County District Attorney's Office for criminal prosecution. During the course of the Committee's investigation, respondent agreed to resign from the practice of law in New York in exchange for a non-criminal plea offer. (Staff Counsel Kathy Wu)

Alexander J. Gurevich, 94 AD3d 39 (1st Dept 2012)

Gurevich acted as both attorney, real estate investor and broker in organizing a group of investors, incorporated as Secaucus Outlet Center, LLC, to purchase a retail outlet mall in New Jersey in 2003. UBS Real Estate Investment Inc. initially approved a ten million dollar

loan for the purchase but then reduced the amount to \$8.2 million. In order to cover the financing gap, Gurevich sought a loan from certain clients of his law firm who were facing criminal charges. In addition, he had the purchasing entity sign a promissory note in favor of an entity he had formed with his co-broker. In short, Gurevich secured over \$1.5 million in loans from entities other than UBS. In the numerous UBS mortgage and closing documents, certifications and HUD-1 forms Gurevich signed at the closing, however, he falsely represented that no additional loans had been or would be received by the purchaser as long as UBS held a mortgage on the mall. He also made misrepresentations to the Committee at a deposition regarding the promissory note received by the brokerage entity, in lieu of a commission. The Court found he engaged in dishonest conduct and conduct that reflected adversely on his fitness, and suspended him for eighteen months. (Special Trial Counsel Jeremy S. Garber)

David M. Shearer, 94 AD3d 128 (1st Dept 2012)

Shearer's law firm was co-counsel with a Maryland law firm in representing a woman and her teenage son who had suffered severe brain damage at birth, and pursuing their claims against the treating obstetrician and hospital where the birth took place. The mother had signed a retainer agreement with the Maryland lawyer in May of 1997, and he in turn entered into an agreement with Shearer in October of 2007 to handle the New York aspects of the litigation for 50% of the attorney's fees. In August of 2003, Shearer settled the action for \$4.25 million in New York but refused to share the almost \$600,000 legal fee equally with the Maryland attorney. A bitter dispute between the attorneys over fees swiftly developed and the Maryland attorney filed an order to show cause seeking to enjoin Shearer from disbursing the disputed attorney fees. Shearer filed a retainer statement with OCA in September of 2003 falsely representing that he had been directly retained by the mother in 1997. He then sent a "replacement" retainer to the mother, claiming that the one she had signed six years earlier had been damaged and needed to be replaced. She declined to sign it, finding the circumstances to be "fishy." Shearer also filed an infant's compromise order with supporting affidavits and affirmations, without notice to his co-counsel, which failed to disclose the Maryland attorney's claim to 50% of the legal fees and the fact that he had no independent retainer agreement. The Court found that Shearer had engaged in misrepresentation and conduct prejudicial to the administration of justice, and suspended him for 2 ½ years. (Special Trial Counsel Jeremy S. Garber)

Unni Krishnan, 99 AD3d 207 (1st Dept 2012)

In this serious crime case, an attorney pleaded guilty to driving while intoxicated and giving an unlawful gratuity to a police officer. Krishnan had been drinking heavily at lunch and hit a light pole on his drive home. After being arrested and brought to the police station, he presented a \$2,000 personal check to the arresting officer and requested him to ignore or alter the results of the Breathalyzer test. The Court found Krishnan's character witnesses to be

impressive and his conduct to be aberrational, and publicly censured him. (Special Trial Counsel Jeremy S. Garber)

Roy R. Kulcsar, 98 AD3d 161 (1st Dept 2012)

Kulcsar, a criminal defense attorney in the federal courts, was publically censured and suspended for six months by the Second Circuit Court of Appeals for a pattern of neglecting to file briefs on behalf of clients in seven matters resulting in four dismissals, and for failing to communicate with court personnel. The United States District Court for the Southern District of New York also investigated and suspended Kulcsar for two years for failing to keep records of various deposits he made into client and non-client inmate accounts, and for commingling personal and client funds in his personal checking account. The Committee filed a petition for reciprocal discipline and the Appellate Division, First Judicial Department, suspended him for two years. (Special Trial Counsel Jeremy S. Garber)

Jonathan S. Bristol, 94 AD3d 85 (1st Dept 2012)

Bristol assisted the money manager and lawyer, Kenneth I. Starr, Esq. (*Matter of Starr*, 88 AD3d 145 [1st Dept 2011] [disbarred upon federal felony plea]) in misappropriating the funds of Starr's clients by channeling their funds through Bristol's attorney escrow account. Bristol pleaded guilty in the United States District Court for the Southern District of New York to one count of conspiracy to commit money laundering. The Committee moved to have Bristol stricken from the roll of attorneys on the basis of his federal felony plea allocution wherein he admitted to crimes that would be New York felonies or, in the alternative that the federal felony be deemed a serious crime. In response to the Committee's motion Bristol submitted an affidavit of resignation, admitting that he had allowed Starr to wire \$19 million in client funds into his attorney escrow account, which he then wired out at Starr's direction in order to assist Starr in concealing "the nature, location, source, ownership and control of funds that he stole from his clients." 94 AD3d at 88. Bristol's resignation was accepted by the Court. (Special Trial Counsel Jeremy S. Garber)

