

NEW YORK STATE BAR ASSOCIATION

The Practice of Law in New York State

An Introduction For Newly Admitted Attorneys



The Practice of Law in New York State: An Introduction for Newly Admitted Attorneys

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We also wish to thank:

New York State Bar Association Committee on Legal Education and Admission to the Bar
New York State Bar Association Committee on Membership

The views expressed herein are those of the committees and do not necessarily reflect the position of the New York State Bar Association.

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INTRODUCTION

This pamphlet is designed to assist persons seeking to practice law in New York, as well as newly admitted attorneys, in learning about the court system, the requirements for admission to the bar, membership in the bar and practice in New York state. The pamphlet also contains a listing of some useful reference works and addresses.

I. New York State Court Systems¹

A. The Courts of New York State

The court system in New York State, organized over 200 years ago, is generally divided along territorial lines. The courts in the state are listed below:

APPELLATE COURTS

- Court of Appeals
- Appellate Division of Supreme Court
(First, Second, Third and Fourth Judicial Departments)
- Appellate Term of Supreme Court
(First and Second Judicial Departments)
- County Courts, Appellate Session
(Third and Fourth Judicial Departments)

TRIAL COURTS

“Superior” Trial Courts

- Supreme Court
- Court of Claims
- Family Court
- Surrogate’s Court
- County Court

“Inferior” or Local Trial Courts

- New York City Courts
(Civil Court & Criminal Court)
- Other City Courts
- District Courts
(Only in Second Judicial Department, Tenth Judicial District)
- Justice Courts
(Town courts, village courts)

New York courts, with the exception of justice courts, are financed by the state and are administered by the Office of Court Administration under the authority of the chief administrator of the courts on behalf of the chief judge of the state of New York.

APPELLATE COURTS

Court of Appeals

The Court of Appeals is the highest court in the state, and the court of last resort for most cases. It is generally the ultimate authority on questions of law in New York State. Some very few cases involving a question of federal law or the United States Constitution eventually may be taken to the United States Supreme Court, but these are rare. The Court of Appeals hears both criminal and civil appeals.

1. The following is based on “The Courts of New York: A Guide to Court Procedures” (NYSBA 2015). (See, also, relevant provisions of the New York State Constitution [especially Article VI]; the Judiciary Law; the Civil Practice Law and Rules and the Criminal Procedure Law [especially about appeals]; the various court acts including the Family Court Act, the Surrogate’s Court Procedure Act, the Court of Claims Act, the New York City Criminal Court Act, the New York City Civil Court Act, the Uniform City Court Act, the Uniform District Court Act, the Uniform Justice Court Act, and relevant court rules.)

This court, which convenes in Albany, consists of six associate judges and one chief judge, who also serves as the chief judge of the state and chief judicial officer of the unified court system. All judges of this court are appointed by the governor to 14-year terms, with the advice and consent of the Senate, from a list prepared by a nonpartisan nominating commission.

Appeals in civil cases are generally taken to the Court of Appeals from the Appellate Division of the state's Supreme Court. An exception exists in cases where the validity of a statutory provision under the state or federal constitution is the only question presented. These appeals may go directly to the Court of Appeals from the final judgment of the trial court. In cases that come through the Appellate Division, and are finally determined by the Appellate Division order, permission to appeal must be obtained unless two justices of the Appellate Division dissent on a question of law, a state or federal constitutional question is directly involved in the Appellate Division decision below or, where a new trial is ordered, appellant stipulates to judgment absolute.

Criminal cases must be appealed to the Appellate Division, Appellate Term, or County Court first, and permission to appeal must be obtained, before the case may be taken to the Court of Appeals.

In addition to appellate jurisdiction, the state constitution vests the Court of Appeals with power to answer questions of New York law certified to it by a federal appellate court or a state court of last resort. Also, the Court of Appeals is the exclusive forum for review of determinations of the state Commission on Judicial Conduct. The Court of Appeals also is responsible for approving policy proposed by the chief judge for the administration of the state's court system. Rules governing admission of attorneys to the bar are adopted by the Court of Appeals.

Appellate Division of Supreme Court

The Appellate Division of Supreme Court is the intermediate appellate court of the state. It hears civil and criminal appeals, reviewing the record established at trial. Also, as designated by statute, it has original jurisdiction over certain matters and hears appeals from administrative determinations. There are four Appellate Division departments in the state, each responsible for hearing most appeals from the courts within its geographical area.

Justices of the Appellate Division are designated by the governor from among elected Supreme Court justices for five-year terms or the unexpired portions of their respective term of office, whichever is less. Depending on the caseload, the number of justices for each Appellate Division department will vary but only five may sit in any case and four are required for a quorum. Each Appellate Division department also is responsible for the admission and discipline of attorneys.

Appellate Term of Supreme Court

The Appellate Term of Supreme Court is unique to the First and Second Judicial Departments (New York City, Nassau, Suffolk, Rockland, Westchester, Putnam, Dutchess, and Orange Counties). The Appellate Term is composed of Justices of the Supreme Court chosen by the chief administrator of the courts with approval of the presiding justice of the Appellate Division to hear appeals from local courts and non-felony criminal appeals from county courts. Only three may sit in any case and two are required for a quorum.

County Court, Appellate Session

County Courts are authorized to hold appellate sessions to hear appeals from decisions of the local "inferior" courts in the Third and Fourth Judicial Departments. In civil cases, orders from the county courts' appellate sessions may be appealed as of right to the Appellate Division. In criminal matters, the appeal is to the Court of Appeals and may be taken only by permission of a judge of the Court of Appeals.

TRIAL COURTS

Supreme Court

The statewide trial court of the broadest jurisdiction, both criminal and civil, is the Supreme Court. While the practice is to restrict the type of case heard by the Supreme Court, its jurisdiction is almost unlimited. It can hear virtually any type of case brought before it, with the exception of claims against the state, which must be brought in the Court of Claims.

Since the Supreme Court has practically unlimited jurisdiction, attempts are generally made throughout the state to divide the work load among the Supreme Court and the lower courts of limited jurisdiction. For example, outside the city of New York, Supreme Court hears mostly civil matters while the County Courts hear criminal matters. Within the city of New York, Supreme Court sits in both civil and criminal (mostly felony) parts.

However, the Supreme Court must be involved in one area of law — the ending of a marriage, since it is the only court which can grant a divorce, annulment or separation.

Statewide, the Supreme Court is divided into 13 judicial districts. Justices are elected by district for terms of 14 years.

Court of Claims

This court has the sole responsibility for hearing claims brought against the state of New York. Actions against the state may be brought only when the state agrees to permit the lawsuit, as it has in many tort and contract cases. This requirement dates back to an immunity from suit enjoyed by the government under English law.

The judges of the Court of Claims are appointed by the governor with the advice and consent of the state Senate for terms of nine years.

Family Court

The Family Court was established in 1962 to replace the Children's Court and New York City's Domestic Relations Court. The Family Court handles most cases involving youths between the ages of 8 and 16 who are charged with an offense that would be a crime if committed by an adult.

It also hears cases involving family disputes, determines support payments for families, hears child custody cases, handles adoptions (concurrent jurisdiction with Surrogate's Court), and may even determine the parentage of a child through paternity proceedings. It does not hear termination of marriage cases; those are under the exclusive jurisdiction of Supreme Court.

Judges of this court serve for 10-year terms. Outside New York City, they are elected; within the city of New York such judges are appointed by the mayor.

Family Court also has hearing examiners (appointed by the chief administrative judge of the court system) assigned to it to hear support proceedings and uncontested paternity proceedings.

Surrogate's Court

Surrogate's Court is responsible for all matters relating to the property of deceased persons. Matters commonly dealt with in Surrogate's Court include the probate of wills; the appointment and control of executors, administrators, and trustees; adoptions (concurrent jurisdiction with Family Court); and the final settlement of estates. Whether or not a person leaves a valid will, all claims on the estate brought by heirs, legatees or creditors are handled by Surrogate's Court.

Judges of this court are elected in each county for terms of 10 years (14 years in New York City).

County Court

A County Court exists in each county of the state outside New York City. Judges are elected for a 10-year term, with the number of judges varying according to population. County Court judges preside over both criminal and civil cases.

While its jurisdiction over criminal matters is almost unlimited (as is the Supreme Court's), the civil cases that may be brought into County Court are limited. Money claims in cases to be tried in this court may not exceed \$25,000.

* * *

In counties with small populations, a single judge may be responsible for Family, Surrogate's and County Courts. In other counties, two judges may share responsibility for these three courts or may be elected to only one or two of the courts.

However, in the more populous counties outside of New York City, judges are usually elected separately to County Court, Family Court, and the Surrogate's Court.

LOCAL COURTS

New York City Courts

In New York City, two courts have responsibilities different from courts elsewhere in the state. The New York City Civil Court can hear civil matters involving amounts that do not exceed \$25,000. The judges of this court have citywide jurisdiction and are elected for 10-year terms.

There is a housing part of this court to hear landlord-tenant cases and to promote enforcement of housing codes. The part is staffed by judges appointed for five-year terms by the chief administrator of the courts.

A small claims part hears cases brought by private individuals for amounts up to \$5,000. The rules of this part of court provide for informal and simplified procedures. Small claims parts are designed to make it easier for a person to sue for small amounts of money without having to be represented by an attorney. (Similar small claims parts are authorized for the other City, District and Justice Courts in the state).

The New York City Criminal Court has jurisdiction only over criminal matters. It can try all criminal cases except felonies, and may conduct preliminary hearings in felony cases. Criminal Court judges also serve as magistrates and can issue warrants of arrest. They are appointed by the mayor of New York City for 10-year terms.

Other City Courts

Each of the 61 other cities within the state has its own City Court. All these courts have both criminal and civil jurisdiction.

In criminal matters, the City Courts can try cases involving charges of misdemeanors or minor violations and can hear preliminary matters in felony cases. City Courts also can hear civil cases involving amounts that do not exceed \$15,000, as well as landlord-tenant disputes.

Judges of City Courts must be attorneys who have been licensed to practice law in New York state for at least five years. Some are elected by the voters of their respective cities; others are appointed by designated city officials; full-time judges serve for 10-year terms; part-time judges serve for six-year terms.

District Courts

District Courts currently exist only in Nassau and Suffolk Counties, where they have limited jurisdiction over both civil and criminal cases. In criminal matters, District Courts can try all offenses except felonies, and can hear preliminary matters in felony cases. In civil matters, the court is limited to cases involving claims for \$15,000 or less. It also may hear some matters concerning liens on property and landlord-tenant disputes.

Judges of this court, who must be lawyers, are elected by district voters for terms of six years.

Justice Courts

Justice Courts consist of town and village courts. The judges of these courts need not be lawyers, although they must meet special training requirements. They are elected by voters in the locality in which they serve for four-year terms.

Justice Courts can hear both criminal and civil cases, but their jurisdiction in both instances is limited. In criminal matters, Justice Courts can try misdemeanor cases and conduct preliminary proceedings in felony cases.

In civil matters, Justice Courts may hear cases where no more than \$3,000 worth of property or money is in dispute. Also, landlord-tenant cases may be heard there, regardless of the amount of rent involved. A Justice Court may not decide a case involving the title to real property.

Specialized Courts and Parts

The Unified Court System has a number of specialized courts and parts to attend to the particular needs of litigants and the community.

Commercial Division. This division handles complicated commercial cases as part of the Supreme Court of New York State. In order for a matter to be heard in the Commercial Division, the case must be a commercial case and must meet a monetary threshold that varies depending on the county or district.

Commercial Divisions are located in eight counties—Albany, Kings, Nassau, New York, Onondaga, Queens, Suffolk and Westchester—and in the Seventh and Eighth Judicial Districts.

Litigation Coordinating Panel. This panel receives and resolves applications for the coordination of litigation that is pending in more than one judicial district of the state but applies to pre-trial proceedings only. Its purpose is to facilitate the consistent and efficient resolution of cases. The panel is located in the Supreme Court, Civil Branch, of New York County but can hear applications from New York County or elsewhere around the state.

Problem-Solving Courts

Problem-solving courts include the following:

Adolescent Diversion Parts. Adolescent Diversion Parts handle matters concerning 16- and 17-year-old adolescents who have committed nonviolent crimes.

Community Courts. Community courts combine conventional punishments with alternative sanctions and on-site treatment and training. The court collaborates with citizens, criminal justice agencies, businesses, local civic organizations, government entities, and social service providers. The goal is to provide a type of neighborhood-focused problem solving.

