

THE NEW YORK CRIMINAL BAR ASSOCIATION

An Affiliate of the National Association of Criminal Defense Lawyers



NYCBA Members Newsletter

Vol. 3, No. 5

February, 2006

Welcome to the February 2006 issue of our Newsletter.

Our deepest sympathies to the families and friends of Steven Bernstein, John Jacobs and Arielle Jarret, longtime NYCBA members who passed away recently, and to Ira London and his family and friends on the recent death of his daughter, Elyssa.

President's Message:

1. NYCBA ANNUAL MEETING and CLE PROGRAM 2/28/06:

On 2/28/06, you can talk about what is wrong with criminal justice system and then get CLE credit - all in less than two hours. At the annual meeting of the New York Criminal Bar Association, which starts at 5:30 p.m. (see below), I will invite those members who are present to identify problems recently encountered and issues which should be worked on. Together, we can make a difference in the way the criminal justice system operates.

At 5:45 p.m., Larry Hochheiser, a Past President of NYCBA, and Daniel Hochheiser, a NYCBA Board member, will present the CLE program on "How to Try a 'False Confession' Case (see below), based in part on a Nassau County trial in which the jury is deliberating as this newsletter is being finalized. Free to NYCBA members who have paid their 2006 dues, this program will address how to get across to the jury that the client has "confessed" to a crime that he or she did not commit. The CLE program is scheduled to end at 7:25 p.m.

I hope to see you there.

2. **NEW "COLLATERAL CONSEQUENCES" WEBSITE - PRACTITIONER INPUT WANTED**

NYCBA Board Norman Reimer, who is President of the New York County Lawyers' Association, has suggested that I alert you to an exciting new court-sponsored website by which defense lawyers can ascertain the collateral consequences of a conviction in a specific case. Thus, you can check the immigration, housing and other consequences of a plea before the plea is entered. The website -- www2.law.columbia.edu/fourcs -- which was announced in Chief Judge Judith Kaye's State of the Judiciary message on 2/6/06, grew out of a colloquium in May 2005 among members of the bench and bar, and academics.

The web site is now being fine-tuned so as to make it as useful to practitioners as possible. So, please visit the web site, try it out with an actual or hypothetical situation and send me your comments - which I will collect and pass on.

3. **RECENT NEWS**

- 1) NYCBA member Joel Rudin's lawsuit against the Queens DA's office, alleging a pattern of obtaining wrongful convictions, NY Times (2/16/06, pg. B1).
- 2) "Solo Practice" Commission Report to Judge Kaye, calling for streamlined court calendaring,, etc., per 2/17/06 NY Law Journal, pg. 1.
- 3) NY Court of Appeals ruling upholding waiver of sentence appeal, including "interest of justice" remedy to excessive sentence, per 2/17/06 NY Law Journal, pg. 1.

Upcoming Events:

The **Annual Meeting** of the NYCBA will be held on Tuesday, February 28, 2006, at 5:30 p.m., in the Central Jury Room on the 15h floor of the Criminal Courts Building, 100 Centre Street, New York, NY. The Board of Directors has made the following nominations for Directors of the Association:

Louis R. Aidala (for re-election)
Nancy Lee Ennis (for re-election)
Richard Jasper (for re-election)
Genay Ann Leitman (for re-election), and
Kenneth J. Aronson (to fill a vacancy).

At 5:45 p.m., immediately following the annual meeting, a **CLE program** will be presented, with NYCBA Past President **Lawrence Hochheiser** and Board Member **Daniel Hochheiser** discussing:

HOW TO TRY A "FALSE CONFESSION" CASE

Our **Annual Dinner** at the Tavern on the Green will be held this year on Monday, June 5, 2006. Please note the date in your calendars. The honoree will be Gerald Shargel and the guest speaker will be Hon. Michael Corriero.

On March 2, 2006, The New York County Lawyers' Association and Holland and Knight LLP are sponsoring a special event entitled "**Execution in America: The State of the Death Penalty in 2006.**" The principal speakers will be Sister Helen Prejean and George H. Kendall. The event will be held in the Second Floor Auditorium at NYCLA's Home of Law, 14 Vesey Street, New York, NY at 6:00 p.m. The event is free, but you must RSVP by February 27, 2006. For more details on this event and information about attending, please click [here](#).

Annual Dues:

As a reminder, 2006 membership dues to the New York Criminal Bar Association were due on January 1st. If you have not already paid your membership dues, please do so immediately.