Manuel E. Thillet, 100 AD3d 223 (1st Dept 2012)

The Committee served Thillet with formal charges alleging that he failed to maintain a real estate deposit intact in his escrow account, commingled personal, business and client funds in both his business and escrow accounts, used an ATM to withdraw cash from his escrow account, failed to maintain proper financial records, failed to register with the Office of Court Administration (OCA) and then continued to practice after his administrative suspension. The charges also alleged that he aided a former lawyer, Eric Spinner, in the practice of law. Spinner had been a lawyer, but his admission was revoked by the Third Judicial Department because he had failed to disclose his arrests and guilty pleas in his admission application. *Matter of Spinner*, 19 AD3d 803 (3rd Dept 2005), *appeal denied*, 5 NY3d 708 (2005). Thillet had testified as a character witness at Spinner's disciplinary hearing in the Third

Department, but then claimed to be unaware of the order revoking Spinner's admission, even after this was brought to his attention by opposing counsel. Thillet employed Spinner as an "of counsel" attorney in his office for years after the revocation of admission. Rather than answer the charges, Thillet submitted an affidavit of resignation, admitting that he could not successfully defend himself against the charges regarding the real estate deposit, commingling, cash withdrawals from escrow, failure to keep proper financial records and failure to register. The Appellate Division, First Judicial Department, accepted his resignation. (Special Trial Counsel Jeremy S. Garber)

Matter of James W. Margulies, 93 AD3d 145 (1st Dept 2012)

Respondent was found guilty, following a jury trial in New York County Supreme Court, of 30 felonies, to wit: grand larceny; scheme to defraud; conspiracy; falsifying business records; and, a violation of the General Business Law [Martin Act]. Respondent was sentenced to 7 to 21 years imprisonment and ordered to make restitution in the sum of \$7 million. Specifically, respondent and a cohort participated in a massive securities fraud "pump and dump" scheme whereby they artificially inflated stock prices of a company before selling off essentially worthless shares of stock to a series of investors, which destroyed the value of the company and drove it into bankruptcy. As a result of his conviction, respondent was automatically disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Jamis M. Johnson, 94 AD3d 157 (1st Dept 2012)

Respondent was disbarred in the State of Utah based on a finding that he intentionally misappropriated client funds for his own personal or business use. In a decision granting the Committee's petition for reciprocal discipline, the Court rejected respondent's claim that there was an infirmity of proof of his misconduct in the Utah proceeding, inasmuch as that court made explicit findings that respondent intentionally misappropriated \$28,800 in client funds which he converted for his own use. The Court found that there was no compelling reason to depart from the Utah disbarment order, denied respondent's request for a hearing and ordered respondent disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Robert M. Simels, 94 AD3d 108 (1st Dept 2012)

Respondent was found guilty, following a jury trial in the U.S. District Court for the Eastern District of New York, of conspiracy to obstruct justice, attempting to obstruct justice, bribery, and importation and possession of eavesdropping equipment, for which he was sentenced to 14 years imprisonment. Specifically, respondent was retained to represent a client in a criminal prosecution who was alleged to have operated an enterprise which imported large quantities of cocaine into the U.S. from Guyana. In the course of respondent's representation of this client, federal agents began investigating respondent, his then law associate, and his client for conspiring to influence potential witnesses in the

client's upcoming trial. Respondent's conviction for bribery stemmed from his attempts to bribe the girlfriend of the prosecution's key witness. Further, respondent, through his client's associate, arranged to pay this witness \$5,000 if she signed an affidavit created by respondent containing tailored and false testimony, and if she agreed to testify in accordance at his client's trial. The Court found that this conduct constituted the felony of bribery under New York State law warranting respondent's disbarment. (Deputy Chief Counsel Raymond Vallejo)

Matter of John J. O'Brien, 98 AD3d 60 (1st Dept 2012)

Respondent pled guilty, in the U.S. District Court for the Southern District of New York, to two counts of failing to file U.S. income tax returns and two counts of willfully failing to pay income tax, for which he was sentenced to a period of incarceration of 28 months. The Court deemed the offenses of which respondent pled guilty to be "serious crimes" and granted the Committee's petition to immediately suspend respondent, stating that it is the policy of the Court to suspend an attorney who is serving a criminal probation and/or is incarcerated. (Deputy Chief Counsel Raymond Vallejo)

Matter of Kenneth Schneider, 97 AD3d 152 (1st Dept 2012)

Respondent was found guilty, after a jury trial in the U.S. District Court for the Eastern District of Pennsylvania, of the felony of traveling in foreign commerce for the purpose of engaging in sex with a minor. Respondent was sentenced to 180 months in prison and required to pay \$35,000 in restitution. The Court found that the crime of which respondent was convicted did not constitute a felony under the laws of New York State and, therefore, was not a predicate for automatic disbarment. The Court found that the offense constituted a "serious crime" within the meaning of Judiciary Law §90(4) and ordered respondent's immediate suspension. The Court denied respondent's request for a stay of an interim suspension on the grounds that the pending appeal of his conviction was not a basis for a stay, absent a compelling reason, which the Court found did not exist in this case. (Deputy Chief Counsel Raymond Vallejo)

Matter of Vlad A. Kuzmin, 98 AD3d 266 (1st Dept 2012)