Domestic Violence Courts. Domestic violence courts adjudicate criminal offenses involving intimate partners.

Integrated Domestic Violence Courts. This court brings before a single judge the multiple criminal, family (civil) and matrimonial (divorce) disputes for families where domestic violence is an underlying issue.

Drug Treatment Courts. The basic concept behind drug treatment courts is to invoke a dramatic intervention by the court in cooperation with an entire team including the defense, prosecution, treatment, education, and law enforcement. In return for a promise of a reduced sentence, appropriate nonviolent addicted offenders are given the option of entering voluntarily into court-supervised treatment. There are criminal drug treatment courts, family drug treatment courts, and juvenile drug treatment courts.

Mental Health Courts. These courts handle criminal cases involving defendants with mental illness and focus on providing offenders with the support needed in order to avoid future criminal behavior.

Sex Offense Courts. The purpose of sex offense courts is to enhance public safety by preventing further victimization with early intervention and post-disposition monitoring.

Veterans Courts. A Veterans Court is a separate court calendar within an existing drug treatment or mental health court that provides veteran defendants suffering from addiction, mental illness and/or co-occurring disorders with linkages to community-based services as well as local, state and federal agencies specializing in veteran's affairs.

Youthful Offender Domestic Violence Courts. These courts handle exclusively domestic violence cases involving defendants aged 16 through 19.

Human Trafficking Intervention Courts. These courts incorporate the key principles of problem-solving courts (i.e., specially-trained judges, judicial monitoring and linkage services) to address the issues presented in human trafficking cases. Human trafficking victims are primarily women and children, particularly girls under the age of 18

Children's Centers in the Courts. Children's Centers in the Courts provide a safe, literacy-rich environment and an opportunity for positive interventions in the lives of vulnerable children.

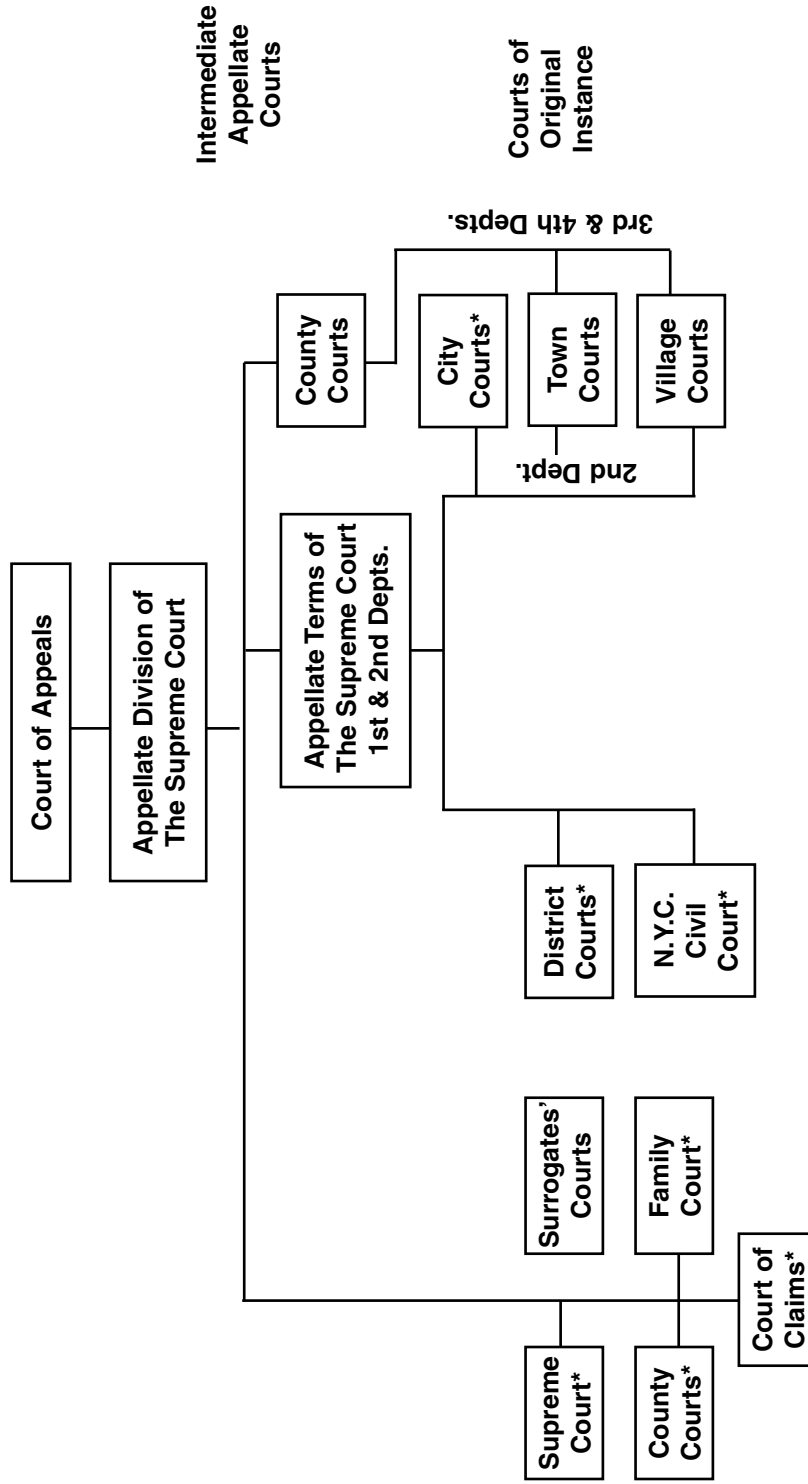
Alternative Methods of Dispute Resolution

Alternative dispute resolution (ADR) is an umbrella term used to describe a variety of processes and techniques to resolve disputes. The unified court system has developed a number of ADR programs for different types of cases throughout the state. Experimentation has been encouraged in the courts at every level using mediation, arbitration, neutral evaluation and summary jury trials. Furthermore, given New York's extraordinary size and diverse regions, each of these initiatives is tailored to the particular community and court environment in which it operates. The Office of Alternative Dispute Resolution provides a wide array of initiatives including court-connected ADR programs, the Community Resolution Centers Program, the Children's Centers Program, Collaborative Family Law Center, Attorney-Client Fee Dispute Resolution Program, New York State Agriculture/Mediation Program, and the Mediator-Ethics Advisory Committee.

The Community Dispute Resolution Centers Program, administered by the Office of Court Administration, and available in all 62 counties of the state, provides financial support to nonprofit organizations that offer dispute resolution services. Community dispute resolution centers offer mediation and some arbitration services as an alternative to criminal, civil and family court litigation. In addition to providing dispute resolution services, many of the centers offer a variety of educational, facilitative and preventive services in their communities that help people to manage and resolve conflicts before they reach the court system. A mandatory arbitration program for the resolution of civil cases in amounts of \$6,000 or less (\$10,000 or less in New York Civil Court) has been established in all the populous counties of the state. Cases are heard by one or three attorneys. Dissatisfied litigants may demand court trial de novo at the conclusion of the arbitration proceeding, but only a small percentage of litigants do so.

B. New York State Appellate Court Structure Charts

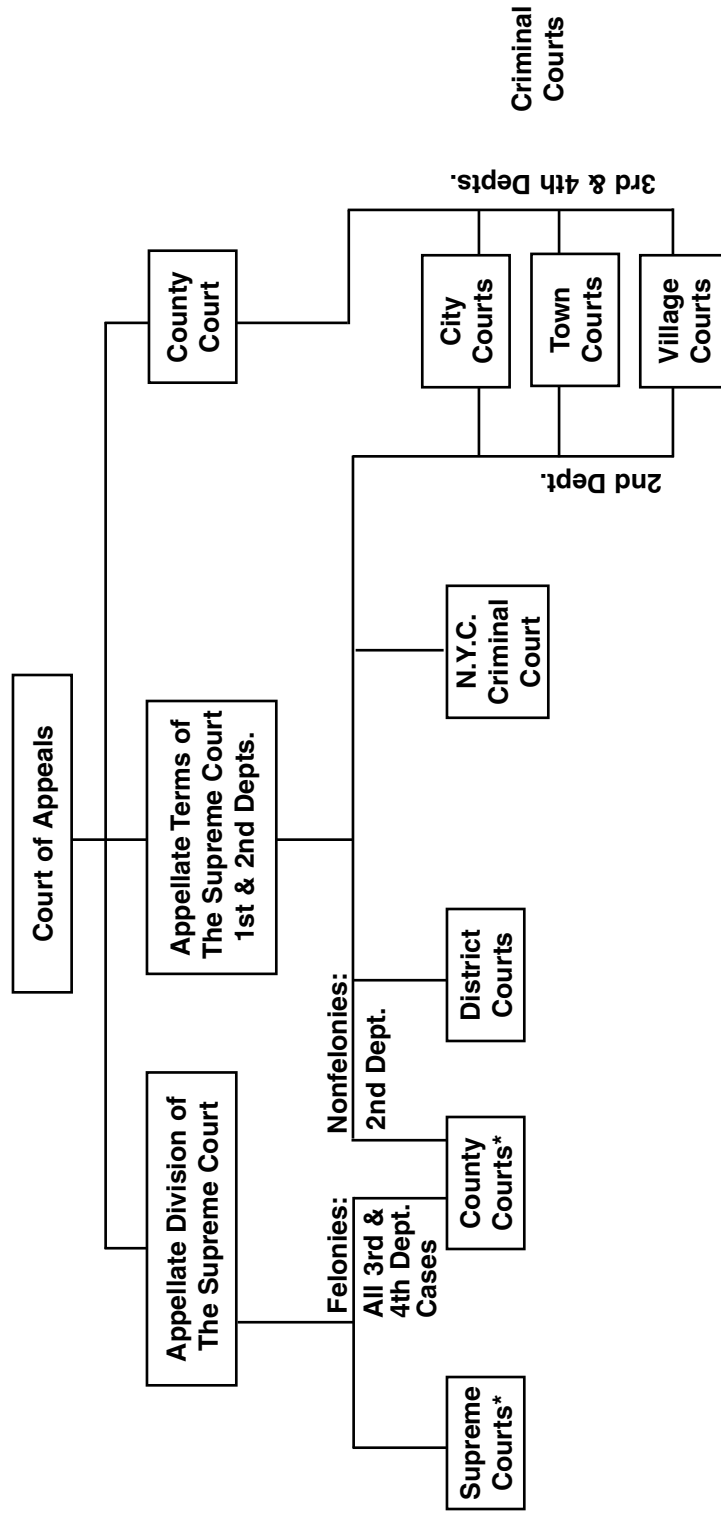
NEW YORK STATE JUDICIAL SYSTEM CIVIL APPEALS STRUCTURE



*Appeals from judgments of courts of record of original instance that finally determine actions where the only question involved is the validity of a statutory provision under the New York state or United States Constitution may be taken directly to the Court of Appeals.

