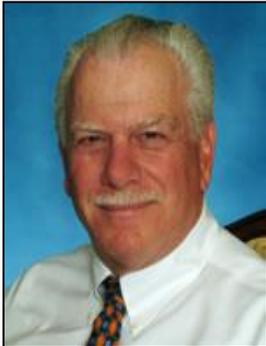


NEW ROCHELLE BAR ASSOCIATION Newsletter

June 30, 2014

www.nrbar.org

PRESIDENT'S MESSAGE:



Richard A. Sosis

Dear Colleagues:

It will be with great pleasure that on September 11, 2014 I will be turning the Presidency of the New Rochelle Bar Association over to Paula Johnson Kelly.

Each of us who serves in a position of leadership brings to our task a set of priorities and objectives. My objectives during this term as President have been to make our Bar more accessible by creating a presence on the Web, creating a partnership between our Bar and the New Rochelle public school system, and providing our membership with quality monthly CLE programs that have broad appeal to our diverse members. I have also tried to continue some of the honored traditions of our Bar by maintaining the schedule of social dinners that we have offered over the years.

In addition to these efforts, with the able assistance and hard work of some of our members, we have also become a tax exempt corporation. In the upcoming months we are about to launch a new and improved website, and there are even more plans in the discussion stage with the Board that will add to the value of your membership.

So, as my term comes to an end, I look back over the last year and say thanks to the members of the Board of Directors who have been supportive and helpful every step of the way and to the members of our Bar who have supported this organization and our attempts to be a resource and positive aid to our community. It has been an honor and a privilege to serve as the President of this great organization for the past year.

And so it is with eager anticipation that I await Paula's presidency. I will be interested to see what priorities and interests she brings to her administration, and the way she leads our Bar forward as a member of the legal community and as a corporate citizen of New Rochelle. She will have my support and the support of our Board in all that she undertakes, and I trust that she will have the active support of our members in the many activities of our Bar.

Wishing you all a healthy and happy summer...

Collegially yours,

Richard A. Sosis
President



AS OUR CLE YEAR ENDS

Our long anticipated January 2014 CLE on Mediation was finally held on Tuesday, April 22, 2014 at Hudson Valley Bank, 21 Scarsdale Road, Yonkers, NY. Guest speakers Vivian Berger, Esq. and Michael Diederich, Esq. discussed *THE ABC'S OF MEDIATION AND HOW IT CAN HELP YOU IN YOUR PRACTICE* with **Paula Johnson Kelly, Esq.** as Moderator. As usual, the two-credit CLE, free to our members, also offered a lite dinner to the member attendees. Our special thanks to member **Joseph A. Ruhl, Esq.** and Hudson Valley Bank who allowed us to use the facility for this event



Michael Diederich, Vivian Berger and Paula Johnson Kelly, Esqs.

NRBA continued its quality monthly two credit CLEs, free to our members in good standing, on Tuesday, May 20, 2014, with a real property law program entitled *Short Sales and Foreclosure Workouts* with guest speaker Rick S. Cowle, Esq. This event was held and partially sponsored by our friends at Monroe College, 145 Huguenot Street, New Rochelle, NY. Other sponsors were Michael Lisk and the Record and Return Title Agency. The full house of member attendees was also treated to a lite dinner. Thanks to all our sponsors.

Tuesday, June 17, 2014 brought us our last CLE for this term. Simply entitled *Travel Law*, our special guest speaker, the Hon. Thomas A Dickerson, gave us just a small sampling of his knowledge that went into his treatise on travel law as he related stories

about the ins and outs of cruising, travel insurance and medical care outside the USA. It provided attendees with a lot to think about when planning vacations or business trips. Held at Monroe College at 145 Huguenot Street, New Rochelle, this two credit CLE with lite supper was sponsored by our Bar.



Hon. Thomas A Dickerson

Our special thanks to **Jeffrey L. Levin, Esq.** and **Thomas Kajubi, Esq.** for their tireless work in organizing and running our CLEs.