The U.S. Court of Appeals for the Second Circuit imposed upon respondent a public reprimand based upon his professional misconduct in connection with immigration matters. Specifically, the Second Circuit found that respondent missed briefing deadlines on multiple occasions as well as deadlines for responding to that Court's subsequent orders to show cause why the case should not be dismissed based on his default; that he failed to notify his clients promptly of the status of their cases; and, failed to adequately advise immigration authorities of the circumstances of one of his client's entry into the U.S. Respondent also used a retainer agreement that did not comport with New York's ethical rules; and, repeatedly failed to formally withdraw from, or stipulate to the dismissal of, cases that he

had abandoned. The Court granted the Committee's petition for reciprocal discipline and issued a public censure. (Deputy Chief Counsel Raymond Vallejo)

Matter of Steven A. Mundie, 97 AD3d 194 (1st Dept 2012)

The U.S. Court of Appeals for the Second Circuit imposed upon respondent a public reprimand based upon his professional misconduct in connection with immigration matters. Specifically, the Second Circuit found that a brief respondent filed contained misstatements such as the petitioner's name and the facts, and that extensive and significant portions of the legal argument appeared to have been copied verbatim from a brief filed by another attorney, in another case. The Court also noted that out of approximately 100 petitions for review submitted by respondent between 2002 and 2008, 39 were dismissed for failure to comply with the Court's scheduling orders. In another 15 cases, respondent filed briefs or stipulations withdrawing the cases only after briefing deadlines had passed and the court had issued orders to show cause why the cases should not be dismissed based on his defaults. The Court granted the Committee's petition for reciprocal discipline and issued a public censure. (Deputy Chief Counsel Raymond Vallejo)

Matter of Michael S. Etkin, 102 AD3d 151 (1st Dept 2012)

Respondent was suspended in the State of New Jersey for three months based on his failure to safeguard a legal fee that belonged to his former firm. Specifically, respondent worked on a securities litigation case for which he received a check for his services in the amount of \$217,639.50. Respondent's former firm, which dissolved prior to the end of the litigation, was due \$148,935 of this fee and his current firm was due \$68,704.50. Respondent failed to pay his former firm its share of the legal fee and, instead, used those funds for personal expenses. Respondent ultimately reimbursed his former firm the funds to which it was entitled. The Court granted the Committee's petition for an order imposing reciprocal discipline and suspended respondent for three months. (Deputy Chief Counsel Raymond Vallejo)

Matter of Earl S. David, 102 AD3d 23 (1st Dept 2012)

Respondent pled guilty in the United States District Court, for the Southern District of New York, to conspiracy to commit immigration fraud and conspiracy to commit mail and wire fraud. Specifically, from 1996 to 2009, respondent organized an immigration fraud scheme by filing fraudulent applications and petitions with the Department of Labor and the U.S. Citizenship and Immigration Services for labor certifications and for adjustment of legal status based on phony claims that employers had sponsored the individuals for employment in the U.S. As part of his plea agreement, respondent agreed to forfeit \$2.5 million in assets. The Court found that respondent's federal conviction was analogous to the New York felony of offering a false instrument for filing in the first degree and ordered him disbarred. (Deputy Chief Counsel Raymond Vallejo)

Matter of Anton Antomattei, 96 AD3d 136 (1st Dept 2012)

In an order dated August 1, 2012, the Court publicly censured Antomattei based on his two convictions for drunk driving related offenses and a prior letter of admonition issued by the Committee related to a third drunk driving related conviction. The Court also required Antomattei to enroll in and successfully complete the New York City Bar Lawyer Assistance Program for a period of one year, and to provide periodic reports to the Committee. (Staff Counsel Paul L. Friman)

Matter of Benjamin Hager, 94 AD3d 161 (1st Dept 2012)

In an order dated March 22, 2012, the Court granted the Committee's motion to accept Hager's affidavit of resignation based on his acknowledgment that he could not successfully defend himself on the merits against potential charges related to the complaint of Harvey Wolinetz. The Court discussed Wolinetz's allegations that Hager represented Eliyahu Weinstein in several complex commercial real estate transactions in which Wolinetz was also involved. At Weinstein's behest, Hager advised Wolinetz that Weinstein had deposited \$9 million into Hager's escrow account and that the funds would clear the next day. While the funds had in fact been deposited, Weinstein subsequently stopped payment on those funds, making them unavailable. Hager never so advised Wolinetz. Never having been advised that the funds were no longer in Hager's escrow account, Wolinetz went forward with loan transactions related to the real estate transaction to his detriment. The Court struck Hager from the roll of attorneys nunc pro tunc to December 22, 2011. (Staff Counsel Paul L. Friman)

Matter of Robert L. Cohen, 102 AD3d 55 (1st Dept 2012)

Cohen was disbarred pursuant to 22 NYCRR 603.4(g) after being suspended on an interim basis for six months based on substantial admission under oath that he committed acts of professional misconduct and other uncontested evidence of professional misconduct and misuse of IOLA account immediately threatening the public interest. (Staff Counsel Kaylin L. Whittingham)

Matter of Bobby H. J. Kim, 100 AD3d 246 (1st Dept 2012)