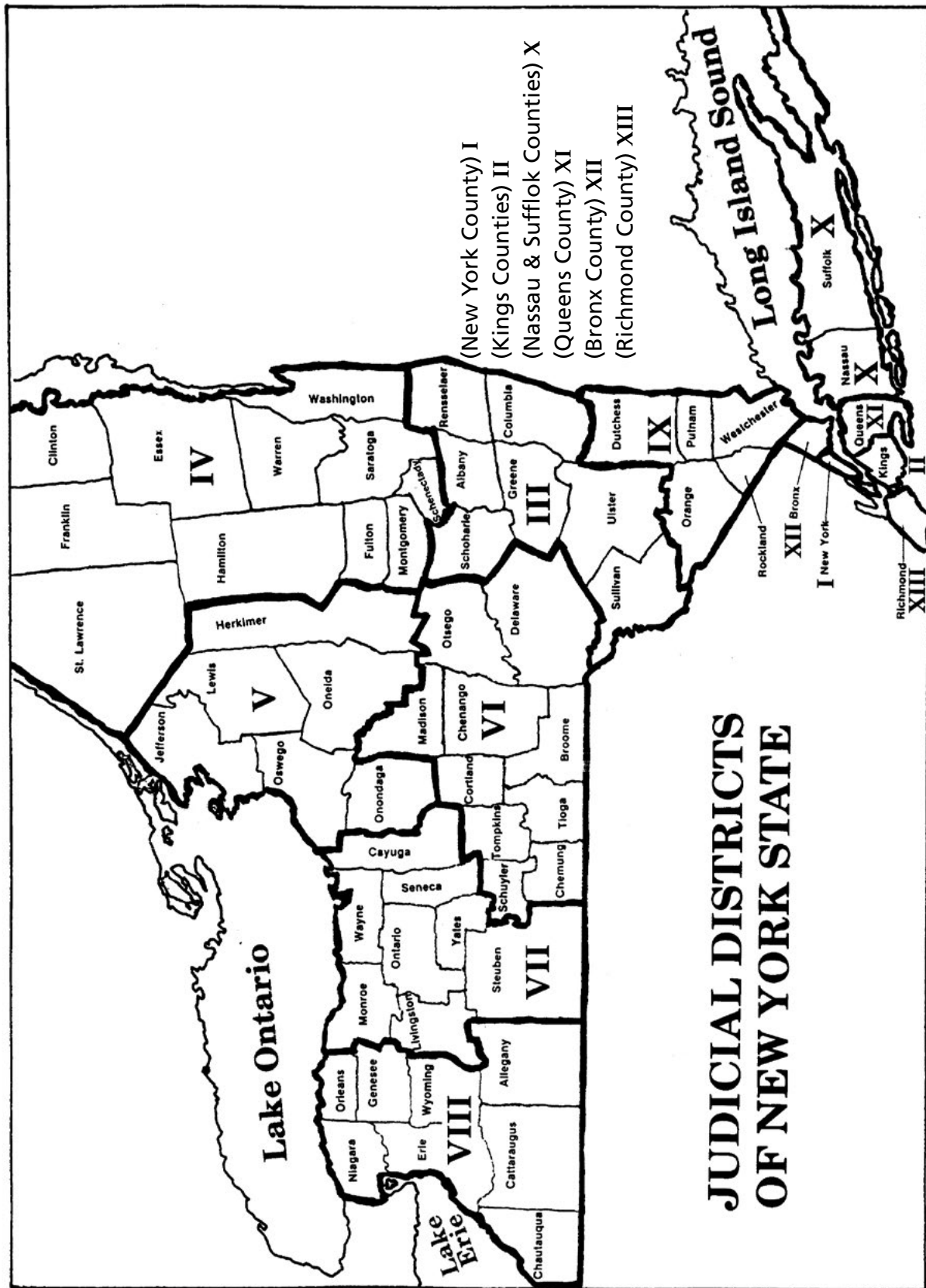
Source: State of New York Office of Court Administration.

NEW YORK STATE JUDICIAL SYSTEM
CRIMINAL APPEALS STRUCTURE



Source: State of New York Office of Court Administration.

C. Map and Chart of New York State Judicial Districts



New York State Counties by Judicial Department and District

FIRST DEPARTMENT

First Judicial District

New York

Twelfth Judicial District

Bronx

SECOND DEPARTMENT

Second Judicial District

Kings

Ninth Judicial District

Dutchess

Orange

Putnam

Rockland

Westchester

Tenth Judicial District

Nassau

Suffolk

Eleventh Judicial District

Queens

Thirteenth Judicial District

Richmond

THIRD DEPARTMENT

Third Judicial District

Albany

Columbia

Greene

Rensselaer

Schoharie

Sullivan

Ulster

Fourth Judicial District

Clinton

Essex

Franklin

Fulton

Hamilton

Montgomery

Saratoga

Schenectady

St. Lawrence

Warren

Washington

Sixth Judicial District

Broome

Chemung

Chenango

Cortland

Delaware

Madison

Otsego

Schuyler

Tioga

Tompkins

FOURTH DEPARTMENT

Fifth Judicial District

Herkimer

Jefferson

Lewis

Oneida

Onondaga

Oswego

Seventh Judicial District

Cayuga

Livingston

Monroe

Ontario

Seneca

Steuben

Wayne

Yates

Eighth Judicial District

Allegany

Cattaraugus

Chautauqua

Erie

Genesee

Niagara

Orleans

Wyoming

D. Auxiliary Programs and Court-Related Agencies²

APPELLATE AUXILIARY

State Reporter
State Board of Law Examiners
Candidate Examination Program
Candidate Fitness Program
Attorney Discipline Program
Assigned Counsel Program
Attorneys for Children Program
Mental Hygiene Legal Service Program

COURT-RELATED AGENCIES

Commissioners of Jurors and New York City County Clerks
Supreme and County Court Libraries
Lawyers' Fund for Client Protection
IOLA Fund of the State of New York
Judicial Conduct Commission
New York State Judicial Institute

Appellate Auxiliary Operations

The Appellate Auxiliary Operations include the State Reporter, State Board of Law Examiners, Candidate Fitness Program, Assigned Counsel Program, Attorneys for Children Program, Attorney Discipline Program and the Mental Hygiene Legal Service Program. With the exception of the State Reporter and the State Board of Law Examiners, which are operated under the direction of the Court of Appeals, all of the above programs are administered under the supervision of the presiding justices of each of the Appellate Divisions.

State Reporter

The State Reporter is the chief executive officer of the New York State Law Reporting Bureau which operates under the general supervision of the Court of Appeals. Pursuant to statutory mandate, the New York State Law Reporting Bureau edits and headnotes the decisions of the New York courts, and supervises their publication in weekly Advance Sheets, bound volumes, and an online computer retrieval database of the Official New York Law Reports. The New York State Law Reporting Bureau makes available all opinions and memorandum decisions handed down by the Court of Appeals, Appellate Divisions and Appellate Terms, and publishes selected opinions of the nisi prius courts which contain holdings of precedential significance or address matters of public interest [go to www.nycourts.gov/reporter where unpublished trial court writings are available, or call (518) 453-6900]. The State Reporter also prepares the *Official New York Law Reports Style Manual* which sets forth citation guidelines for use in judicial opinions and in legal writings submitted to the New York courts.

State Board of Law Examiners

The State Board of Law Examiners runs the Candidate Examination Program under the general supervision of the Court of Appeals. The board determines, by examination or credential review, whether a candidate for the bar is qualified to practice law in New York state. The board ensures that only competent persons, sufficiently learned in the law, are permitted to practice in New York state. For more information, see page 14 of this booklet, or go to the New York State Board of Law Examiners website, www.nybarexam.org.

Candidate Fitness Program

The Candidate Fitness Program determines whether candidates possess the requisite ethical character and general fitness in order to be admitted to the bar. The Candidate Fitness Program is administered by the Appellate Division Departments, in conjunction with their Committees on Character and Fitness.

Attorney Discipline Program

Through the Attorney Discipline Program, appointed attorney grievance committees conduct investigations of alleged attorney misconduct, impose confidential discipline (which, depending on the Judicial Department, may include letters of caution, and oral and written admonitions) and, in more serious cases, prosecute charges before the Appellate Division, which proceedings may result in public censure, suspension or disbarment of the attorney. The purpose of the program is to protect the public, deter attorney misconduct, and preserve the reputation of the bar.

2. The following is largely taken from *Structure of the Courts* (1986), produced by the State of New York Unified Court System.

The following programs provide services, including counsel, to those unable to obtain such services themselves.

Section 35 of the Judiciary Law - Assigned Counsel Program

Section 35 of the Judiciary Law established an Assigned Counsel Program which provides legal services to persons alleged to be mentally ill, mentally defective, narcotics addicts or children in certain custody proceedings; provides indigents before the courts with medical and psychiatric examination services, and provides legal services to indigents in certain kinds of proceedings when such services cannot be provided through other sources. (Public defender and legal service agencies also provide legal services for persons accused of crimes and others; see also County Law article 18B and other provisions such as Family Court Act § 261, Surrogate's Court Procedure Act § 403-a, and Civil Practice Law and Rules § 1102.)

Attorneys for Children Program

The general purpose of the Attorneys for Children Program is to provide counsel to minors in certain proceedings in Family Court, such as juvenile delinquency, persons in need of supervision, and child protective proceedings. In addition, the court has the discretion to appoint an attorney in any proceeding when such representation will serve the purposes of the Family Court Act.

Mental Hygiene Legal Service Program

The Mental Hygiene Legal Service Program (MHLS) ensures that mentally disabled persons who are under care that restricts their freedom are afforded due process of the law. In carrying out this responsibility, the MHLS provides or procures legal counsel for patients in judicial proceedings concerning confinement, care and treatment.

Court-Related Agencies

Commissioner of Jurors and New York City County Clerks

The Commissioner of Jurors' Offices are responsible for supplying the trial courts with prospective jurors and for the management of a variety of functions related to discharging this responsibility, including summoning and qualification of citizens for jury services, the maintenance of juror service records, and the operation of juror assembly rooms.

In New York City, the five county clerks serve as commissioners of jurors and also perform a variety of non-jury functions including, among others, the maintenance of Supreme Court case records, the qualification of notary publics and commissioners of deeds, the filing of corporation and business certificates, and the processing of passports. Outside the city of New York, county clerks are elected, county-paid officials, who, in addition to many non-court functions, maintain County Court and Supreme Court records.

Supreme and County Court Law Libraries

The law libraries serve as major legal research centers and often serve as the only legal resources available to the local bench, bar and public.

Lawyers' Fund for Client Protection³

The Lawyers' Fund for Client Protection — previously the Clients' Security Fund — is a state agency financed principally by a \$60 share of each lawyer's \$375 biennial registration fee. The Fund receives no revenues from the IOLA program or from state tax revenues.

The Fund is administered pro bono publico by a board of trustees appointed by the judges of the state Court of Appeals. There are seven trustees: currently five practicing lawyers and two business and community leaders who are not members of the bar.

The trustees are authorized to reimburse law clients for money or property that is misappropriated by a member of the bar in the practice of law. Since the Fund's inception in 1982, the Fund has restored more than \$208 million to victims of dishonest conduct in the practice of law.

To qualify for reimbursement, the loss must involve the misuse of clients' money or property in the practice of law. The trustees cannot settle fee disputes, compensate clients for malpractice or neglect, or reimburse losses from activities unrelated to an attorney-client relationship. Awards of reimbursement are generally made after a lawyer's disbarment, and where it appears that the lawyer cannot make restitution.

Typical losses reimbursed by the Fund include the theft of estate and trust assets; down payments and the proceeds in real property transactions; debt collection proceeds; personal injury settlements; and money embezzled from clients in investment transactions arising from an attorney-client relationship and the practice of law. Financial sanctions against attorneys during litigation or imposed by court rules

3. See the section on Client Funds (p. 25) for more information on the Lawyers' Fund for Client Protection and IOLA.

for engaging in frivolous conduct are made payable to the Fund. The Fund is also provided notice of any dishonored checks drawn upon an attorney's trust, escrow or special account.

The Fund's governing statutes are sections 97-t of the State Finance Law and 468-b of the Judiciary Law. The trustees' regulations are published in 22 NYCRR Part 7200. By Appellate Division rules and the trustees' regulations, lawyers who assist claimants before the Fund cannot charge legal fees.

The Fund's offices are located at 119 Washington Avenue, Albany, New York 12210, telephone (518) 434-1935, or (800) 442-3863. The Fund's website, www.nylawfund.org, contains information about the Fund; frequently asked questions about the Fund and its procedures; the trustees' regulations; reimbursement claim forms; recent annual reports; and consumer and lawyer publications.

IOLA

IOLA is the acronym for "Interest on Lawyer Accounts." Pursuant to State Finance Law § 97-v and Judiciary Law § 497, lawyers and law firms are required to establish interest-bearing trust accounts for clients' funds that are nominal in amount, or are expected to be held for a short period of time making it impractical to account for income on individual deposits. The interest earned is forwarded directly by the financial institutions to the IOLA Fund for the following purposes: (a) to award funds to organizations providing legal assistance to the poor throughout the state; and (b) to grant awards to programs for the improvement of the administration of justice in New York state. More information can be obtained by writing to Interest On Lawyer Account Fund of the State of New York, 11 East 44th Street, Suite 1406, New York, NY 10017, or telephoning (646) 865-1541 or (800) 222-IOLA. Attorneys must enroll new IOLA accounts with the IOLA fund via its website: www.iola.org.

Judicial Conduct Commission

The state constitution provides for a Commission on Judicial Conduct with authority to determine discipline, from admonition to removal, of judges and justices of state and local courts and to retire them for disabilities, subject to review by the Court of Appeals. Contact information: 61 Broadway, Suite 1200, New York, NY 10006, (646) 386-4800, cjc@cjc.ny.gov. Website address: www.cjc.ny.gov.