CALENDAR OF UPCOMING CLEs:

To begin the season, the NRBA will be offering the following CLE programs:

1. *TBD* on Tuesday, September 23, 2014;
2. *TBD* on Tuesday, October 21, 2014; and
3. Hon. Gerald Lebovits on *Legal Writing* on Thursday, November 20, 2014.

Expect to receive advance notices with particulars by e-mail of these and future CLEs.

UPCOMING CLEs:

For information on and reservations for our CLEs please contact **Jeffrey L. Levin, Esq.** at jeffrey.levin.law@gmail.com

THE NRBA ANNUAL BUSINESS MEETING & PICNIC

While the wet weather outside may at times have been frightful, the weather inside was delightfully warm, dry and festive as this year's special events concluded on June 12, 2014, with our **Annual Picnic Meeting and Election** at Five Islands Park. Our members, families and guests came together in spite of the predicted foul weather for food, fellowship and fun coupled with the business of electing next year's officers and directors and acknowledging and awarding our NRBA 2014 Scholarship recipients.



The newly elected NRBA officers are: President **Paula Johnson Kelly**, re-elected Vice-Presidents **Thomas Kajubi** and **Hon. Jeffrey Levin**; Secretary **Laurie Korngold** and a new Treasurer **Christine M. Persampieri**. Our congratulations!

The elected Directors of the Board are: Class of 2015 **Marc Rowin**, **Benjamin Schub** and **Ronald Zezima**; Class of 2016: **Patricia Bave**, **Frank DiMarco** and **Michele Tombini**; and the Class of 2017: **John Economou**, **John Giacobbe** and **Mark Griffin**.

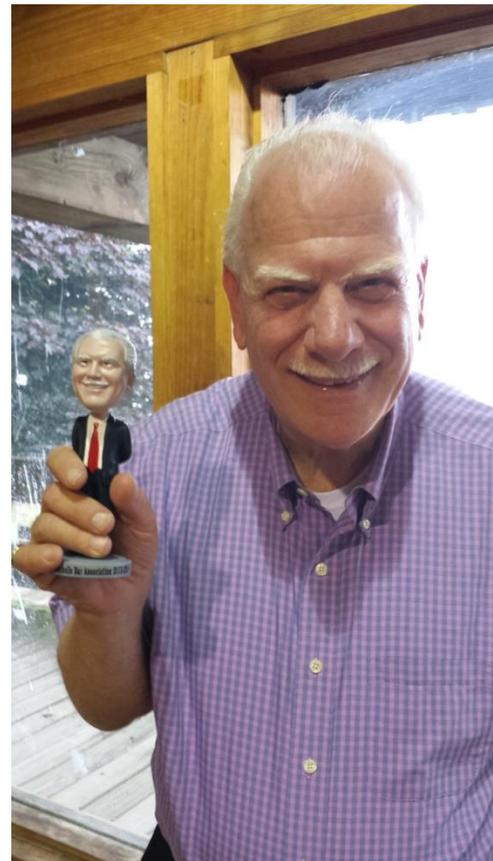
Frank DiMarco, our tireless and dedicated Treasurer for more years than he cares to remember has retired from that major responsibility and accepted a position as a Director. So this was Frank's last official NRBA event for taking our reservations and checks. On June 2, 2014 Frank was recognized for his many years of service to the

NRBA and his superb handling of our finances. More on that event to follow. Thanks for everything Frank.



Frank DiMarco, in charge - one last time

Outgoing President **Richard Sosis**, was given a special recognition by NRBA in appreciation for another job well done during this last one-year term as President of our Bar.



Richard Sosis and Richard Sosis

In continuing our Bar's tradition of honoring students' academic achievements and assisting them financially in furthering their educations- thanks to the generous contributions from our members- we again provided \$500 scholarships to each recipient. This year's five Scholarship recipients were Camille N'Dayaie and Justin Kaplan from New Rochelle High School, Dawn Michelle Zarnfaller from Monroe College, Joseph Sgammato from Iona College and David Calvello, Jr. from Pace Law School.