Kim resigned based upon his admission and uncontroverted evidence that he intentionally converted \$174,000 of client funds for his personal use and that *inter alia*, he forged a bank check in that amount to forestall the discovery of his conversion of client funds. (Staff Counsel Kaylin L. Whittingham)

Matter of Marc A. Bruzdziak, 102 AD3d 193 (1st Dept 2012)

On December 4, 2012, Bruzdziak was suspended based upon his failure to cooperate with the Committee, neglect, and other uncontested evidence of professional misconduct immediately threatening the public interest. (Staff Counsel Kaylin L. Whittingham)

Michael M. Milchman, 92 AD3d 143 (1st Dept 2012)

Michael Milchman has had a complicated disciplinary history here and in Florida. In September 2005, the Supreme Court of Florida publicly reprimanded Milchman and placed him on probation for three years based upon a finding that there were shortages in his trust and operating accounts resulting from inadequate record keeping. Based on the Florida order, our Court reciprocally censured Milchman in December 2006. In November 2009, our Court suspended Milchman as a result of his failure to register with OCA since 1991. Meanwhile, in August 2008 Florida instituted proceedings against Milchman based on his failure to comply with the terms of his probation, held him in contempt and suspended him for 90 days. Prior to that, he was charged with various acts of misconduct, including neglect, failure to cooperate and maintaining incomplete trust account records. Then Florida discovered that Milchman accepted a retainer fee to represent a client during the 90 day suspension period. Eventually, in February 2011, Florida suspended Milchman for three years. By order dated January 31, 2012, our Court reciprocally suspended Milchman for three years. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of William E. Melendez, 95 AD3d 289 (1st Dept 2012)

Judiciary Law Section 90 (2-a) provides for the suspension of an attorney upon a finding in a support proceeding that the attorney is in arrears in child support obligations amounting to four months or more. The attorney is afforded a hearing to avert suspension by offering proof of full payment of all arrears. Proceedings pursuant to section 90 (2-a) are rare, but in mid-2012, the Committee brought such proceeding based on an order issued by the Superior Court of Puerto Rico, finding that Melendez had failed to make child support payments for over 36 months and was \$90,897.84 in arrears. Melendez, who maintained a First Department office address, did not appear at the hearing. By order dated April 10, 2012, our Court suspended Melendez until the Court receives notification from the Superior Court of Puerto Rico that all support arrears have been satisfied in full. Melendez was eventually disbarred for lying about owing no child support in his application to the Bar. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Kevin J. Kilduff, 97 AD3d 137 (1st Dept 2012)

Kevin Kilduff, a tax attorney, was admitted in the First Department but practices in Massachusetts exclusively. In 2008, the Office of Professional Responsibility for the IRS brought a proceeding against Kilduff for failing to file his tax return for one year and filing late in three consecutive years. Following a hearing, the administrative law judge imposed a 24-month suspension from practicing before the IRS. Both parties appealed, and the Treasury Appellate Authority imposed a 48 month suspension instead. The Massachusetts Bar Counsel filed a petition for reciprocal discipline on the basis of the IRS findings but petitioned for a four-month suspension only. The Massachusetts Supreme Judicial Court determined that suspension was not warranted since Kilduff had not been convicted of a

criminal offense. The Court ordered a public reprimand. By order dated May 31, 2012, our Court reciprocally disciplined Kilduff and publicly censured him. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of Jenee M. Gadsden, 103 AD3d 1 (1st Dept 2012)

In April 2009, Jenee M. Gadsden (Gadsden) was suspended for failure to pay registration fees for four consecutive registration periods. She did not pay the arrears and was never reinstated. In November 2011, the Committee received notification from Bronx Supreme Court that Gadsden was appearing there on behalf of a client. The Committee wrote to Gadsden, advised her that it had opened a *sua sponte* investigation and requested that she submit a written answer within 20 days explaining her conduct. Gadsden did not respond to that letter or to the three follow-up letters, nor did she appear, despite being served with a judicial subpoena. The Committee moved pursuant to 22 NYCRR 603.4(e)(1)(i) to further suspend Gadsden for her failure to cooperate. By order dated December 13, 2013, our Court granted the motion. (Deputy Chief Counsel Naomi F. Goldstein)

Matter of John D. Horenstein, 101 AD3d 49 (1st Dept 2012)

The Court suspended respondent on an interim basis pursuant to 22 NYCRR 603.4(e)(1)(iii) as a result of uncontested evidence that he falsely billed a client for more than \$40,000 in personal expenses. (Deputy Chief Counsel Vitaly Lipkansky).