New York State Judicial Institute

The Judicial Institute provides a forum for judicial scholarship, including continuing education and seminars, as well as programs with other state and federal judicial systems. Contact information: 84 North Broadway, White Plains, NY 10603, (914) 824-5800.

E. Overview of Administrative Structure of Court System

The following description of court administration is taken, in large part, from pages 136-138 of the New York Legal Research Guide by Ellen M. Gibson (published by William S. Hein & Co., Inc., Buffalo, NY, 1988).

Court Administration

Court administration is governed by article VI, section 28, of the New York Constitution and sections 210 through 217 of the Judiciary Law. The present administrative structure is the result of constitutional amendments and legislation which went into effect in the 1960's and 1970's.

The Chief Judge and the Administrative Board of the Courts. New York has had the framework for "a unified court system" since 1961. The chief judge of the Court of Appeals is the unified court system's chief judicial officer and chair of the Administrative Board of the Courts. In addition to the chief judge, members of the Administrative Board of the Courts are the presiding justices from each judicial department. The chief judge, after consultation with the board, establishes standards and administrative policies applicable to the unified court system. These must be approved by the Court of Appeals.

The Chief Administrator of the Courts. The chief administrator of the courts is appointed by the chief judge with the advice and consent of the board. If the chief administrator is a judge or justice in the unified court system, he or she holds the title of chief administrative judge. The chief administrator supervises the administration and operation of the unified court system.

The chief administrator's annual report to the governor on the activities of the unified court system is the best source for statistics on the courts and for current descriptions of the court structure and administration. Additional useful information included in the annual report are the number of registered attorneys by county and judicial department, personnel and budgetary information on the court system, a summary of educational and training programs conducted during the year, and a summary of legislation sponsored by the chief administrator. The current series of annual reports covers 1978 to date. Prior to 1978, the above-described annual information on the court system was published in the annual reports of the Administrative Board of the Judicial Conference (1962-1977), the Judicial Conference (1955-1961), and the annual reports of the Judicial Council (1934-1954).

Office of Court Administration. The Office of Court Administration (OCA) was established in 1974. The OCA assists the chief administrator in the operation of the unified court system. Its responsibilities include budget preparation and management of the unified court system, attorney registration, and administration of the Community Dispute Resolution Centers Program. The OCA counsel's office has an important legislative role. Its legal staff assists the legislative advisory committees on civil practice, criminal law and procedure, the Surrogate's Court, and Family Court.

The Judicial Conference. The Judicial Conference is a large advisory body composed of: the chief judge of the Court of Appeals; the presiding Appellate Division justice and one Supreme Court justice from each of the four judicial departments; representative judges from the other courts; and representatives from the state bar. The chairpersons and ranking minority members of the Senate and the Assembly Committees on the Judiciary and Committees on Codes are ex officio members of the Judicial Conference.

The Judicial Conference studies and makes recommendations for changes in laws and rules relating to civil, criminal and family law practice. The Judicial Conference also advises the chief administrator of the courts on education programs for the judicial and non-judicial personnel of the unified court system. When requested to do so, it consults with the chief judge and chief administrator on the operation of the court system. Many of the functions now performed by the Administrative Board of the Courts were performed by the Judicial Council (1934-1954) and the Judicial Conference (from 1955-1977).

F. Federal Court

There are four United States district courts in New York state as follows:

Southern District

	<i>also</i>
U.S. Courthouse 500 Pearl Street New York, NY 10007-1312 (212) 805-0136	U.S. Courthouse 300 Quarropas St. White Plains, NY 10601 (914) 390-4100

The Southern District covers the counties of Bronx, New York, Dutchess, Orange, Putnam, Rockland, Sullivan and Westchester.

Eastern District

	<i>and</i>
United States District Court Eastern District of New York U.S. Courthouse 225 Cadman Plaza East Brooklyn, NY 11201 (718) 613-2600	Long Island Federal Courthouse 100 Federal Plaza Central Islip, NY 11722 (631) 712-6000

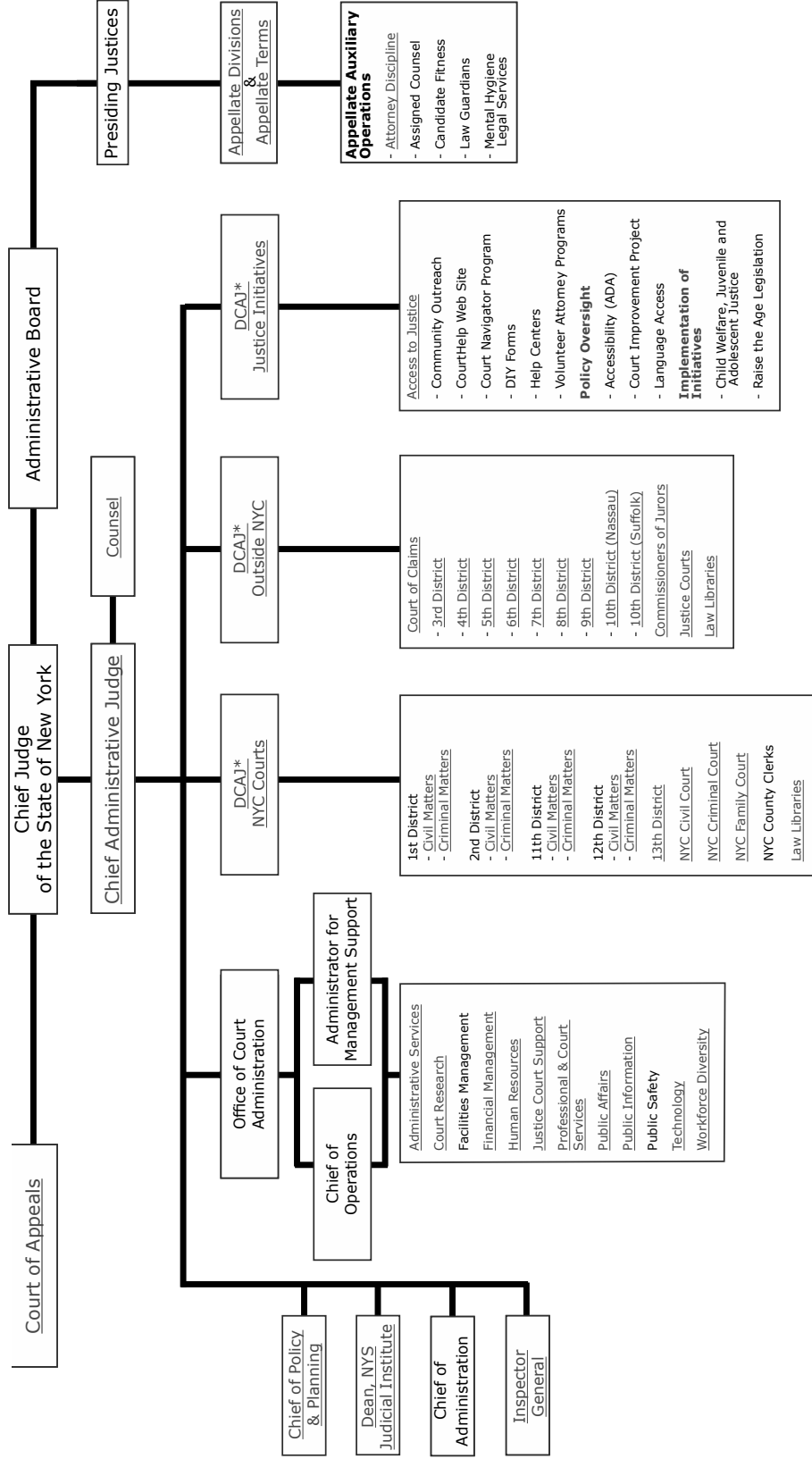
The Eastern District covers the counties of Kings, Queens, Nassau, Suffolk and Richmond.

Western District

	<i>and</i>
United States District Court Western District of New York U.S. Courthouse 68 Court Street Buffalo, NY 14202-3406 (716) 551-4211	U.S. Courthouse 100 State Street Rochester, NY 14614 (585) 613-4000

The Western District covers the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming and Yates.

ADMINISTRATIVE STRUCTURE OF THE NEW YORK STATE UNIFIED COURT SYSTEM



Source: nycourts.gov/admin/adminstructure.pdf
 *DCAJ - Deputy Chief Administrative Judge

Northern District

United States District Court *and these other seven locations (8 total)*
Northern District of New York

James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207-2974
(518) 257-1800
Old Post Office & Courthouse
157 Genesee Street, 2nd Floor
Auburn, NY 13021
(315) 252-6555

Federal Building &
U.S. Courthouse
15 Henry Street
Binghamton, NY 13902-2723
(607) 773-2893
U.S. Courthouse
Lewis Avenue
Fort Drum, NY 13602
(315) 234-8500

55 Court Street
Plattsburgh, NY 12901-2834
(518) 561-6274
U.S. Courthouse
100 S. Clinton Street, P.O. Box 7367
Syracuse, NY 13261-7367
(315) 234-8500

Alexander Pirnie Federal Building
10 Broad Street
Utica, NY 13501
(315) 793-8151
Jefferson County Courthouse
Dulles State Office Building
317 Washington Street - 10th Floor
Watertown, NY 13601
(315) 779-8935

The Northern District covers the counties of Albany, Broome, Cayuga, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren and Washington.

* * *

The United States Court of Appeals for the Second Circuit, covering Connecticut, New York and Vermont, is located in the United States Court House, 40 Foley Square, New York, New York 10007.

Both the United States Court of International Trade and the United States Tax Court also have courtrooms in New York City. The United States Bankruptcy Court sits in numerous locations throughout New York state; it is territorially divided along lines similar to the United States District Courts.

II. Admission to the New York State Bar⁴

A. Admission on Examination⁵

In general, after graduating from an approved law school, you must gain admission to the New York State Bar in order to practice law in New York State. Applicants for admission are required to possess good moral character and fitness and successfully complete a written examination.

The written exam in New York State is administered by the State Board of Law Examiners and is given twice each year, in February and July.

In May 2015, the New York Court of Appeals adopted the recommendation of the Advisory Committee on the Uniform Bar Examination (UBE) that New York adopt the UBE effective July 2016. The Advisory Committee also recommended, and the Court of Appeals adopted, a requirement that applicants for admission in New York be required to complete an online course on New York law and take and pass an online examination on New York law as a requirement for admission. The report of the Advisory Committee is available on its website at <http://www.nycourts.gov/ip/bar-exam/>.

The Court of Appeals amended sections 520.2, 520.7, 520.8 520.9 and 520.12 of its Rules to reflect the adoption of the UBE. The Court of Appeals also made a minor change to the Rules not related to the UBE. New language was added to section 520.16, pertaining to the 50-hour pro bono requirement for admission, to clarify the date after which eligible pro bono work must be performed.

4. Admission to the New York State Bar is generally governed by the following statutes and court rules: Judiciary Law §§ 53, 56, 90, 460-468-a, 478, 484; CPLR article 94; Rules of the Court of Appeals, 22 NYCRR Part 520; Rules of the Appellate Divisions: First Department: Part 602; Second Department: Part 690, 692; Third Department: Part 805; Fourth Department: § 1022.9, 1022.34; Part 1029.

5. The following is largely reprinted from *Law as a Career in New York State* (1989) published by the New York State Bar Association.

Uniform Bar Exam (UBE)⁶

The Uniform Bar Exam (UBE) is a high quality, uniform battery of tests that are administered simultaneously in the UBE jurisdictions. It consists of the Multistate Bar Examination (MBE), the Multistate Performance Test (MPT), and the Multistate Essay Examination, or MEE.

The UBE tests knowledge of general principles of law and the skills of legal analysis and reasoning, factual analysis and communication skills – essentially, it tests the fundamental knowledge and lawyering skills that are needed to begin the practice of law. The UBE is uniformly administered, graded and scored, and it results in a score that can then be transferred to other UBE jurisdictions.

More information regarding the UBE is available at the website of the National Conference of Bar Examiners at www.ncbex.org/exams/ube.

