

ONEIDA COUNTY BAR ASSOCIATION



BAR NEWS

Vol. 16, No. 8

Peter M. Rayhill, President

August 2005

City Court – New Rule on Commencing an Action Filing Fee Must be Paid First

Effective September 8, 2005

§ 400. Method of commencing action or special proceeding

1. An action is commenced in this court by filing a summons and complaint. A special proceeding is commenced by filing a notice of petition and petition or order to show cause and petition. For purposes of this section, and for purposes of section two hundred three of the civil practice law and rules, filing shall mean the delivery of the summons and complaint, the notice of petition and petition or order to show cause and petition to the clerk of the court in which the action or special proceeding is brought together with any fee required by section nineteen hundred eleven of this act. At the time of filing, the original and a copy of the papers shall be date stamped by the court clerk who shall file the original and maintain a record of the filing and shall return the copy to the party who brought the filing. The clerk shall accept the fee and file the papers as soon as reasonable practicable.
2. Jurisdiction is acquired over a party to an action or special proceeding by service upon such party of a copy of the summons and complaint or the notice of petition and petition or the order to show cause and petition.
3. The actual index number shall be on the summons, notice of petition or order to show cause as served. Failure to include the index number on the papers as served shall be cured by stipulation between the parties or by leave of court, which shall not be unreasonably withheld.

Inside this newsletter is the Autumn 2005 Continuing Legal Education Revised Schedule on pages 6 and 7. See insert for the CLE registration form.

THE OCBA HOLIDAY PARTY

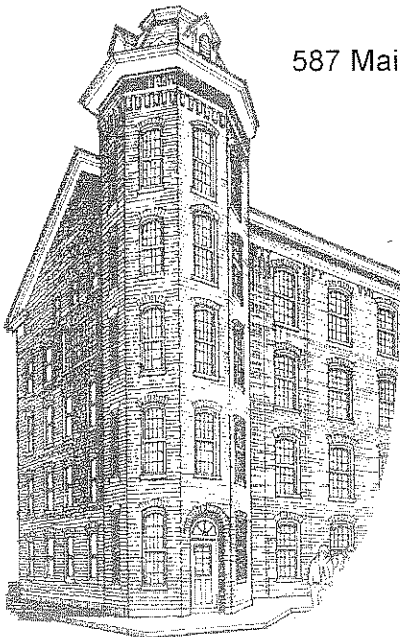
BIGGER AND BETTER THAN LAST YEAR!

The **OCBA Annual Holiday Party** date has been set----**Thursday evening, December 8, 2005**--and plans are already in the works to make this year's party even bigger (if that's possible) than last year's, a party at the Fort Schuyler Club that brought together a near-capacity crowd of more than 200 of our attorneys, judges, spouses, court staff, and others for a wonderful evening of great food and drink, and socializing.

The 2005 Holiday Party will follow the same format as last year's and will be even better! Gourmet food, and drink, in a great social setting---another ideal opportunity to mingle and visit with your colleagues and their spouses, and reminisce about the past year---no, all the YEARS--gone by. In fact, this event will officially kick off the **OCBA 2006 Centennial Celebration** as the first in a series of wonderful events during 2006 celebrating the past 100 years of the Oneida County Bar Association and the practice of law in Oneida County. Watch for flyers, posters, and articles in the upcoming months. But be sure to **SAVE THE DATE!**

Dust off your OLD PHOTOS! The Holiday Party and the Centennial Committee are looking for photographs for a Centennial Video and for display at various Centennial functions. Check your attics for any old photos you may have of various Court buildings, courtroom activity, bar association and Law Day events, old bar composites, or any other relevant photos which can be borrowed and scanned for this year long event. Photos are needed before November 1, 2005.

If you have any such photos or if you are interested in helping to plan the details of this special evening, please contact Larry Golden (732-5134 or email lwgolden@aol.com).



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WARNING: Bogus Phone Calls on Jury Service May Lead to Fraud

In various parts of the United States, citizens are being targeted by phone calls and threatened with prosecution for failing to comply with jury service in federal or state courts.

In the calls, the threat of a fine for shirking jury service is used to coerce those called into providing confidential data, potentially leading to identity theft and fraud. These calls are not from real court officials.

Federal courts do not require anyone to provide any sensitive information in a telephone call. Most contact between a federal court and a prospective juror will be through the U.S. Mail, and any phone contact by real court officials will not include requests for social security numbers, credit card numbers, or any other sensitive information.

Jury duty is a vital civic responsibility and should be taken seriously by all citizens. However, it is a crime for anyone to falsely represent himself or herself as a federal court official. The federal judiciary takes seriously such an offense.

Persons receiving such a telephone call should not provide the requested information, and should notify the Clerk of Court's office of the U.S. District Court in their area.