Matter of Robert Schachter, 100 AD 3d 45 (1st Dept 2012)

On October 11, 2012, Schachter was interimly suspended based upon uncontested evidence of professional misconduct that immediately threatened the public interest. The Court found that Schachter's alleged misappropriation of his former law firm's funds for his own personal benefit was serious misconduct that immediately threatened the public interest. (Staff Counsel Norma I Lopez)

Matter of Steven A. Colarossi, 97 AD 3d 117 (1st Dept 2012)

On May 29, 2012, the Court held that public censure was appropriate reciprocal disciplinary sanction for respondent's misconduct. Colarossi had been publicly reprimanded by the Connecticut Superior Court for misusing client funds and accepting a loan from his client without proper documentation and without obtaining a conflict waiver. (Staff Counsel Norma I Lopez)

Matter of Yong Wang, 100 AD 3d 52 (1st Dept 2012)

Pursuant to 22 NYCRR 603.4 (g), on October 11, 2012, the Court ordered that respondent be disbarred from the practice of law on the ground that he was suspended pursuant to 22 NYCRR 603.4 (e)(1)(i), and had neither appeared nor applied in writing to the Committee or the Court for a hearing or reinstatement for a period of over six months from the date of his

suspension. Respondent had been suspended from the practice of law based on his failure to cooperate with the Committee's investigation into several complaints by respondent's former clients alleging neglect of cases, failure to communicate, abandonment of his law practice, failure to turn over files to a client, and failure to register with OCA and pay his biennial registration fee. (Staff Counsel Norma I Lopez)

Matter of Joseph J. Mainiero, 98 AD3d 255 (1st Dept 2012)

Respondent had several complaints pending against him concerning neglect of matrimonial and/or family court proceedings. Respondent failed to cooperate with the Committee's investigations of these complaints and the Committee moved to have him intermily suspended. In July 2012 the motion was granted. (Staff Counsel Elisabeth A. Palladino)

Matter of Kevin J. McGraw, 98 AD3d 1 (1st Dept 2012)

The Committee commenced an investigation of respondent after it received notification that respondent had bounced a check from his attorney escrow account. Respondent failed to cooperate with the Committee's investigation and the Committee moved to have him intermily suspended. In June 2012 the motion was granted. (Staff Counsel Elisabeth A. Palladino)

Matter of Michael P. Zulantz, 93 AD3d 77 (1st Dept. 2012)

The Court suspended respondent for three years. Zulantz pled guilty to assault in the third degree, a class A misdemeanor. He assaulted his then girlfriend by throwing her to the floor, striking her numerous times on the face, and methodically destroying her property over a prolonged period of time. The Court found that Zulantz engaged in a calculated pattern of cruelty and that it was not the product of the intermittent explosive disorder as describe by his expert. (Jun H. Lee)

Matter of Stephen G. Kennedy, 99 AD3d 75 (1st Dept 2012)

Respondent was disbarred for misappropriating and converting \$155,000 of third-party funds held by him incident to a real estate transaction for his own use. The Court rejected respondent's claim that he did not act intentionally and found that he failed to set forth any extremely unusual mitigating circumstances to justify a sanction less than disbarment. The Court also noted that respondent's explanation that he believed he would be able to replenish the converted funds with the imminent receipt of a legal fee was belied by the fact that the misconduct took place over a two-year period, and continued even after respondent became aware of the Committee's investigation. (Staff Counsel Kevin P. Culley)

Matter of Jacob Rabinowitz, 97 AD3d 192 (1st Dept 2012)

Respondent was charged with eight counts of professional misconduct. With the Committee's consent, the Court indefinitely suspended respondent, who is 83 years old and

suffering from a combination of ailments, on the basis that he is unable to participate in this disciplinary proceeding against him due to his admitted medical infirmities. (Staff Counsel Kevin P. Culley)

SUMMARY OF REPRESENTATIVE CASES

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

Interim Suspensions

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

The most serious misconduct the Committee deals with involves the theft or misappropriation of money belonging to clients or held as a fiduciary. The Court has repeatedly stated that the intentional conversion of money held as a fiduciary or for a client requires disbarment, except when there are exceptional mitigating circumstances which are rarely found. Because such misconduct immediately threatens the public interest, the Committee's staff attorneys will seek an immediate suspension for such misconduct if there is sufficient evidence to justify the motion. In addition, the Committee's staff will seek a suspension of an attorney who fails to cooperate in answering a complaint or does not comply with lawful demands for information on records. In 2012, the Court suspended 13 attorneys on an interim basis pending resolution of the charges against them in the following cases: Matter of Brian H. Reis, 96 AD3d 53; Matter of John P. Harris, 97 AD3d 96; Matter of Kevin J. McGraw, 98 AD3d 1; Matter of Gideon J. Karlick, 98 AD3d 251; Matter of John J. O'Brien, 98 AD3d 60; Matter of Joseph J. Mainiero, 98 AD3d 255; Matter of Kenneth Schneider, 97 AD3d 152; Matter of Robert A. Schachter, 100 AD3d 45; Matter of Nikia L. Way, 100 AD3d 40; Matter of John D. Horenstein, 101 AD3d 49; Matter of Jenee M. Gadsden, 103 AD3d 1; Matter of Julian D. Riley, 102 AD3d 109; Matter of Marc A. Bruzdziak, 102 AD3d 193.

The Court also has a rule unique to the First Department (see 22 NYCRR 603.4 [g]), whereby a motion to suspend may also include a notice to the attorney that the attorney may be disbarred if the attorney is suspended and fails to apply in writing to the Committee or Court requesting a hearing, or reinstatement within six months. In 2012, the First Department invoked 22 NYCRR 603.4[g] to disbar seven attorneys: Matter of Jamis M.