The passing score for the UBE in New York is 266 on a 400 point scale. An applicant must achieve a score of 266 or higher on the UBE, whether taken in New York or another jurisdiction, in order to qualify for admission in New York. An applicant whose score on the UBE whether taken in New York or another jurisdiction is lower than 266 will not qualify for admission in New York. However, an applicant whose UBE score is below 266, whether taken in New York or in another jurisdiction, may qualify for admission in a UBE jurisdiction whose passing score is below 266. The following examples may be useful:

- An applicant takes the UBE in New York and achieves a score of 280. The applicant will qualify for admission in New York, provided the applicant satisfies the other admission requirements.
- An applicant takes the UBE in a UBE jurisdiction where the passing score is 270 and achieves a score of 268. Although the applicant will not qualify for admission in the jurisdiction in which the applicant took the UBE, the applicant will qualify for admission in New York, provided the applicant satisfies the other admission requirements.
- An applicant takes the UBE in New York and achieves a score of 262. The applicant will not qualify for admission in New York, but will qualify for admission in a UBE jurisdiction where the passing score is 262 or below.
- An applicant takes the UBE in a UBE jurisdiction where the passing score is 260 and achieves a score of 262. The applicant will not qualify for admission in New York but will qualify for admission in the UBE jurisdiction in which the applicant took the UBE and in any other UBE jurisdiction with a passing score of 262 or below.

New York Law Course, New York Law Exam, and Multistate Professional Responsibility Examination

An applicant for admission in New York must also take and complete an online course in New York-specific law, known as the New York Law Course (NYLC), and must take and pass an online examination, known as the New York Law Exam (NYLE). Applicants must also comply with the 50 hour pro bono service requirement. For information regarding this requirement, see www.nycourts.gov/attorneys/probono/baradmissionreqs.shtml.

Additionally, applicants must take and pass the Multistate Professional Responsibility Examination (MPRE). For information regarding this test, see: <https://www.ncbex.org/exams/mpre/>. Applicants who commence their law school studies after August 1, 2016, must comply with the Skills Competency Requirement set forth in Section 520.18 of the Rules of the Court of Appeals. For information regarding this requirement, see: <https://www.nycourts.gov/ctapps/news/nottobar/nottobar121615.pdf>

Finally, applicants must satisfy the character and fitness requirements as set forth in Court of Appeals Rule 520.12 and the rules of the various Appellate Division departments. For information regarding the admissions process, see www.nybarexam.org/Admission/Admission.htm.

The NYLC is an online, on-demand course on important and unique principles of New York law in the subjects of Administrative Law, Business Relationships, Civil Practice and Procedure, Conflict of Laws, Contracts, Criminal Law and Procedure, Evidence, Matrimonial and Family Law, Professional Responsibility, Real Property, Torts and Tort Damages, and Trusts, Wills and Estates. The NYLC consists of approximately 15 hours of recorded lectures with embedded questions which must be answered correctly before an applicant can continue viewing the lecture. An applicant must complete all of the videos before the applicant may register for the NYLE.

The NYLE will be a 50 item multiple choice test, offered at least four times per year. Applicants must complete the NYLC before they can take the NYLE. The passing score on the NYLE is 60% (30 items correct) and is an open book test. Applicants will be required to complete an affirmation affirming that they completed the NYLC and NYLE without assistance from anyone and that they did not provide assistance to any other applicant. An applicant who fails the NYLE will be required to retake both the NYLC and the NYLE.

The NYLC and NYLE are available as of Spring 2016. After that, an applicant will be permitted to take the NYLC and NYLE up to one year before and three years after the applicant first sits for the UBE, subject to the application filing deadline of Court of Appeals Rule 520.12(d). That section requires that a complete application for admission be filed within three years from the date when the applicant sits for the second day of the UBE, whether taken in New York or in another jurisdiction. It is important to note that a passing NYLE score expires three years after the date on which it was earned (see Rule 520.9[a][3][v]).

6. The following is largely reprinted from the New York State Board of Law Examiners website, www.nybarexam.org.

Some examples may be useful. These examples use only years as measuring points, but it should be understood that the specific months in which certain events took place would have to be taken into account in each instance:

- An applicant takes the course and takes and passes the NYLE and the UBE in 2017. The applicant must apply for admission by 2020.
- An applicant takes and passes the UBE in 2017, and takes the course and passes the NYLE in 2018. The applicant must apply for admission by 2020.
- An applicant takes the course and takes and passes the NYLE in 2016 and takes and passes the UBE in 2017. The applicant must apply for admission by 2020, but unless the applicant applies by 2019, the NYLE score will be stale and s/he will have to retake the course and test.
- An applicant takes the course and takes and fails the NYLE in 2016. The applicant takes and passes the UBE in 2017. The applicant must retake the course and retake and pass the NYLE by 2020, and must also apply for admission by 2020.
- An applicant takes the course and takes and passes the NYLE in 2016. The applicant takes and fails the UBE in 2017, but re-takes and passes the UBE in 2018. The applicant must apply for admission by 2021, but if the applicant does not apply by 2019, the NYLE score will be stale and the applicant will have to retake the course and NYLE.
- An applicant takes and passes the UBE in 2017, but does not take and pass the NYLE until 2019. The applicant must apply for admission by 2020, or else the UBE score will be stale.
- An applicant takes the UBE in 2017 and fails, and retakes it and passes two years later, in 2019. If the applicant had taken the NYLE in 2016, the score could be stale (depending on the month in which the test was taken.) If the applicant took and passed the NYLE in 2017, the applicant must apply for admission by 2020, or the NYLE score would be stale, requiring the applicant to retake the course and test, even though the passing score on the UBE would otherwise be valid until 2022.

The same rules will apply to applicants seeking to transfer a UBE score in from another jurisdiction. That is, the applicant will have to take the NYLC and take and pass the NYLE within one year before or three years the date of administration of the UBE.

Skills Competency Requirement⁷

In December 2015, the Court of Appeals adopted section 520.18 of the Rules for the Admission of Attorneys and Counselors at Law (22 NYCRR 520.18). This provision requires applicants seeking admission in New York to establish that they have acquired skills and professional values necessary to competently practice law. Applicants may satisfy this requirement by completing one of five separate pathways described in section 520.18. For applicants who qualify for the bar examination based upon having attended an ABA-approved law school and having satisfied the requirements of section 520.3 or based upon their foreign legal education alone under section 520.6, this requirement will first apply to those who commence their legal studies after August 1, 2016. As to foreign-educated applicants who are required to complete an LL.M. program at an ABA-approved law school in order to sit for the bar examination under section 520.6, the new requirements will apply to those who commence their LL.M. program after August 1, 2018. A copy of the Notice to the Bar announcing the New Skills Competency Requirement and the newly enacted Section 520.18 of the Rules of the Court of Appeals For the Admission of Attorneys and Counselors at Law is available at: <http://www.courts.state.ny.us/ctapps/news/nottobar/nottobar121615.pdf>.

* * *

For more information about the Uniform Bar Exam, Multistate Bar Exam, New York Law Course, New York Law Exam and Multistate Professional Responsibility Examination, see the website of the State Board of Law Examiners: www.nybarexam.org.

Following passage of the bar exam, the applicant is certified for admission by a Committee on Character and Fitness in one of the four Departments of the Appellate Division of State Supreme Court. He or she must file an application for admission to the bar with the appropriate Appellate Division Department.

Each applicant has a personal interview with the Character and Fitness Committee. After the Character and Fitness Committee recommends to the Appellate Division that the applicant be admitted to the practice of law in New York state, upon approval by the court, formal swearing-in ceremonies are then conducted by a Department of the Appellate Division.

B. Admission Without Examination

In general, to be admitted to the New York state bar without examination, an applicant must:

1. Be currently admitted to the bar of at least one other jurisdiction which would similarly admit a New York state attorney to its bar without examination;
2. Have actually practiced, for at least five of the seven years immediately preceding the application, in one or more jurisdictions where admitted to practice;

7. This applies to students who begin school after August 1, 2016.

3. Be over 26 years of age;
4. Have the necessary legal education to qualify applicant for admission without examination (have an approved American law school juris doctorate degree); (the legal education must be certified by the State Board of Law Examiners; \$400 fee); and
5. Satisfy the Appellate Division that he or she possesses the character and general fitness requisite for an attorney and counselor-at-law by submitting an application to the appropriate Appellate Division Committee on Character and Fitness; also requires an interview by the Committee on Character and Fitness.

For further information on the legal education requirement, see the website of the State Board of Law Examiners: www.nybarexam.org. For further information on the other requirements, contact the admissions office of the appropriate Department of the Appellate Division. In general, each Appellate Division Department handles the applications of persons having residence or full-time employment within the geographical boundaries of the department. The Third Judicial Department (which is centered in Albany) also is responsible for applicants who neither reside in nor have full-time employment in New York state.

C. Legal Consultants, In-house Counsel Pro Hac Vice, Student Legal Practice

Legal consultants are foreign attorneys with offices in New York state licensed to give legal advice on the law of the foreign country in which they have been admitted (see Judiciary Law § 53; Court of Appeals Rules, Part 521). In-house counsel are attorneys who, though not admitted to the New York bar, are employed full time in New York by a non-governmental corporation, partnership, association, or other legal entity that is not itself engaged in the practice of law or the rendering of legal services outside such organization. Application to register as an In-house counsel must be made with the Appellate Division of the Supreme Court (see Court of Appeals Rules, Part 522; Rules of the Chief Administrator, Part 118). *Pro hac vice* admissions for particular causes are generally reserved to the discretion of the particular court in which the admission is sought (see Court of Appeals Rules, Section 520.11). *Pro hac vice* admissions for specified time periods are also available for certain students and employees of certain legal aid societies and government entities (see also, Court of Appeals Rules, Part 520.11[a] [2]). Student legal practice is governed by Judiciary Law §§ 478 and 484 and relevant Appellate Division rules.

D. Oath of Office

Upon being admitted to practice in the state of New York, each applicant is required to swear (or affirm) the following constitutional oath of office (see Judiciary Law § 466 and NY Const. art. XIII, § I):

I do solemnly swear that I will support the Constitution of the United States, and the New York Constitution, and that I will faithfully discharge the duties of the office of attorney and counselor at law of the Supreme Court of the state of New York according to the best of my ability.

III. Membership in the New York State Bar

Please note that admission to the New York state bar does not constitute membership in the New York State Bar Association, which is a voluntary organization. Unlike some other states, New York state does not have an "integrated bar." However, membership in the New York State Bar Association and other local bar associations is recommended. For further information, please contact New York State Bar Association, Member Resource Center, One Elk Street, Albany, New York 12207, phone: (518) 463-3200; e-mail: mrc@nysba.org.

A. Attorney Registration and Fees

Section 468-a of the Judiciary Law and 22 NYCRR Part 118 of the Rules of the Chief Administrator of the Courts require the biennial registration of all attorneys admitted in the State of New York, whether they are resident or non-resident, active or retired, or practicing law in New York or anywhere else. All attorneys are required to renew their attorney registration every two years, within 30 days after the attorney's birthday. The fee for this registration is \$375.00 (of which \$60.00 is earmarked to support the Lawyers' Fund for Client Protection, \$50.00 is deposited in the Indigent Legal Services Fund, \$25.00 in the Legal Services Assistance Fund, and the remainder in the Attorney Licencing Fund). No fee is required from an attorney who certifies that he or she is "retired" from the practice of law (see, section III C, *infra*).

Unlike certain other jurisdictions, New York does not have an inactive status and attorneys who fail to comply with the registration requirements are subject to referral for disciplinary action by the Appellate Division.

Newly-admitted attorneys are required to file an initial registration and pay the \$375 fee prior to taking the constitutional oath of office. Information and forms are provided to new attorneys in conjunction with the admission process. Thereafter, the Office of Court Administration automatically sends the necessary forms to enable attorneys to comply with the requirement after the initial registration. For further information, contact the Attorney Registration Unit at the Office of Court Administration, P.O. Box 2806, Church Street Station, New York, New York 10008; e-mail: attyreg@nycourts.gov; phone: (212) 428-2800.

B. Address Changes and Name Changes

Attorneys admitted to the New York state bar are required to inform the Attorney Registration Unit of address changes within 30 days of the change. Changes may be submitted electronically at www.nycourts.gov/attorneys, via email to attyreg@nycourts.gov, or by mail to Office of Court Administration, P.O. Box 2806, Church Street Station, New York, New York 10008.

Name changes must be made at the Appellate Division department of admission. For instructions, contact the court directly: 1st Department (NYC) (212) 340-0400; 2nd Department (Brooklyn) (718) 875-1300; 3rd Department (Albany) (518) 471-4778; and 4th Department (Rochester) (585) 530-3100.