John Giacobbe, Esq., Frank DiMarco, Esq. and Carmelina DiMarco

Our continuing thanks to **Milton Kreppel** for his hard work in running our scholarship program.



Milton Kreppel and Richard Sosis with the 2014 Scholarship Recipients

The remainder of the evening was spent relaxing, conversing and enjoying our cozy environment, our colleagues, families and friends.



Outgoing President Richard Sosis with Incoming President Paula Johnson Kelly



MAINTENANCE GUIDELINES IN NEW YORK STATE? CLOSE BUT NO CIGAR

By Benjamin E. Schub, Esq.



I was up in Albany several weeks ago as part of a lobbying effort against an ill-conceived maintenance (alimony) bill that a coalition of special interest groups sought to have passed by the New York Legislature. [Senate Bill S7266](#) (the “Bill”) (same as Assembly Bill A9606)

was a similar bill to the one introduced last year in the New York State Assembly in a failed attempt to introduce final maintenance guidelines in New York State; that is, a formula for the amount and duration of alimony regardless of the specific circumstances of the parties. The Bill was opposed by the Family Law Section of the New York State Bar Association, the American Academy of Matrimonial Lawyers New York Chapter, the Women's Bar Association of the State of New York, the New Rochelle Bar Association, the Nassau County Bar Association, and others. Fortunately, the Bill was never brought to a vote in either the Assembly or Senate due to the efforts of the above bar groups, but the outcome was uncertain down to the end of the session on June 19, 2014. Furthermore, it is virtually guaranteed that the special interest groups in favor of the Bill (mostly poverty law and domestic violence organizations) will attempt to bring back a similar bill shortly for yet a third time. Those of us who practice in the area of matrimonial law should be concerned about this Bill, and any reincarnation thereof, for a variety of reasons.

First, the Bill's formula for the calculation of maintenance (both temporary and final) does not have a true income cap similar to the Child Support Standards Act (the “CSSA”). Rather, the formula

requires the court to calculate maintenance utilizing the lesser of: a) 30% of payor's income less 20% of payee's income, or b) 40% of the combined income less the payee's income. Where the payor's income exceeds the proposed \$200,000¹ income “cap,” the court can either (a) award the guideline amount of support based on the total incomes of the payor and payee without explaining the reasons that it chose to do so; or (b) award the guideline amount of support based on the capped \$200,000 of payor's income and the income of the payee, plus an amount determined by consideration of the deviation factors enumerated in the Bill. If the court chooses not to award maintenance on the total incomes of the parties (i.e., without writing a decision explaining the factors it considered), it is required to set forth in a written decision an explanation of the reasons for its decision and the factors it considered.

The problem is that if the payor's income exceeded the \$200,000 “cap,” the court can simply apply the formula to the entire combined income of the parties and utilize the resulting figure as the “guidelines” maintenance award. Thus, an award of maintenance calculated on the full incomes of both parties is considered a “guidelines” amount of support not requiring a written decision by the court. Only where the court decides not to award the guidelines amount on the total incomes of both parties is a written decision required based on the enumerated deviation factors. As such, the Bill is an invitation to the courts to ignore the \$200,000 income “cap” and award a guidelines amount of maintenance on the full incomes of the parties without having to explain their reasoning in a written decision (i.e., because it is easier and less time consuming).

In stark contrast, under the CSSA, the court may not award any child support on the combined parental income over the current \$141,000 cap without a written decision explaining its reasons, based on the deviation factors found in the statute. In its

¹ *The original bill introduced this legislative session proposed a \$300,000 cap of payor's income; an amended bill introduced the week before the legislative session ended reduced this cap to \$200,000 of payor's income.*

Memorandum in Opposition to the Bill, the New York State Bar Association Family Law Section recommended that the Bill be re-written to mirror the CSSA language; that is, where the payor's income exceeds the income cap, the court shall determine the amount of maintenance (temporary and final) for the amount of payor's income in excess of the income cap through consideration of the factors set forth in the statute, and shall set forth, in a written order, the factors it considered and the reasons for its decision to exceed the income cap. Second, the durational formula of maintenance in the Bill, as reflected in the below chart, results in awards that significantly exceed the length of maintenance typically granted by New York courts or agreed upon by spouses in negotiated agreements:

Years of Marriage	Maintenance Length
0 UP TO AND INCLUDING 5 YEARS	20% of marriage length
MORE THAN 5, UP TO AND INCLUDING 7.5 YEARS	30% of marriage length
MORE THAN 7.5, UP TO AND INCLUDING 10 YEARS	40% of marriage length
MORE THAN 10, UP TO AND INCLUDING 12.5 YEARS	50% of marriage length
MORE THAN 12.5, UP TO AND INCLUDING 15 YEARS	60% of marriage length
MORE THAN 15, UP TO AND INCLUDING 17.5 YEARS	70% of marriage length
MORE THAN 17.5, UP TO AND INCLUDING 20 YEARS	80% of marriage length
MORE THAN 20, UP TO AND INCLUDING 25 YEARS	90% of marriage length
MORE THAN 25 YEARS	NONDURATIONAL

In this author's opinion, a durational formula cannot be based solely on the length of the marriage – other factors need to be considered, such as the length of the marriage, the time necessary for the recipient of maintenance to obtain gainful employment, the normal retirement ages of the parties, and their health and ages. As such, drafting a workable durational formula is not easy.

Third, the durational formula in the Bill fails to provide for the termination of maintenance upon the retirement of the payor spouse. Rather, the Bill compels a retired payor spouse with diminished income to resort to expensive litigation to modify or terminate his or her maintenance obligation by demonstrating a substantial change in financial circumstances. Moreover, the durational formula would have required an older payor spouse married for 25 years to pay lifetime maintenance despite his or her retirement and the lack of any income other than investment income from retirement accounts divided in the divorce (investment income which the payee spouse presumably receives as well).

In conclusion, this is a Bill, which, although temporarily stalled, likely will be re-introduced in the New York Legislature in similar form sooner rather than later. Hopefully, the proponents of the Bill will reach out to the bar groups who opposed it in order to draft a bill that is fair and equitable to all those who would be affected by it, and a bill that makes sense for the people of New York State.

Author Benjamin E. Schub, Esq., Fellow, American Academy of Matrimonial Lawyers, is a named partner in the law firm Berman Frucco Gouz Mitchel & Schub, PC, of White Plains, New York, where his practice concentrates in family and matrimonial law.



**NRBA CELEBRATES
FRANK DIMARCO'S
RETIREMENT AS NRBA TREASURER**

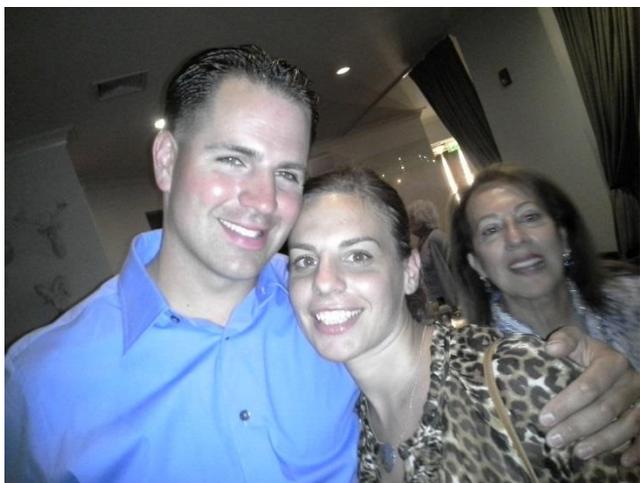


More than 50 NRBA members, family and friends came together on June 2, 2014 at the NoMa Social Restaurant in the Radisson Hotel, New Rochelle, to celebrate, honor and surprise Frank DiMarco on his retirement as the Treasurer of the NRBA. Frank, who has graciously and effectively served through nine NRBA administrations, took over as Treasurer in 1997 and continuously served in that position until his retirement, effective September 2014.

Frank was given a plaque by NRBA in appreciation for a job well done during his tenancy. He also received a Proclamation from The City of New Rochelle proclaiming June 2, 2014 as Frank DiMarco, Esq. Day.