Johnson, 94 AD3d 157; Matter of Tracey A. Bloodsaw, 95 AD3d 226; Matter of Daniel Millstone, 98 AD3d 329; Matter of Stephen G. Kennedy, 99 AD3d 75; Matter of Kevin P. Claffey, 99 AD3d 201; Robert L. Cohen, 102 AD3d 55; Matter of Yong Wang, 100 AD3d 52.

Felony Disbarments

In 2012, the First Department granted six petitions to strike the names of attorneys convicted of felonies: Matter of Robert M. Simels, 94 AD3d 108; Matter of Andrew L. Schwab, 94 AD3d 49; Matter of James W. Margulies, 93 AD3d 145; Matter of Maritza Diaz, 98 AD3d 158; Matter of Earl S. David, 102 AD3d 23 AD3d; Matter of Matthew H. Kluger, 102 AD3d 168.

Disciplinary Resignations

The Court may permit an attorney to resign from the bar during an investigation by the Committee, or after the filing of charges, if the attorney submits an affidavit pursuant to 22 NYCRR 603.11, acknowledging that the attorney knows the nature of potential charges and cannot defend against them. A resignation pending charges is the equivalent of disbarment. In 2012, the First Department accepted resignations under 22 NYCRR 603.11 from ten attorneys and ordered their names stricken from the roll of attorneys: Matter of Jonathan S. Bristol, 94 AD3d 85; Matter of Peter N. Weiner, 94 AD3d 82; Matter of Benjamin Hager, 94 AD3d 161; Matter of Adam C. Virant, 99 AD3d 83; Matter of H. Allen Whitehead, 98 AD3d 105; Matter of Manuel E. Thillet, 100 AD3d 223; Matter of Saul A. Berkman, 100 AD3d 49; Matter of Gerard M. Karlen, 100 AD3d 225; Matter of Bobby H. J. Kim, 100 AD3d 246; Matter of Theresa Lizzio, 102 AD3d 162.

Suspension as Discipline

A suspension can be ordered by the Court as discipline and also to protect the public. The Court imposes suspension for conviction of "serious crimes," as defined in the Judiciary Law 90(4)(d), for reciprocal discipline and for misconduct. In 2012, the Court imposed suspensions for misconduct on sixteen attorneys for periods ranging from three months to four years. One attorney was suspended indefinitely due to mental infirmity: Matter of Alexander Gurevich, 94 AD3d 39; Matter of Michael P. Zulantz, 93 AD3d 77; Matter of David M. Shearer, 94 AD3d 128; Matter of Michael M. Milchman, 92 AD3d 143; Matter of John Gregory Lynch, 95 AD3d 121; Matter of Armand J. Rosenberg, 97 AD3d 189; Matter of Sanford Solny, 96 AD3d 76; Matter of Steven S. Greenberg, 94 AD3d 152; Matter of Bernard J. Williams, 94 AD3d 164; Matter of Roy R. Kulcsar, 98 AD3d 161; Matter of Andre R. Sobolevsky, 96 AD3d 60; Matter of Richard P. Caro, 97 AD3d 148; Matter of William E. Melendez, 95 AD3d 289; Matter of Amy R. Weissbrod-Gurvey, 102 AD3d 197; Matter of Michael S. Etkin, 102 AD3d 151; Matter of Jacob Rabinowitz, 97 AD3d 192.

Public Censures

The least severe form of public discipline that the Court may impose is a censure (see 22 NYCRR 605.5[a][3]). In 2012, the First Department issued public censures in thirteen cases, all based on professional misconduct in violation of the Lawyer's Code of Professional Responsibility: Matter of Amy L. Nussbaum Gell, 94 AD3d 116; Matter of Anton Antomattei, 96 AD3d 136; Matter of Harry A. DeMell, 96 AD3d 94; Matter of Vlad A. Kuzmin, 98 AD3d 266; Matter of Scott M. Sandler, 96 AD3d 129; Matter of Steven A. Colarossi, 97 AD3d 117; Matter of Kevin J. Kilduff, 97 AD3d 137; Matter of Steven A. Mundie, 97 AD3d 194; Matter of Ted W. Gallagher, 97 AD3d 254; Matter of Unni Krishnan, 99 AD3d 207; Matter of Jorge D. Guttlein, 100 AD3d 166; Matter of Henry Zhang, 101 AD3d 79; Matter of Nativ Winiarsky, 104 AD3d 1.

Reinstatements

Section 90 of the Judiciary Law and Court Rule 22 NYCRR 603.14 permit attorneys to apply for reinstatement to the practice of law after a period of suspension, or seven years after disbarment. Attorneys who are suspended for six months, or less, may be reinstated at the end of the period of suspension by filing with the Court and serving upon the Chief Counsel's Office an affidavit stating that the attorney has met certain requirements (see 22 NYCRR 603.14). An attorney who has been suspended for a period of more than six months may petition the Court for reinstatement upon the expiration of the period of suspension (*id.*).

An attorney who has been disbarred, or stricken from the roll of attorneys, may not petition for reinstatement until the expiration of seven years from the effective date of disbarment (*id.*). In such cases, the Court may refer the matter for a hearing before a Referee, or a Hearing Panel. In either case, a written report and recommendation is submitted to the Court, which issues its decision on reinstatement. In 2012, the Court granted twelve petitions for reinstatement and denied two.