C. Retirement or Resignation

There is no provision for an “inactive” or out-of-state status in the attorney registration rules which would excuse an attorney from filing a biennial registration. All attorneys admitted to the New York state bar whether they are resident or non-resident, active or retired, or practicing law in New York or anywhere else must file a registration every two years, and if actively practicing law anywhere, pay the biennial fee. No fee is required for attorneys who can certify that they are “retired” from the practice of law. Part 118.1(g) of the Rules of the Chief Administrator defines, for the purposes of registration, both the “practice of law” and the term “retired” as follows. The definition of “retired” also includes full-time judges and attorneys engaged only in pro bono legal activities:

118.1(g) Each registration statement filed pursuant to this section shall be accompanied by a registration fee of \$375. No fee shall be required from an attorney who certifies that he or she has retired from the practice of law. For purposes of this section, the “practice of law” shall mean the giving of legal advice or counsel to, or providing legal representation for, particular body or individual in a particular situation in either the public or private sector in the State of New York or elsewhere, it shall include the appearance as an attorney before any court or administrative agency. An attorney is “retired” from the practice of law when, other than the performance of legal services without compensation, he or she does not practice law in any respect and does not intend ever to engage in acts that constitute the practice of law. For purposes of section 468-a of the Judiciary Law, a full-time judge or justice of the Unified Court System of the State of New York or of a court of any other state or of a federal court, shall be deemed “retired” from the practice of law. An attorney in good standing, at least 55 years old and with at least 10 years’ experience, who participates without compensation in an approved pro bono legal services program, may enroll as an “attorney emeritus.”

Part 118.1(g) was amended in January 2010 to include an additional status of attorney emeritus. This program was established by the Unified Court System, in cooperation with the organized bar, legal services providers and other members of the legal community, to encourage retired attorneys to volunteer their legal skills on a pro bono basis to assist low-income New Yorkers who cannot afford an attorney. To be eligible as an attorney emeritus you must be an attorney in good standing who is at least 55 years of age and has practiced law for a minimum of 10 years. By enrolling as an attorney emeritus you indicate your willingness to perform a minimum of 30 hours of pro bono legal services each year under the auspices of a qualified legal services organization in New York.

Because filing a biennial registration is required whether you are resident or non-resident, active or retired, or practicing law in New York or anywhere, the only way to avoid this obligation is to “resign” from the New York State bar, in which case the attorney would no longer be entitled to practice law in New York state or hold him or herself out as a member of the New York state bar. Resignation applications should be made to the Appellate Division Department of admission. Attorneys who are the subject of disciplinary proceedings may be able to resign but such resignations result in orders of disbarment, removal, or striking the attorney’s name from the roll of attorneys. Each Appellate Division Department has rules governing such “disciplinary” resignations.⁸

D. Certificate of Good Standing and Secure Pass ID Card

Upon admission to the bar, the Appellate Division does not furnish an “ID card,” nor does New York have “bar numbers,” like some other jurisdictions. However, if the need arises for an attorney to obtain documentation of admission to the bar and/or of good standing, each Appellate Division can provide a “certificate of good standing” to attorneys admitted to the bar of the State of New York, provided that the attorney is registered and is in “good standing” (i.e., not under disciplinary sanction). The attorney seeking such a certificate should contact the Appellate Division department of admission.

There is an ID card program administered by the Unified Court System (Secure Pass) that allows holders to enter New York state courthouses without having to pass through magnetometers. Secure Pass ID cards are available to all New York attorneys. Guidelines for this program can be viewed at: www.nycourts.gov/attorneys/registration/securepass.shtml.

8. Rules of the Appellate Division, First Department (§ 603.11), Second Department (§ 691.9), Third Department (§ 806.8), and Fourth Department (§ 1022.25).

All applicants must pay a \$50.00 processing fee and undergo a thorough application process, including an electronic criminal history search. Applications for Secure Pass IDs are available at most trial-level New York state courthouses. All applicants must appear in person to both apply for and pick up the completed card.

E. Mandatory Continuing Legal Education

The Administrative Board of the Courts approved a Mandatory Continuing Legal Education (MCLE) requirement, which became effective December 31, 1998, for all attorneys admitted to the New York Bar.

Newly Admitted Attorneys

Newly admitted attorneys (those within their first two years of admission to the Bar) must complete a minimum of 32 hours of accredited transitional continuing legal education (CLE) courses by the second anniversary of their admission to the New York Bar, with at least 16 completed before the first anniversary of admission and another 16 completed between the first and second anniversaries. The 16 credit hours must be in specific categories of credit: 3 credit hours in ethics and professionalism, 6 credit hours in skills, and 7 credit hours in law practice management and/or areas of professional practice. The courses attended for the skills credit and ethics and professionalism credit must be in the traditional live classroom format or the fully interactive video conference format.

Recent Changes to Newly Admitted Attorney CLE Requirement⁹

The New York State CLE Board adopted the following changes, effective January 1, 2016, to the requirement that newly admitted attorneys complete all of their CLE credits in the traditional live classroom setting or by fully interactive videoconference (there is no change to the number or categories of credit required, nor to the requirement that they be fulfilled by attending accredited transitional courses):

- Law Practice Management and Areas of Professional Practice credit may be completed in any approved format, including non-participatory formats such as on-demand audio or video, or live broadcast.
- Ethics and Professionalism credit may be completed in the traditional live classroom setting; by fully interactive videoconference; or by simultaneous transmission with synchronous interactivity, such as web conference, or teleconference, where questions are allowed during the program.
- There is no change in the requirement for Skills credit, which must be completed in the traditional live classroom setting or by fully interactive videoconference.

Newly admitted attorneys **based in law offices outside of the United States** may fulfill up to 16 credit hours in any approved format. The remaining credit hours must be completed in a format permissible for the category of credit.

Newly admitted attorneys eligible for a prorated CLE requirement must complete the credit in a format permissible for the category of credit, except that no more than 14 credits may be earned through non-participatory formats, such as on-demand audio or video, or live broadcast. The revised format restrictions apply only to attorneys admitted to the New York Bar on or after January 1, 2014, and only to programs taken on or after January 1, 2016.

For more information, go to the Office of Court Administration website at www.nycourts.gov.

Experienced Attorneys

Experienced attorneys (those admitted to the New York Bar more than two years) are required to complete a minimum of 24 credit hours of accredited CLE courses every two years, of which at least 4 credit hours must be in the ethics and professionalism category, and at least 1 of these credit hours must be in the diversity, inclusion and elimination of bias category. Unlike newly admitted attorneys, experienced attorneys may complete CLE programs in any format, and may also earn credit through other CLE activities, such as teaching CLE courses, authoring legal research-based publications or providing pro bono legal services.

New York attorneys must certify to their CLE compliance at the time of their biennial attorney registration, and must keep their certificates of attendance for at least four years from the date of the course, in case of an audit.

Non-New York Resident/Practicing Attorneys

Attorneys who do not practice law in New York throughout the biennial CLE reporting cycle may be exempt from the CLE requirement. All members of the New York Bar are presumed to be practicing law in New York unless otherwise shown; the burden of proof is on the indi-

9. Portions of this section have been taken from the website of the Office of Court Administration, www.nycourts.gov.

vidual attorney. Lawyers who are exempt from New York's CLE requirement, but are required to comply with the CLE requirements of another jurisdiction, must comply with those requirements and certify that compliance on the biennial registration statement.

Additional information on New York's CLE program may be found on the Unified Court System website at: www.nycourts.gov/attorneys/cle, or obtained by calling the New York State Continuing Legal Education Board at: (212) 428-2105, or for callers outside of New York City, toll-free at: (877) NYS-4CLE. Questions about CLE requirements may also be directed to the CLE Board via email at: cle@nycourts.gov.

New York State Bar Association Continuing Legal Education (CLE) Programs

The New York State Bar Association is certified by the New York State Continuing Legal Education Board as an accredited provider of Continuing Legal Education in the State of New York. The State Bar Association offers more than 200 for-credit, live CLE seminars each year held in locations throughout the state. The New York State Bar Association also offers more than 40 live programs in five days at the State Bar Association's Annual Meeting.

Members of the New York State Bar Association can attend Association CLE programs at discounted prices. For more information on NYSBA CLE seminars, including pricing, call: (800) 582-2452 or (518) 463-3724, or access our website at: www.nysba.org and point to the CLE navigation button.

F. Pro Bono Activities

Pro Bono Requirement for Admission to the New York State Bar

All applicants seeking admission to the New York Bar are required to perform at least 50 hours of law-related pro bono service prior to taking the oath of office.

Pursuant to Rule 520.16 of the Rules of the Court of Appeals, applicants who successfully pass the bar examination in New York State must demonstrate that they have performed 50 hours of qualifying pro bono service before applying for admission to practice. The full text of Rule 520.16 is available at <http://www.nycourts.gov/ctapps>.

An applicant's qualifying pro bono work must be completed before submitting the Application for Admission to the appropriate Appellate Division of the New York Supreme Court. In the First Department, applications may be filed after bar examination results have been received and an applicant's certification of bar passage has been issued. In the Second, Third and Fourth Departments, applications may be filed after the bar examination has been taken, regardless whether examination results have been announced. Be advised that the application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the date of notification of bar exam passage by the New York State Board of Law Examiners (see 22 NYCRR 520.12). The three-year period **will not** be extended if an applicant has delayed satisfying the pro bono requirement. After three years the bar examination score will be deemed stale and the exam must be retaken.

Since compliance must be demonstrated as part of the application for admission, applicants will file the Form Affidavit of Compliance with the admission packet at the appropriate Appellate Division of the New York Supreme Court. The current Multi-Department Admission Packet can be viewed at the website of the New York State Board of Law Examiners: www.nybarexam.org/Admission/Admission.htm.

Note: The application and any further materials required by the Appellate Division and its Committee on Character and Fitness must be filed within three years from the date that you are notified by the New York State Board of Law Examiners that you have passed the New York bar examination.

Following admission to the bar the following goals are encouraged:

RULE 6.1: Voluntary Pro Bono Service

The Rules of Professional Conduct (Part 1200 Joint Rules of the Appellate Divisions), adopted on April 1, 2009, state the following:

Rule 6.1

Lawyers are strongly encouraged to provide pro bono legal services to benefit poor persons.

(a) Every lawyer should aspire to:

1. provide at least 20 hours of pro bono legal services each year to poor persons; and

2. contribute financially to organizations that provide legal services to poor persons. Lawyers in private practice or employed by a for-profit entity should aspire to contribute annually in an amount at least equivalent to (i) the amount typically billed by the lawyer (or the firm with which the lawyer is associated) for one hour of time; or (ii) if the lawyer's work is performed on a contingency basis, the amount typically billed by lawyers in the community for one hour of time; or (iii) the amount typically paid by the organization employing the lawyer for one hour of the lawyer's time; or (iv) if the lawyer is underemployed, an amount not to exceed one-tenth of one percent of the lawyer's income.

(b) Pro bono legal services that meet this goal are:

1. Professional services rendered in civil matters, and in those criminal matters for which the government is not obliged to provide funds for legal representation, to persons who are financially unable to compensate counsel;
2. Activities related to improving the administration of justice by simplifying the legal process for, or increasing the availability and quality of legal services to, poor persons; and
3. Professional services to charitable, religious, civic and educational organizations in matters designed predominantly to address the needs of poor persons.

(c) Appropriate organizations for financial contributions are:

1. Organizations primarily engaged in the provision of legal services to the poor; and
2. Organizations substantially engaged in the provision of legal services to the poor, provided that the donated funds are to be used for the provision of such legal services.

(d) This Rule is not intended to be enforced through the disciplinary process, and the failure to fulfill the aspirational goals contained herein should be without legal consequence.

IV. Practice in New York State

A. Conduct of Attorneys

1. *Rules of the Appellate Divisions*

In general, the conduct of attorneys is overseen by the Appellate Division Departments and the corresponding grievance committees. The Appellate Divisions have adopted uniform rules for Attorney Disciplinary Matters (22 NYCRR Part 1240 plus appendices), but each Department also has "local" rules. Attorneys are advised to direct questions concerning the rules to the specific Appellate Division.¹⁰ In general, if you practice within geographical boundaries of, or were admitted by, a particular Division, you are subject to that department's jurisdiction for conduct and disciplinary purposes.