We cannot, of course, forget to include and thank Carmelina DiMarco for her tireless and sometimes, thankless, assistance to our Bar Association through all those years. Our Thanks to you BOTH!





Now that you have retired, what are you going to do with all that extra time?

**THINGS TO DO IN RETIREMENT:
THE PIANO and THE BRAIN**

By Bob Marrow
(Robert V. Marrow, Esq.)

Disclaimer: I'm not expert in anything; certainly not the piano or the brain. I'm a lawyer now 73 years old (in 2014). I played the piano badly between the ages of 10 and 12; three years of torture for myself, my family who had to listen to me practice, and my piano teacher who declared his efforts a failure and quit. By that time I was on John Thompson's Second Grade Book, a red soft cover collection of classical pieces simplified for beginners. I had played about half of the songs. These were identified by penciled notes on the pages I had studied and practiced.

Twenty-seven years passed before I sat down at the piano again. It was a different instrument which my wife and I bought for our three year old son (who never played a note). I still had my elementary lesson books including John Thompson's Second Grade, so I leafed through its pages and tried playing some of the songs.

It was then that I realized how playing the piano reveals amazing things about the brain. I could play the songs that I had learned at age 12, particularly my favorite, "Barcarolle from Tales of Hoffmann" - but I could not play other songs in the book that were even easier. If I had not played them before I would laboriously read the music and with frustrating hesitation find the keys that corresponded to the notes on the page; but the songs that I had played 27 years earlier came back with almost the same fluency that I had achieved then. For nearly three decades my brain had retained the circuits that were burned into it when I was twelve, and those circuits constituted memory that had not disappeared. They were still there at 39 years of age, although I had done nothing to retain them from the age of 12.

The questions associated with memory and learning pieces on the piano also occurred to Alan Rusbridger, editor of The Guardian, who wrote nearly 400 pages in a book about his effort to learn a most difficult Ballade by Chopin ("Play It Again, The Amateur Against the Impossible"). He went so far as to consult a neuropsychiatrist, Ray Dolan, who made a distinction between explicit and implicit memory. Explicit memory is flexible: you remember where something is and you can use that information in various settings. Playing the piano belongs to a subcategory of implicit and largely inflexible memory - "procedural memory". You reel off the music as a series of prepared sequences. (Perhaps this applies to learning other complicated tasks involving mind/body control such as golf where professionals develop a pre-shot routine which never varies. The swing thus becomes part of a "prepared sequence" that can be repeated reliably.)

Most encouraging for the fifty-something Rusbridger, and me, is that, although the brain is most flexible at a young age, it can "learn new tricks" — in scientific terms, sprout new dendrites, whose connections can actually change the shape and density of the cerebral cortex — at any age.

About a year ago, at age 72, I was a semi-retired attorney (I stopped going to my office and refused all litigation matters). I play golf and squash racquets, I kayak and write stories some of which have been published, I still handle real estate and business matters for clients; nevertheless, I thought that I needed more mental stimulation to keep degeneration of my brain at bay in old age. So I found a piano teacher, Mark Guttenberg, and began taking lessons. Fortunately, Mark did not continue where I had left-off with the John Thompson series of elementary piano books. He brought with him to my lessons the written piano music of Bach, Beethoven, Mozart and others. They were probably the least complex of compositions by these masters, but they were genuine classics as revealed by YouTube videos of concert pianists playing the same pieces. These were certainly hard enough for me and I had to spend hours on single lines of

music, sometimes repeating a measure with my right hand, then my left hand, then playing with both hands, then adding the next measure, and doing this dozens of times until my fingers went comfortably to the right places at the right times to complete entire pieces, such as Beethoven's "Für Elise" and Mozart's "Sonata in C Major, K-545".

Once again, I marveled at the functioning of the brain when applied to the piano. Repetition created circuitry that, when receiving what my eyes were seeing and passing that vision through grey matter with electric currents to my fingers, converted printed notes into music.