The cost of this year's dues is \$100. Payments may be made by sending your check, made payable to the "New York Criminal Bar Association," to Michael K. Bachrach, NYCBA Treasurer, 1040 Avenue of the Americas, 24th Floor, New York, New York, 10018.

Payments may also be made by faxing or emailing your credit card authorization to Mr. Bachrach at (866) 328-1630 or mbach2000@yahoo.com, or by submitting your credit card information online at our website. To make your payments online, go to www.nycrimbar.org, then click on the "Events" button and follow the prompts. Alternately, if you have already logged into the Members Section of our website, simply select "Events" from the "Members Info" drop-down tab, and follow those prompts.

If you have any questions regarding membership dues please call Michael at (212) 382-4621, or email him at the above email address. A copy of our [Membership Application/Renewal Form](#) is attached to this newsletter for your convenience.

NYCBA Web Site Features:

Each month, we try to point out some of the latest resources that we have posted on our Website at www.nycrimbar.org/. In keeping with that tradition, we note the following items:

- Under the "***Court Websites***" link, there is a comprehensive collection of information about both the State and Federal courts in New York. For example, there is extensive information about the [*Criminal Term of the Supreme Court, New York County*](#), which operates 36 courtrooms in two buildings. The 100 Centre Street facility has 20 court parts and is shared with the Manhattan Criminal Court, the Office of the District Attorney and other agencies. The facility at 111 Centre Street has 16 court parts and is shared with the Manhattan Civil Court. To assist our Members in finding their way around that maze, we have listed on our Website the following links:

- [A Department Directory](#) - which contains the complete and current contact information for all of the separate Departments within this court, including: the Appeals Bureau, the Assigned Counsel Voucher Desk, the Calendar and Data Entry Section, the Case Management Coordinators, the Clerks' Offices, the Correspondence/Motion Support Unit, the Court Interpreters, the Court Reporters, the Court Security Services, the Executive Offices, the Indictment Unit, the Law Library, and the Warrant Office.

[A Courtroom Directory](#) - which lists the different Parts of the Criminal Court in New York County, gives the name, address, phone and fax number of the Justice assigned to that Part, and includes the names of the Court Attorney and the Court Clerk.

[A Judicial Personnel Directory](#) - which is an alphabetical listing of every Justice assigned to the Criminal Term, and includes their addresses, their phone and fax numbers, and the names of the Court Attorney.

- There is comparable information about the Federal courts. For example, we have listed the ***Individual Rules and Motion Practices*** of all the Judges in both the [*Eastern District of New York*](#) and the [*Southern District of New York*](#).
- On the [*What's New*](#) section of our Website, we have posted an important article entitled "[*Kaye Says Panel Backs Funded Statewide Plan to Represent Indigents*](#)," by John Caher, that was published in the New York Law Journal, Jan. 20, 2006. According to that article, Judge Kaye has announced that a special commission

is on the brink of recommending a publicly funded, statewide indigent criminal defense system - a dramatic and potentially revolutionary prospect for criminal defense attorneys in New York.

- We have also posted on the [What's New](#) section of our Website an interesting article entitled "[Government Agency Web-Site Evidence](#)," by Joseph D. Nohavicka, Esq., that was published in the New York Law Journal, Jan. 19, 2006.
- We have posted under the "[Decisions](#)" button a copy of Judge Gleeson's scathing 77-page decision in [Torres v. New York State Board of Elections, No. 04 CV 1129 \(JG\) \(E.D.N.Y. Jan. 27, 2006\)](#), in which he struck down as unconstitutional the system in New York of letting party leaders anoint candidates for State Supreme Court judgeships at sharply controlled nominating conventions held out of public view. Judge Gleeson wrote: "The plaintiffs have demonstrated convincingly that local major party leaders — not the voters or the delegates to the judicial nominating conventions — control who becomes a Supreme Court Justice and when. The highly unusual processes by which that extremely important office is filled perpetuate that control, and deprive the voters of any meaningful role. The result is an opaque, undemocratic selection procedure that violates the rights of the voters and the rights of candidates who lack the backing of the local party leaders." See also, "[A Turning Point for New York Courts](#)," an Editorial from The New York Times, February 4, 2006.