- a. First Department
Rules of Procedure – Part 600.1 thru 600.19
Conduct of Attorneys – Part 603
- b. Second Department
Rules of Procedure – Part 670.1 thru 670.24
Conduct of Attorneys – Part 691
- c. Third Department
Rules of Procedure – Part 800.1 thru 800.24-b
Conduct of Attorneys – Part 806
- d. Fourth Department
Rules of Procedure – Part 1000.1 thru 1015.8
Attorneys and Procedures for Attorney Disciplinary Matters – Parts 1015, 1020

10. The Rules of the Appellate Divisions can be found at www.nycourts.gov/rules/jointappellate/.

2. *The New York Rules of Professional Conduct*

The New York Rules of Professional Conduct have been adopted by the Appellate Divisions of the New York State Supreme Court and are published in the Joint Rules of the Appellate Division (22 NYCRR 1200.0). The Appellate Divisions have not adopted the Preamble, Scope and Comments, which are published solely by the New York State Bar Association to provide guidance for attorneys in complying with the Rules. Where a conflict exists between a Rule and the Preamble, Scope or a Comment, the Rule controls.

Printed copies of the New York Rules of Professional Conduct (with Comments) are available (\$18.00/ per hardcopy for NYSBA members, discounts on bulk orders of 100 or more) from the New York State Bar Association, One Elk Street, Albany, New York 12207. To place an order, you may call the Association's Member Resource Center at: (800) 582-2452. You may also download the Code for free on NYSBA's website. Simply go to: www.nysba.org and point to the Practice Resources navigation button. The following is the Preamble and Scope as adopted by the New York State Bar Association and a listing of the Rules.

PREAMBLE:

A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients and an officer of the legal system with special responsibility for the quality of justice. As a representative of clients, a lawyer assumes many roles, including advisor, advocate, negotiator, and evaluator. As an officer of the legal system, each lawyer has a duty to uphold the legal process; to demonstrate respect for the legal system; to seek improvement of the law; and to promote access to the legal system and the administration of justice. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because, in a constitutional democracy, legal institutions depend on popular participation and support to maintain their authority.

[2] The touchstone of the client-lawyer relationship is the lawyer's obligation to assert the client's position under the rules of the adversary system, to maintain the client's confidential information except in limited circumstances, and to act with loyalty during the period of the representation.

[3] A lawyer's responsibilities in fulfilling these many roles and obligations are usually harmonious. In the course of law practice, however, conflicts may arise among the lawyer's responsibilities to clients, to the legal system and to the lawyer's own interests. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Nevertheless, within the framework of the Rules, many difficult issues of professional discretion can arise. The lawyer must resolve such issues through the exercise of sensitive professional and moral judgment, guided by the basic principles underlying the Rules.

[4] The legal profession is largely self-governing. An independent legal profession is an important force in preserving government under law, because abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice law. To the extent that lawyers meet these professional obligations, the occasion for government regulation is obviated.

[5] The relative autonomy of the legal profession carries with it special responsibilities of self-governance. Every lawyer is responsible for observance of the Rules of Professional Conduct and also should aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest that it serves. Compliance with the Rules depends primarily upon the lawyer's understanding of the Rules and desire to comply with the professional norms they embody for the benefit of clients and the legal system, and, secondarily, upon reinforcement by peer and public opinion. So long as its practitioners are guided by these principles, the law will continue to be a noble profession.

SCOPE

[6] The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives; cast in the terms "shall" or "shall not." These Rules define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules. The Rules state the minimum level of conduct below which no lawyer can fall without being subject to disciplinary action.

[7] The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers, and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

[8] The Rules provide a framework for the ethical practice of law. Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when nec-

essary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules.

[9] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

[10] Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide whether to agree to a settlement or to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and in their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intergovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

[11] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

[12] Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule 5 does not necessarily warrant any other non-disciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, because the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

[13] The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

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Advice on Ethical Questions

An attorney may obtain ethical guidance regarding questions concerning the attorney's OWN professional conduct by writing to the: New York State Bar Association, Committee on Professional Ethics, One Elk Street, Albany, New York 12207, (518) 487-5694 fax, ethics@nysba.org e-mail. Opinions of the committee are advisory and are rendered only to attorneys concerning their own conduct, not the conduct of another attorney. The committee does not pass upon questions of law or on matters which are in litigation — such matters are within the authority of the court to determine. The committee does not consider hypothetical inquiries or questions which have also been presented to another bar.

The committee's determinations are either in the form of an informal letter response, which is sent to the inquiring attorney only, or a formal advisory opinion which is published.

If emergency guidance on an ethical question is needed, an attorney may telephone (518) 487-5691. Following appropriate screening to ensure the committee has not previously rendered a formal opinion on the issues, an attorney may then be referred for telephone guidance to a member of the committee for an informal, non-binding opinion.

An attorney who works for state government in any capacity is also bound by Public Officers Law §§ 73, 73-a and 74, which govern business and professional activities, require financial disclosure, and set a code of ethics for state employees. These standards apply in addition to the New York Rules of Professional Conduct. An attorney may obtain ethical guidance about the application of the Public Officers Law ethics provisions by writing to the New York State Commission on Public Integrity. If the question is one of first impression, the commission will issue a formal advisory opinion acted upon by the full commission, which opinion will be published with identifying detail omitted. Otherwise, an informal opinion letter will be supplied. Inquiries should be forwarded to the New York State Commission on Public Integrity: 540 Broadway, Albany, New York 12207, (518) 408-3976, cpi@nyintegrity.org e-mail.

Published Ethical Opinions

All formal opinions issued by the Committee on Professional Ethics, together with an index, are available on the New York State Bar Association's website: www.nysba.org under "Practice Resources."

* * *

3. Client Funds¹¹

What are a lawyer's ethical obligations regarding client funds?

A lawyer in possession of client funds and property is a fiduciary.¹² The lawyer must safeguard and segregate those assets from the lawyer's personal, business or other assets.

A lawyer is also obligated to notify a client when client funds or property are received by the lawyer. The lawyer must provide timely and complete accountings to the client, and disburse promptly all funds and property to which the client is entitled. A client's non-cash property should be clearly identified as trust property and be secured in the lawyer's safe or safe deposit box.

These fiduciary obligations apply equally to money and property of non-clients which come into a lawyer's possession in the practice of law.

What is an attorney trust account?

It's a "special" bank account, usually a checking account or its equivalent, for client money and other escrow funds that a lawyer holds in the practice of law. A lawyer can have one account, or several, depending on need. Each must be maintained separately from the lawyer's personal and business accounts, and other fiduciary accounts, like those maintained for estates, guardianships, and trusts.

An attorney trust account must be maintained in a banking institution located within New York State; that is, a "state or national bank, trust company, savings bank, savings and loan association or credit union." Out-of-state banks may be used only with the prior and specific written approval of the client or other beneficial owner of the funds. In all cases, lawyers can only use banks that have agreed to furnish "dishonored check notices" pursuant to statewide court rules.¹³ While some banking institutions may offer overdraft protection on a client funds account, an attorney trust account should never be overdrawn and should not carry overdraft protection.

These rules also require lawyers to designate existing or new bank accounts as either Attorney Trust Account, Attorney Special Account, or Attorney Escrow Account, with pre-numbered checks and deposit slips imprinted with that title. These titles may be further qualified with other descriptive language. For example, an attorney can add "IOLA Account" or "Closing Account" below the required title.

What is the purpose of an attorney trust account?

The purpose of an attorney trust account is to safeguard clients' funds from loss and to avoid the appearance of impropriety by the lawyer-fiduciary. The account is used solely for funds belonging to clients and other person's incident to a lawyer's practice of law.

Funds belonging partly to a client and partly to a lawyer, presently or potentially, must also be deposited in the trust account. The lawyer's portion may be withdrawn when due, unless the client disputes the withdrawal. In that event, the funds must remain intact until the dispute with the client is resolved.

Withdrawals from the attorney trust account must be made to named payees, and not to cash. A lawyer may not issue a check from an attorney escrow account drawn against a bank or certified check that has not been deposited or has not cleared. A lawyer is also not permitted to make an ATM withdrawal from a client funds account. Deposits by ATM may be permitted if the attorney carefully reviews and adequately documents the deposit transaction, and otherwise complies with the records retention requirements of Rule 1.15.¹⁴

11. The following is a partial reprint of *A Practical Guide to Attorney Trust Accounts and Recordkeeping*, available from The New York Lawyers' Fund for Client Protection of the State of New York (Jan. 2015).

12. Rules of Professional Conduct [22 N.Y.C.R.R. 1200.0] Rule 1.15.

13. 22 NYCRR Part 1200 (Rule 1.15 (b) (1)). The Dishonored Check Notice Reporting Rules, effective January 1, 1993, are reported at 22 NYCRR Part 1300.

14. See, NYSBA Op. 737 (2001).

Only members of the New York bar can be signatories on the bank account. In certain instances, a lawyer may allow a paralegal to use the lawyer's signature stamp to execute escrow checks from a client trust account so long as the lawyer supervises the delegated work closely. The lawyer though remains completely responsible for any misuse of funds.¹⁵

What about bank service charges?

A lawyer may deposit funds into the attorney trust account that are reasonably sufficient to maintain the account, including bank service charges.¹⁶

Should interest-bearing accounts be used?

Lawyers, as fiduciaries, should endeavor to make client funds productive for their clients. By statute, every lawyer has complete discretion to determine whether client and escrow funds should be deposited in interest-bearing bank accounts.¹⁷

For funds nominal in amount, or which will be held only briefly by a lawyer or law firm, the statute authorizes their deposit in so-called IOLA bank accounts.

But lawyers may also establish interest-bearing accounts for individual clients. For all client funds, lawyers may use pooled accounts in banks which have the capability to credit interest to individual client sub-accounts. A lawyer or law firm may also do the calculations necessary to allocate interest to individual clients or other beneficial owners.

What is IOLA?

IOLA is the acronym for the Interest On Lawyer Account Fund and program.¹⁸ IOLA is a state agency which uses interest on IOLA attorney trust accounts to fund non-profit agencies in New York which provide civil legal services to low-income persons and programs to improve the administration of justice.

The IOLA account is designed for nominal and short-term client deposits which, in the sole discretion of the attorney, would not generate income for the client-owner, net of bank fees and related charges.¹⁹

A lawyer's participation in IOLA has no income tax consequences for the lawyer, or for the client. In addition, IOLA assumes the cost of routine bank service charges and fees on the account. IOLA's offices are at 11 E. 44th Street, Suite 1406, New York, NY 10017. Telephone: (646) 865-1541 or 1-800-222-IOLA. The IOLA Fund also has a site on the internet at www.iola.org.

FDIC Insurance and Attorney Trust Accounts

Attorneys are not required by court rules to deposit client funds in an FDIC insured banking institution. Nevertheless, as a fiduciary of client funds, an attorney is wise to consider FDIC insured institutions in order to provide an added layer of protection. A lawyer who fails to consider the relative safety of a depository banking institution might be exposed to civil liability.²⁰

The Federal Deposit Insurance Corporation (FDIC) provides insurance coverage to various types of deposit accounts. The FDIC considers attorney escrow accounts as single accounts. An attorney must comply with New York record keeping rules to demonstrate the fiduciary nature of an escrow account in order to extend FDIC coverage to individual client deposits.²¹

FDIC coverage of depositor funds is in the aggregate. Lawyers must therefore consider if their client has other funds on deposit with the lawyer's depository bank. If a client has accumulated deposits in excess of FDIC coverage, then lawyers should discuss deposit alternatives with their client.

In light of an ever-changing financial landscape, practitioners are encouraged to visit the FDIC's website at www.fdic.gov to obtain the most current rules regarding available insurance coverage.

15. See, NYSBA Op. 693 (1997).

16. 22 NYCRR Part 1200 (Rule 1.15(b) (3)).

17. Judiciary Law § 497.

18. State Finance Law § 97-v; Judiciary Law § 497.

19. 21 N.Y.C.R.R. 7000.2(e).

20. See, *Bazin v. Kluge*, 14 A.D.2d 324, 788 NYS 2d 77 (2005).

21. See, 12 CFR § 330.5 and FDIC Advisory Opinion 98-2, June 16, 1998.

How should large trust deposits be handled?