There is also the relationship of concentration to relaxation required to play the piano well. Sometimes I will be playing a piece that I know and my mind will wander briefly to observe to myself, "Wow, I'm really playing with precision and feeling. I wish Mark could hear me now." Then, simply by allowing my mind to wander from the task of converting page notations to keystrokes and musical sounds, I fall off the pedestal I made for myself; I lose my place on the page, I'm unable to find the right keys.

On the other hand, if my concentration is too intense, I never reach that relaxed fluency that is the hallmark of good playing. Like golf and squash racquets, sports I know well, there is an elusive goal of relaxed concentration that, when achieved, can result in performance near perfection (defined differently, perhaps, for each individual). This rare state of grace is called being, "in the Zone." For those who have been in the Zone even for a short time, it is an exquisite memory.

For professionals, the Zone seems to be there on command. These rare human beings possess both unusual talent in the form of speed, timing and coordination together with the willingness to repeat the necessary moves in practice thousands of times. Is it dedication and opportunity that allows a person to repeat a single stroke for hours, or is it behavior so compulsive that the rest of life is excluded?

My practice sessions are less intense, my concentration and my talent more limited, and therefore my efforts less productive. I accept the undeniable fact that I will never reach my goal of creating sublime music on the piano, but the path itself is rewarding; so, I will continue.... 🎵 🎵

NRBA's Members Role as Arbitrators in THE NEW ROCHELLE CITY COURT

By Paula Johnson Kelly

What keeps this court moving are the Small Claims *pro bono* arbitrators who donate both their time and expertise to hear cases two Wednesday afternoons a month. This has a two-fold purpose. It not only helps the litigants more expeditiously have their day in court, but also takes a tremendous financial burden off our city by aiding in the disposition of these small claims cases without cost to the city. Once the parties consent to have their cases heard by an arbitrator, the cases can be heard more quickly and decisions usually are rendered within a week or two. For the NRBA attorney, service as an arbitrator may satisfy any *pro bono* guidelines.

In New Rochelle becoming a small claims arbitrator only requires first notifying our Bar, there is a section on the application or renewal form, then a brief interview and training session. We recommend that attorneys be admitted to practice for five (5) years or more before applying.

Currently, the New Rochelle Small Claims Court is held at 2:00 p.m. on Wednesday afternoons, twice a month. Give a little, help a lot. For those interested, please contact Paula Johnson Kelly, Esq., the Small Claims Coordinator for the NRBA at PJKelly_esq@hotmail.com.



**NRBA ANNOUNCES EXPANDED
LAWYER IN THE CLASSROOM INITIATIVE**

By Ronald Zezima, Esq.

The 2013-2014 academic year provided interesting and challenging opportunities for our members to volunteer to participate in our “Lawyer in the Classroom” program, a joint initiative of the Bar Association with the New Rochelle Board of Education to introduce students to elementary concepts of law, with the objective of teaching students the art of persuasive written and oral argument. Fifth grade students from each of the six elementary schools in the district were introduced to concepts of Constitutional Law, the Bill of Rights and trial procedure. The program was also instituted at Albert Leonard J.H.S. at the seventh grade level. Twenty volunteer attorneys and judges met with students and utilizing a curriculum designed by Corey Andrews, a teacher at Ward School, guided students through the case of *TLO vs. State of New Jersey*, decided by the U.S. Supreme Court in 1985, which involved a vice-principal’s search of a student’s purse. Students debated the issue of whether the search was legal or whether the evidence should be suppressed, and learned the difference between “reasonable cause” vs. “probable cause”, the concept of school authorities acting “*in loco parentis*”, and the definition of various legal terms and concepts. The attorneys were very impressed by the students’ passion and ability to argue their positions, and the students were anxious and eager to interact with the lawyers and judges.

Many of these students had never met a lawyer, and if they had, it was in a negative context. The classroom sessions gave the students an opportunity to interact with legal professionals on a positive level.

We are pleased to report that the program was an overwhelming success. This “enrichment program”, as it is termed by school officials, provided students with a unique opportunity to learn about the legal system and to interact with judges and lawyers, and

our volunteers gained personal satisfaction for their efforts. From the Board of Education perspective, it provided a unique learning program at no cost to the school system.