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To obtain further information about planning a gift or bequest, please contact:

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www.mmrl.edu

CHRISTOPHER DONALTY CURE TELETHON SEPTEMBER 14, 2005

On September 14, 2005, WKTV News Channel 2 will be airing the 2005 Christopher Donalty CURE Telethon from 7:00 p.m. to 9:00 p.m. All proceeds from the telethon will be donated to the 2005 Christopher Donalty Interdisciplinary Research Grant which seeks to encourage a multidisciplinary, collaborative research approach to advance CURE's goal of "no seizures, no side effects." Detailed information about CURE and the grant are available on the website, www.CUREepilepsy.com.

Your past generosity was a major factor in the success of the 2003 benefit and we are looking to the legal community to once again play a significant part in realizing this year's financial goal.

Contributions should be made payable to CURE and may be forwarded to Erin Gall at 26 Briarwood Lane, New Hartford, New York 13413. If you have any questions about making a contribution, you may contact George Aney at 866-6600 or Erin Gall at 738-0495. We would appreciate all donations by **August 25, 2005** however we will be collecting money up to and including the evening of the telethon. Presentations will be made on air as to the total amount collected.

On behalf of the friends of CURE and Christopher Donalty, representing all those affected by Epilepsy, we thank you for your support.

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CALLS FOR NOMINATIONS

The following calls for nominations have been forwarded to the Public Information & Education Committee. If you know of someone that our Bar Association should nominate, please call or email Diane. Additional information about each award is available at the Bar Association office.

NYSBA Ruth G. Shapiro Memorial Award

This award honors a female or male member of NYSBA who has made a noteworthy contribution to addressing the concerns of women. The award is administered by the Committee on Women in the Law. It will be presented at the January 27, 2006, meeting of the NYSBA House of Delegates. Nomination deadline: **September 30, 2005.**

NYSBA Attorney Professionalism Award 2006

This award honors an attorney who evidences the highest attributes of professionalism in the practice of law. Attorney professionalism is dedication to service to clients and a commitment to promoting respect for the legal system in pursuit of justice and the public good, characterized by exemplary ethical conduct, competence, good judgment, integrity and civility. Nomination deadline: **October 21, 2005.**

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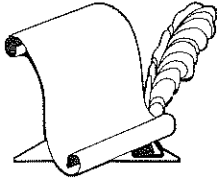
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LEGAL BRIEFS

Annual Red Mass – Monday, October 3, 2005, Historic Old St. John's Church, Utica, 12:10. Mass with gathering to follow in the Rectory

Each Fall lawyers, judges, and public officials of all faiths gather to seek the guidance and intercession of St. Thomas More, patron of lawyers and politicians, in the administration of justice. A Red Mass is also celebrated annually in the Fall at the Cathedral of Saint Matthew the Apostle in Washington, D.C., to coincide with the new term of the Supreme Court of the United States. If you would like to volunteer to help with the Red Mass held in the Mohawk Valley, please contact the Bar Office at 724-4901. Monetary donations may be sent to Patrick G. Radel, Esq., 258 Genesee Street, Suite 401, Utica, NY 13502.

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Mark Your Calendars!

October 3, 2005: Annual Red Mass
December 8, 2005: Annual Holiday Event

Welcome New Member

Keli Perrin, U.S. District Court, 10 Broad Street, Utica, NY 13501 – Tel: 793-9571, Fax: 793-8034.

Change of Address: Christina Reilly, Esq., Oneida Indian Nation Legal Department, 221 Union Street, P.O. Box 662, Oneida, NY 13421
Tel: 829-8455 Fax: 829-8471

SECRETARY/RECEPTIONIST wanted for a busy law firm with strong telephone and typing skills. Knowledge of Word required. Call Finer & Giruzzi-Mosca at 724-7800 or fax resume to 735-1327.

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Autumn 2005 CLE Schedule

NOTE: SEMINARS ARE HELD IN KUNSELA HALL, SUNY (MARCY)
AND AT THE RADISSON HOTEL (UTICA)

- ☼ **September 24** **COLLABORATIVE MATRIMONIAL PRACTICE** **3 credits**
9 TO NOON **FAMILY COURT CURRENT ISSUES**
Radisson Hotel **Chair — Margaret Murphy Peterson, Esq.,** *Law Offices of Margaret Murphy Peterson (New Hartford)*

This seminar will explain the emergence, certification and approaches used in representing individuals in matrimonials by “collaborative” attorneys. A panel of local practitioners will describe this novel way of dealing with divorce; a substantial Q&A session is scheduled. The other portion of this seminar will be an update on current issues in Family Court practice and procedure.

- ☼ **October 1** **FEDERAL PRACTICE UPDATE** **3 credits**
9 TO NOON – SUNY
Kunsela Hall **Chair— Donna J. Case, Esq.,** *Law Clerk to Hon. David N. Hurd, United States District Court Judge for the Northern District of New York*

Recent developments in federal case law and local procedure and practice will be reviewed.