Immigration Complaints

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

2012

Appendix A: Committee Assignments

Roy L. Reardon, Chair
Policy Committee

Christopher E. Chang
Ernest J. Collazo
Haliburton Fales 2d (Special Counsel)
Charlotte Moses Fischman (Special Counsel)
Martin R. Gold (Special Counsel)
Robert L. Haig (Special Counsel)
Myron Kirschbaum (Special Counsel)
Marvin Leffler*
Alan Levine
Hon. Eugene Nardelli
Mercedes A. Nesfield*
Hon. Joseph P. Sullivan
Stephen L. Weiner (Special Counsel)

Hearing Panel Members

Panel I

Milton L. Williams, Chair
Catherine A. Christian
Matthew Gaier
David R. Gelfand
Robert J. Giuffra
Robin Stratton Rivera*
William T. Russell, Jr.

Panel II

Nicholas M. Cannella, Chair
Sheldon Elsen
Nancy B. Ludmerer
Robert J. McGuire
Jacob Pultman
Roland G. Riopelle
Barbara K. Rothschild*

Panel III

Eugene P. Souther, Chair
Peter A. Bellacosa
Giorgio Caputo*
Maura Barry Grinalds
Carla Kerr Stearns
Maria D. Melendez
Natica von Althann*

Panel IV

John F. Cambria, Chair
Catherine M. Abate
Robert E. Godosky
Kathleen M. Scanlon
Ronald J. Sylvestri, Jr.*
Gonzalo S. Zeballos

Panel V

Ralph C. Dawson, Chair
William P. Frank
Peter C. Harvey
Brian C. Mck. Henderson*
Roger Juan Maldonado
Sarah E. Zgliniec

Panel VII

Fredric S. Newman, Chair
Patrick H. Barth
Nina Beattie
John J. Carley
Leonard F. DeLuca
Arthur Martin Luxenberg
Susan Welsher*

Panel IX

Rosalind S. Fink, Chair
Dominic F. Amorosa
Aurora Cassirer
Ruth W. Friendly*
Gerard E. Harper
Robert P. McGreevy

Panel VI

Seymour W. James, Jr., Chair
David Buksbaum*
Alan R. Kaufman
Emily F. Mandelstam
Karen Patton Seymour
Frank H. Wohl
Richard R. Zayas

Panel VIII

Richard M. Greenberg, Chair
James M. Altman
David Arroyo
George Berger
Sheila S. Boston
John J. Jerome

Panel X

John D. Gordan, III, Chair
James W. Harbison, Jr.
Alfreida B. Kenny
William A. Maher
Barbara A. Ryan
Karla G. Sanchez

*Public Member

2012

Appendix B: Office of the Chief Counsel: Attorneys

Jorge Dopico
Chief Counsel

Deputy Chief Counsel

Angela Christmas
Naomi F. Goldstein
Vitaly Lipkansky
Raymond Vallejo

Special Trial Counsel

Jeremy S. Garber

Staff Attorneys

Nicole Corrado
Kevin P. Culley
Kevin Doyle
Paul Friman
Roberta N. Kolar
Jun Hwa Lee
Norma I. Lopez
Norma I. Melendez
Kevin E. F. O'Sullivan
Elizabeth A. Palladino
Orlando Reyes
Eileen J. Shields
Kathy Wu
Kaylin L. Whittingham

2012

Appendix C: Office of the Chief Counsel: Staff

Investigators

John Puglise, Chief
George Cebisch
Leonard Zarrillo
Anthony Rodriguez

Paralegals

Rebeca V. Taub
Donna Killian
Joel Peterson
Nancy K. DeLeon (Assistant
Office Manager)

Accountant

Martin Schwinger

Court Officer

Lt. Gerard Hayde (Transferred)

Clerk

Virgil Cruz

Office Manager

Marcy Sterling

Computer Personnel

Michelle Y. Wang, LAN Administrator
Charles A. Sauer

Administrative Assistants

Eartha Hobot
Monique Hudson
Tennille Millhouse
Tina Nardelli
Celina Nelson
Hermine Otto
Gloria Rodriguez

2012

Appendix D: Bar Mediators

Association of the Bar of the City of New York

Mark S. Arisohn, Esq.
Vivian O. Berger, Esq.
David M. Brodsky, Esq.
Paul G. Huk, Esq.
Chris Stern Hyman, Esq.
Andrew D. Kaiser, Esq.

Hal R. Lieberman, Esq.
John Madden, Jr., Esq.
Morton Newburgh, Esq.
Michele A. Peters, Esq.
Briscoe R. Smith, Esq.
Harvey A. Strickon, Esq.

Bronx County Bar Association

Daniel Chavez, Esq.

Richard M. Copeland, Esq.

New York County Lawyers' Association

David N. Brainin, Esq.
John A. Cannistraci, Esq.
Faith Colish, Esq.
Klaus Eppler, Esq.
Alan J. Goldberg, Esq.