We hope that all of our members who volunteered this year will join us again, and we encourage ALL of our members to participate. This is a unique opportunity to contribute to your community in a very positive and meaningful way. The time commitment is approximately two hours a week, and, as the Master Card commercial says, the experience is “priceless”. If you have a child in the public school system, we can even assign you to your child’s school.

To volunteer, please contact Board member Ron Zezima at rvzesq@aol.com. Once the scheduling details of the new program are finalized, you will be contacted with further details.

**2014 SOFTBALL SEASON UNDERWAY
FOR NRBA’S OWN SOFTBALL TEAM**

By Coach Richard Grayson, Esq.

This 2014 season is the 30th year for the NRBA sponsored competitive softball team, playing in the City of New Rochelle softball league, American Division. We play one game per week, on Monday nights, starting in late April to late July. Right now our record is 2 and 6 with 4 games to go. Your team, made up of colleagues and neighbors, could use a little cheering on, and it may help us win to end with a .500 season. So, come out and cheer for your team, or just come to enjoy the game.

For our Daily Schedule and Rain Postponements call (914) 633-0180 or log onto <http://newrochelleny.com/softball>. Have questions? Call me, **Richard Grayson, Esq.**, at (914) 682-0037.



MEMBER NEWS AND ANNOUNCEMENTS

Congratulations to **Richard Grayson**, who was named as a 2014 “New York Area Best Lawyer” in the area of ethics and professional responsibility law. Grayson represents judges and lawyers facing sanctions for ethics violations or charges of misconduct.

Congratulations to **Milton Kreppel** and **Julie Kattan** on their recent engagement.

Happy Birthday to **Milton Kreppel** and **Ronald Zezima** who both celebrate their birthdays on June 30th.

CONDOLENCES:

Our deepest condolences to our Bar’s dear friend, Hon. Joseph B. Angiolillo and family for the loss of his father, Joseph V. Angiolillo, who passed away at the age of 87 on June 9, 2014. Donations can be made to the Joseph V. Angiolillo Scholarship Fund at St. John’s University School of Law, 800 Utopia Parkway, Queens, NY 11430 or to the Prader-Willi Syndrome Alliance of NY, Suite D110, 244 5th Avenue, New York, NY 10001.

WELCOME NEW MEMBERS:

Michelle Kolodny, Esq.
Tarrytown, NY

Rebecca McCloskey, Esq.
White Plains, NY

Neil K. Reynolds, Esq.
Albertson, NY

OUR WEBSITE: www.nrbar.org

With our website members can obtain information concerning our Bar, its activities, and general legal and community news. We welcome feedback.

This Newsletter can be downloaded from our website. Thanks for helping keep NRBA green.

SAVE THIS DATE:

**NEW ROCHELLE BAR ASSOCIATION
OFFICERS’ & DIRECTORS’
INSTALLATION DINNER**

**ON
THURSDAY,
SEPTEMBER 11, 2014**

NEW ROCHELLE, NY

UPCOMING EVENTS:

For an up-to-date listing of scheduled events, including CLEs and dinner meetings, kindly view existing event postings on our website: www.nrbar.org.

For reservations for any of our upcoming dinners or events *after September 1 2014* please contact Treasurer **Christine M. Persampieri, Esq.**, 145 Huguenot St., Suite 402, New Rochelle, NY 10801, (914) 633-7400.

Getting Published

We welcome your submissions! All submissions should be sent to Paula Johnson Kelly, Editor, at PJKelly_esq@hotmail.com. Please mark the subject as NRBA news. Articles between 500 to 1200 words should be sent in Word format. Photographs should be sent as jpeg attachments. Authors should include a short biographical statement with their articles, which must be spell checked, cite checked and in blue book form. Opinions expressed in any article printed in the NRBA newsletter are solely those of the author(s) and are not positions taken by the NRBA. Materials submitted allow NRBA limited copyright and full permission to reprint the article in the NRBA newsletter without additional consent.