- ☼ **October 15** **CRIMINAL PROCEDURE LAW UPDATE** **3 credits**
9 TO NOON – SUNY
Kunsela Hall **Co-Chairs— Joseph A. Saba, Jr., Esq., Dawn C. Lupi, Esq.,** *Assistant District Attorneys, Oneida County*

This seminar will give you an update on search and seizure and other various case law regarding criminal practice.

- ☼ **October 29** **ETHICS ANNUAL** **4 ETHICS credits**
9 AM TO 1 PM – SUNY
Kunsela Hall **Chair — Michael Bagge, Esq.,** *Principal Law Clerk to John T. Buckley, Presiding Justice, Appellate Division, First Department*

This program will satisfy your biennial requirement for “professional responsibility” credits. **Anthony Gigliotti, Esq.,** *Fifth District Grievance Committee*, will discuss issues relevant to professional discipline. **Patrick M. Connors,** *Professor of Law, Albany Law School*, will speak about recent regulatory and case law developments.

Autumn 2005 CLE Schedule

258 Genesee Street — Suite 302, Utica, New York 13502

Telephone: 724-4901— Facsimile: 724-6010

- * **November 3** **ADVANCE CARE DIRECTIVES** **2 ETHICS credits**
7 PM TO 9 PM **LEGAL & ETHICAL CONSIDERATIONS**
Radisson Hotel **Co-Chairs—Mark A. Wolber, Esq., Gail N. Uebelhoer, Esq.**
 Reception: 5:15 - 6:00 pm – Includes Dinner: 6:00 - 7:00 pm

Terry Schiavo – What would have happened in New York? The seminar will explore the current law in New York relating to advance directives, health care proxies verses living wills. The role of the DNR. Who decides your medical treatment if you have no advance directives? Legal and ethical considerations.


- * **November 5** **ARBITRATION: COMMERCIAL AND** **3 credits**
9 TO NOON **CONSTRUCTION CASES**
Radisson Hotel **Chair— Peter A. Karl, III, Esq., Paravati Karl Green & DeBella**


Patrick Smith, *American Arbitration Association (Syracuse)* will conduct a seminar describing, from onset to enforcement, the handling of commercial and construction arbitrations.

Louis P. Gigliotti, *Getnick Livingston Atkinson Gigliotti & Priore, LLP.*, will give a presentation on devices available to further secure payment on construction-related projects. Discussion will include an overview of mechanics' liens, payment bonds, and the trust fund provisions of Lien Law Article 3-A.

- * **November 19** **BANKRUPTCY ANNUAL** **3 credits**
9 TO NOON – SUNY
Kunsela Hall **Chair— Nicholas Priore, Esq., Getnick Livingston Atkinson Gigliotti**
 and Priore LLP

This annual review of Bankruptcy law and practice will feature an update lecture and a roundtable including the Honorable **Stephen Gerling**, *Chief Bankruptcy Judge for the Northern District of New York*.

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REGISTRATION FOR AUTUMN 2005 PROGRAM

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To ensure that we print sufficient quantities of the written material which will be distributed at our upcoming CLE seminars, to make sufficient arrangements for refreshments, and to guarantee documentable attendance, **advance registration is required for entry to all CLE events**. As a result of accreditation, we must enforce registration and sign-out procedures. Credit is only afforded for complete attendance at a seminar; no partial credits are available. Please complete and return as soon as possible[†].

- As a current member of the OCBA, I (have purchased) or (am purchasing and enclosing payment of \$135) an OCBA SemPass, **or**
- As a current member of the OCBA, I am enclosing payment of \$60 per seminar, for a total of \$ _____, **or**
- I am not an OCBA member and I am enclosing payment of \$150 per seminar for a total of \$ _____; **and**

I will attend the following Autumn 2005 CLE seminars:

- | | | |
|--------------------------|---|---------------------|
| <input type="checkbox"/> | Collaborative Matrimonial/Family Court Issues | September 24 |
| <input type="checkbox"/> | Federal Practice Update | October 1 |
| <input type="checkbox"/> | Criminal Procedure Law Update | October 15 |
| <input type="checkbox"/> | Ethics Annual | October 29 |
| <input type="checkbox"/> | Advance Care Directives | November 3 |
| <input type="checkbox"/> | Arbitration: Agreements and Techniques | November 5 |
| <input type="checkbox"/> | Bankruptcy Annual | November 19 |

Name: _____

Address: _____

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[†] The Oneida County Bar Association will provide all attendees with a Certificate of Attendance at the end of each calendar year verifying the credits earned. Unless otherwise designated, the credit hours specified are all within the AREAS OF PROFESSIONAL PRACTICE requirement. This program has **not** been structured to satisfy the particular requirements for newly admitted attorneys, although all credits earned can be counted towards their MCLE requirements. All attorneys subject to MCLE requirements in New York State must attend a minimum of four credit hours in ETHICS AND PROFESSIONALISM each biennial period. We waive fees in a case of financial hardship. Upon request, information will be provided regarding these fee-waivers.