M. Robert Goldstein, Esq.
Hon. Millard L. Midonick
Edward E. Morris, Jr., Esq.
Joseph B. Russell, Esq.

Appendix E: Annual Statistical Report to OCA

ATTORNEY DISCIPLINE ACTIVITIES

PERIOD COVERED: ANNUAL 2012

FIRST JUDICIAL DISTRICT

FIRST DEPARTMENT

I. MATTERS PROCESSED: ①

A. Matters Pending at Start of Period	<u>921</u>	
B. New Matters During Period	<u>2883</u>	
C. Closed Matters Reactivated During Period	<u>70</u>	
D. Total Matters to be Processed During Period (A+B+C)		<u>3812</u>
E. Total Matters Disposed of During Period		<u>2898</u>
F. Matters Pending at End of Period		<u>914</u>

II MATTERS DISPOSED OF BY COMMITTEE:

	Cases②	Matters
A. Rejected as Failing to State a Complaint	<u>308</u>	<u>326</u>
B. Referred to Other Disciplinary Committees	<u>308</u>	<u>311</u>
C. Referred to Other Agencies	<u>102</u>	<u>105</u>
D. Dismissed or Withdrawn	<u>1719</u>	<u>1815</u>
E. Dismissed through Mediation	<u>36</u>	<u>52</u>
F. Letter of Caution	n/a	n/a
G. Letter of Admonition	<u>71</u>	<u>84</u>
H. Reprimand (after hearing)	<u>1</u>	<u>1</u>
I. Referred to Appellate Division (Disc. Proc.)	<u>141</u>	<u>205</u>
Total Disposed of During Period (same as I.E above.)	<u>2686</u>	<u>2899</u>

III. CASES PROCESSED IN ALL COURTS:

A. Cases Pending at Start of Period		<u>43</u>
1. Disciplinary Proceedings	<u>33</u>	
2. Other	<u>10</u>	
B. Cases Received During Period		<u>286</u>
1. Disciplinary Proceedings	<u>77</u>	
2. Other	<u>209</u>	
C. Total to be Processed During Period		<u>329</u>

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

D.	Cases Closed		
	1. Disbarred	13	
	2. Disciplinary Resignations	10	
	3. Suspended ^③	29	
	4. Censured	13	
	5. Privately Censured ^④	6	
	6. Remanded to Disciplinary Committee	11	
	7. Discontinued	3	
	8. Dismissed	1	
	9. Reinstatements Granted ^⑤	103	
	10. Reinstatements Denied	2	
	11. Non-Disciplinary Resignations	46	
	12. All Other Dispositions	47	
	13. Total Closed		284
E.	Total Cases Pending at End of Period		47
	1. Disciplinary Proceedings	39	
	2. Other	8	

① "Matter" includes complaints, inquiries (excluding telephone inquiries) and *Sua Sponte* investigations.

② Cases refers to the number of respondent/attorneys. As some attorneys are the subject of multiple complaints, the number of matters may exceed the number of cases.

③ Includes (16) definite, (13) interim and (0) indefinite suspensions.

④ Reported as "Privately Reprimanded" in the 1st Department.

⑤ Includes (12) disciplinary reinstatements and (91) non-disciplinary reinstatements.

Appendix F: Budget for Fiscal Year 2012-2013

**Departmental Disciplinary Committee Budget
Fiscal Year April, 2012 - March, 2013**

	<u>Allocation</u>
Personal Service Total:	\$ 4,205,312.00
<u>Non-Personal Service:</u>	
Office Supplies	28,269.00
EDP	-
Legal Reference - General	11,689.00
Miscellaneous Supplies and Materials	7,873.00
Travel General	848.00
Rentals of Equipment	27,812.00
Repairs of Equipment	6,514.00
Repairs of Structure	-
Real Estate Rentals	-
Conferences/Training	-
Postage and Shipping	20,125.00
Printing General	2,356.00
Telephones	3,682.00
EDP Telecommunication Charges	-
Information Technology Services	-
Building and Property Services	3,632.00
Subscriptions	
Other General Services	11,785.00
Records Management Services	24,004.00
Professional Services - Expert Witnesses	300.00
Professional Services - Interpreters	-
Transcript Costs - General	48,747.00
Computer Assisted Legal Research	-
Other Court Services	15,601.00
Professional Services Per Diem Court Reporters	1,030.00
Equipment - New/Replacement	3,455.00
Non-Personal Service Total:	\$ 217,722.00
TOTAL BUDGET FISCAL YEAR 2010-2011	\$ 4,423,034.00

Appendix G: Sample Complaint Form

SUPREME COURT, APPELLATE DIVISION
FIRST JUDICIAL DEPARTMENT
DEPARTMENTAL DISCIPLINARY COMMITTEE
61 BROADWAY, 2ND FLOOR
NEW YORK, NEW YORK 10006
(212) 401-0800

Jorge Dopico
Chief Counsel

DATE: _____

Complainant(s):

Mr.() Ms.() Mrs.() _____
Last First Initial

Address: _____ Apt. No. _____
City State Zip Code

Telephone: Home: () _____ Business: () _____

Attorney Complained of:

Mr.() Ms.() Mrs.() _____
Last First Initial

Address: _____ Apt. No. _____
City State Zip Code

Telephone: Home: () _____ Business: () _____

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. _____

PLEASE PRINT LEGIBLY OR TYPE IN ENGLISH

Start from the beginning and be sure to tell why you went to the attorney, when you had contact with the attorney, what happened each time you contacted the attorney, and what it was that the attorney did wrong. With this form, please send this office copies of all papers that you received from the attorney.