Blogs, Podcasts And RSS Feeds:

By now, most of our members are probably familiar with **Blogs** - which can be loosely defined as an online journal (or newsletter) on some highly specialized topic which is frequently updated. In the past, we have recommended a number of legal blogs (which are also referred to as "Blawgs") such as [SCOTUSblog](#) for the latest news and commentary concerning the Supreme Court; [Sentencing Law and Policy](#), the highly regarded site for the latest sentencing news that is edited by Prof. Douglas A. Berman of the Ohio State University Moritz College of Law; and [Crim Prof. Blog](#), for current news on criminal law issues.

Recently, law firms across the country have been starting specialized blogs as a marketing and promotional tool, either on their own firm Web sites, or on commercial sites that are beginning to spring up. For example, [LexBlog](#) and [Justia.com](#) now offer a number of packages to lawyers and law firms as a convenient way to start, maintain and publicize an online blog.

Lawyers should also become familiar with two other relatively new Internet-based concepts, namely **Podcasts** and **RSS Feeds**.

A **Podcast** is an audio file (typically referred to as an "MP3 file" or an "MP3 download"), that is available for downloading to your computer via an automatic "feed." You can then hear the podcast whenever you want from your computer or a portable media player. To listen, you can just download the MP3 file and play it on your computer or iPod. You don't need a portable MP3 media player to listen to a podcast.

There have been a flood of new podcasts in the past year - covering a broad range of interests and topics - although there are still not many podcasts of interest to the criminal defense lawyer. (Currently the [NPR Podcast Directory](#) lists only a single podcast dealing with legal matters; although [Justia.com](#) offers a more comprehensive listing on one of its [marketing sites](#).) However, we have noticed a growing number of legal podcast sites in recent days.

For example, the [Oyez Supreme Court Podcast](#) offers broadcasts of the oral arguments in many of the significant cases decided by the Supreme Court since 1995. In January, Thomson-West introduced a new legal podcast called [WestCast](#), the first episode of which included two Thomson-West authors debating the impact of bankruptcy reform.

An **RSS Feed** or an **RSS Aggregator** is a technology that enables the delivery or "feed" of Web content directly to your computer. RSS stands for "really simple syndication"; and it is used to describe a family of file formats for web syndication that are used by mass media and news websites, and blogs that change or add content regularly. By signing up for an RSS feed, you can have instant access to the latest changes and additions on that particular Web site or blog. Thus, for example, you could go to the CNN Website and sign up for a free subscription to an RSS feed that will automatically send you CNN's latest coverage on anything happening at the Supreme Court.

Without getting too technical, site owners (such as [CNN](#)) offer free and specialized software that presents, in a list, the new materials or articles that have been posted on their sites. Each item in the list gives a line or two of each article and a link to the full article or post. This information is then automatically delivered to your computer as an XML (Extensible Markup Language) file, that is also called an RSS feed, a webfeed, an RSS stream, or an RSS channel.

In short, RSS gives a person a convenient way to track automatically all updates on a particular Web site or blog of interest. While it sounds complicated, it is really quite simple and easy to activate (and deactivate).

For those who want either a more technical explanation of RSS feeds or general instructions on how to activate an RSS feed, go to [Wikipedia.com](#). In addition, we particularly recommend two articles:

"[What RSS Can Do for Lawyers](#)," by Robert J. Ambrogi, Legal Technology News, August 5, 2005; and

"[Things You Can Do With RSS](#)," by Tim Yang, who is the author of Tim Yang's Geek Blog.

News From the Web

- We recommend for your review a thoughtful and provocative article entitled "[Drug Exception to the Fourth Amendment](#)," by Sumter Camp, which was posted on the [Sixth Circuit Blog](#) on January 30, 2006.
- If you are concerned that you are not getting news updates quickly enough, you might want to try [Google News](#) - which is finally out of beta testing and which allows you to "search and browse 4,500 news sources which are updated continuously."

Comments and Newsletter Contributions Welcome

Comments on this and future issues of this Newsletter are most welcome, as are your own stories about cases, issues, arguments, events. etc. - whether just a sentence or a paragraph to alert us to a recent development, or a longer piece. Please send your material to Scott Tulman, Chair of the Internet and Newsletter Committee at Tel.: (212) 867-3600 or email: stulman@aol.com - or send your comments by email directly to our committee at: nycrimbar@nyc.rr.com.

Yours for a better defense,

Henry J. Steinglass
President
(212) 406-7700

Internet and Newsletter Committee:

Scott Tulman, Chair
Harvey Fishbein
Michael K. Bachrach
Peter G. Schmidt