When a client's funds and the anticipated holding period are sufficient to generate meaningful interest, a lawyer may have a fiduciary obligation to invest the client's funds in an interest-bearing bank account.²²

In that case, prudence suggests that a lawyer consult with the client or other beneficial owner. And when dealing with large deposits and escrows, lawyers and clients should be mindful of federal bank deposit insurance limits.²³

There may also be income tax implications to consider. Using the law client's social security or federal tax identification number on the bank account can avoid tax problems for the lawyer.

May a lawyer retain interest on attorney trust accounts?

No. A lawyer, as a fiduciary, cannot profit on the administration of an attorney trust account. While a lawyer is permitted to charge a reasonable fee for administering a client's account, all earned interest belongs to the client. A lawyer's fee cannot be pegged to the interest earned.²⁴

What happens if a trust account check bounces?

A bounced check on an attorney trust account is a signal that law client funds may be in jeopardy. Banks in New York State report dishonored checks on attorney trust accounts to the Lawyers' Fund for Client Protection. Notices that are not withdrawn due to bank error are referred by the Lawyers' Fund to the proper attorney grievance committee for such inquiry as the committee deems appropriate.

These bank notices are required by the Appellate Divisions' Dishonored Check Notice Reporting Rules.²⁵ A "dishonored" instrument is a check which the lawyer's bank refuses to pay because of insufficient funds in the lawyer's special, trust, or escrow account.

The Lawyers' Fund holds each dishonored check notice for 10 business days to permit the filing bank to withdraw a report that was sent in error. However, the curing of an insufficiency of funds by a lawyer or law firm will not constitute reason for the withdrawal of a dishonored check notice.

Are there special rules for down payments?

Yes. A buyer's down payment, entrusted with a seller's attorney pending a closing, generally remains the property of the buyer until title passes. The lawyer/escrow agent serves as a fiduciary, and must safeguard and segregate the buyer's down payment in a special bank account.

The purchase contract should make provisions for depositing the down payment in a bank account, the disposition of interest, and other escrow responsibilities.

A 1991 statute codifies the fiduciary obligations of lawyers and realtors who accept down payments in residential purchases and sales, including condominium units and cooperative apartments.²⁶

The statute requires that the purchase contract identify: (1) the escrow agent; and (2) the bank where the down payment will be deposited pending the closing.

There are also special rules, promulgated by the New York State Department of Law, where escrow accounts are established in connection with the conversion of buildings into condominiums and cooperatives.²⁷

Are other bank accounts needed?

Yes. A practitioner needs a business account as a depository for legal fees, and to pay operating expenses. A typical designation is **Attorney Business Account**. Lawyers also need special bank accounts when they serve as fiduciaries for estates, trusts, guardianships, and the like.

Where are advance legal fees deposited?

This depends upon the lawyer's fee agreement with the client. The presumption in New York State is that the advance fee becomes the lawyer's property when it is paid by the client. As such, the fee should be deposited in the business account, and not in the attorney trust account.

22. See, NYSBA, Comm. on Prof. Ethics, Ops. 554 (1983), 575 (1986); Assoc. Bar, NYC, Comm. on Prof. & Jud. Ethics, Op. 86-5 (1986).

23. See, 22 NYCRR Part 1200 (Rule 1.15 (b)(1)), and *Bazinet v. Kluge*, 14 A.D.2d 324, 788 N.Y.S. 2d 77 (2005).

24. NYSBA, Ops. 532 (1981), 582 (1987); Assoc. Bar, NYC, Op. 81-68 (1981).

25. NYCRR Part 1200 (Rule 1.15 (b)(1)). The Dishonored Check Notice Reporting Rules, effective January 1, 1993, are reported at 22 NYCRR Part 1300.

26. See, General Business Law, Article 36-c, §§ 778, 778-a.

27. See, General Business Law § 352-e (2-b).

If, on the other hand, by agreement with the client, the advance fee remains client property until it is earned by the lawyer, it should be deposited in the attorney trust account, and withdrawn by the lawyer or law firm as it is earned.²⁸

In either event, a lawyer has a professional obligation to refund unearned legal fees to a client whenever the lawyer completes or withdraws from a representation, or the lawyer is discharged by the client.²⁹

It is good business practice to deposit advance legal fees in a non-escrow fee account and draw upon the deposit only when legal fees are earned. This practice will ensure that a lawyer will be able to fulfill the professional obligation to refund unearned legal fees.

In the event of a fee dispute, court rules provide that clients may elect mandatory fee arbitration in most civil representation which commenced on or after Jan. 1, 2002 when the disputed amount is between \$1,000 and \$50,000.³⁰ Fee arbitration is also mandatory in fee disputes in domestic relations matters.³¹

And advances from clients for court fees and expenses?

This also depends upon the lawyer's fee agreement with the client. If the money advanced by the client is to remain client property until it is used for specific litigation expenses, it should be segregated and safeguarded in the attorney trust account, or a similar special account.

How are unclaimed client funds handled?

If a lawyer cannot locate a client or another person who is owed funds from the attorney trust account, the lawyer is required to seek a judicial order to fix the lawyer's fees and disbursements, and to deposit the client's share with the Lawyers' Fund for Client Protection.³² To preserve client funds, the Lawyers' Fund will accept deposits under \$1,000 without a court order.³³

What happens when a sole signatory dies?

The Supreme Court has authority to appoint a successor signatory for the attorney trust account. The procedures are set forth in court rules adopted in 1994.³⁴

What accounting books are required?

No specific accounting system is required by court rule, but a basic trust accounting system for a law firm consists of a trust receipts journal, a trust disbursements journal, and a trust ledger book containing the individual ledger accounts for recording each financial transaction affecting that client's funds.

At a minimum, each client's ledger account should reflect the date, source, and a description of each item of deposit, as well as the date, payee, and purpose of each withdrawal.

Whether it be an attorney trust account or the lawyer's operating account, each should be maintained daily and accurately to avoid error. All documents like duplicate deposit slips, bank statements, canceled checks, checkbooks and check stubs must be preserved for seven years.

Internal office controls are essential. It is good business practice to prepare a monthly reconciliation of the balances in the trust ledger book, the trust receipts and disbursements journals, the bank account checkbook, and bank statements.

Attorneys or firms who engage the services of non-lawyer bookkeepers maintain personal responsibility to supervise non-lawyer employees and exercise reasonable management and supervisory authority for the appropriate handling of the firm's attorney escrow accounts. This supervision includes regular review, audit and reconciliation by the attorney of those client fund accounts.³⁵

What bookkeeping records must be maintained?

Every lawyer and law firm must preserve,³⁶ for seven years after the events they record:

- books of account affecting all attorney trust and office operating accounts; and
- original checkbooks and check stubs, bank statements, pre-numbered canceled checks and duplicate deposit slips.³⁷

28. See, NYSBA Op. 570 (1985) and Op. 816 (2007).

29. 22 NYCRR Part 1200 (Rule 1.16 (e)).

30. 22 NYCRR Part 137.

31. 22 NYCRR Part 136.

32. 22 NYCRR Part 1200 (Rule 1.15 (f)).

33. See, Bar Assoc. Erie Co. Cttee. Prof. Ethics Op. #xx1-1/15/04.

34. 22 NYCRR Part 1200 (Rule 1.15 (g)).

35. *Mtr. Galasso*, 19 N.Y.3d 832, 968 N.E.2d 998, 945 N.Y.S.2d 642 (2012).

36. 22 NYCRR Part 1200 (Rule 1.15 (d)).

37. See, NYSBA Ops. 680 (1996), 758 (2002).

Also, copies of:

- client retainer and fee agreements;
- statements to clients showing disbursements of their funds;
- bills and statements rendered to clients;
- records showing payments to other lawyers or non-employees for services rendered; and
- retainer and closing statements filed with the Office of Court Administration.

“Copies” means original records, photo copies or other images that cannot be altered without detection. Records required to be maintained by the Rules in the form of “copies” may be stored by reliable electronic means. Records that are initially created by electronic means may be retained in that form. Other records specifically described by the Rules that are created by entries on paper books of account, ledgers or other such tangible items should be retained in their original format.³⁷

Lawyers have an ethical duty to maintain a client’s confidential information.³⁸ Lawyers employing “cloud” based or electronic storage of client records are cautioned to consider whether such technology is reliable and provides reasonable protection of clients’ confidential information.³⁹

How are these rules enforced?

A violation of a Rule of Professional Conduct constitutes grounds for professional discipline under section 90 of the Judiciary Law. Also, the accounts and records required of lawyers and law firms by court rule may be subpoenaed in a disciplinary proceeding.

Lawyers in the First and Second Judicial Departments are also required to certify their familiarity and compliance with Rule 1.15 in the biennial registration form that is filed with the Office of Court Administration.

What losses are covered by the Lawyer’s Fund?

The New York Lawyers’ Fund for Client Protection is financed by a \$60 share of each lawyer’s \$375 biennial registration fee. The fund receives no revenues from the IOLA program or from state tax revenues.

The fund is administered *pro bono publico* by a board of trustees appointed by the state Court of Appeals.⁴⁰ The trustees provide approximately \$8 million in reimbursement each year to victims of dishonest conduct in the practice of law.

The fund is authorized to reimburse law clients for money or property that is misappropriated by a member of the New York bar in the practice of law. Awards are made after a lawyer’s disbarment, and in situations where the lawyer is unable to make restitution. The Fund’s current limit on reimbursement is \$400,000 for each client loss.

To qualify for reimbursement, the loss must involve the misuse of law clients’ money or property in the practice of law. The trustees cannot settle fee disputes, or a compensate clients for a lawyer’s malpractice or neglect.

Typical losses reimbursed include the theft of estate and trust assets; down payments and the proceeds in real property transactions; debt collection proceeds; personal injury settlements; and money embezzled from clients in investment transactions.

The fund’s offices are located at 119 Washington Avenue, Albany, New York 12210, telephone (518) 434-1935 or (800) 452-3863, website: www.nylawfund.org.

Another valuable resource available from the New York State Bar Association’s Publication’s Department is *Attorney Escrow Accounts – Rules, Regulations and Related Topics* (2015). To order a copy, call (800) 582-2452, or visit www.nysba.org/pubs.

4. Advertising and Solicitation

Attorneys should be aware of and consult the provisions of the New York Rules of Professional Conduct that pertain to advertising, publicity, professional notices, letterheads, offices, signs, and solicitation, and the relevant provisions of article 15 of the Judiciary Law. (See, also, General Business Law § 337 [advertising to procure divorces] and Not-for-Profit Corporation Law § 301(5) [use of the word “lawyer” in corporate name]).

38. 22 NYCRR Part 1200 (Rule 1.6).

39. See, NYSBA Ops. 842 (2010), 940 (2012) and, *The Cloud and the Small Law Firm: Business, Ethics and Privilege Consideration*.

40. N.B. With the advent of electronic banking and Check 21, the ‘substitute check’ provided by participating banking institutions is considered the legal equivalent of the canceled check and thus the original record that must be maintained by 22 NYCRR Part 1200 (Rule 1.15 (d)). See also, NYSBA Op. 758.

5. Compensation of Attorneys

The most basic statutory statement of attorney compensation is found in Judiciary Law § 474:

“The compensation of an attorney or counsellor for his services is governed by agreement, express or implied, which is not restrained by law...” Attorneys should also be aware of and consult the remainder of Judiciary Law § 474 and other relevant provisions of article 15 of the Judiciary Law, General Obligations Law § 5-701(10), and relevant provisions of the New York Rules of Professional Conduct.

Reasonable contingency fees for attorneys in cases involving a personal injury or wrongful death, other than medical, dental or podiatric malpractice, are found in: 22 NYCRR 603.7, 22 NYCRR 691.20(e), 22 NYCRR 806.13 and 1022.31. Judiciary Law § 474-a details the fee schedule that must be used for contingent fee cases in claims for medical, dental or podiatric malpractice cases.

6. Mandatory Letter of Engagement

Attorneys should be aware that they must provide a letter of engagement or written retainer agreement where the fee to be charged is \$3,000 or more. (22 N.Y.C.R.R. pt. 1215). These rules do not apply to domestic relations matters covered by 22 N.Y.C.R.R. pt. 1400 or to cases “where the attorney’s services are of the same general kind as previously rendered to and paid for by the client.” The letter of engagement must explain the scope of the representation, the fees and expenses to be charged and provide notice of the client’s right to arbitration. [22 N.Y.C.R.R. § 1215.1(b).]

Attorneys employed in a contingent fee matter must, promptly after employment, “provide the client with a writing stating the method by which the fee is to be determined,” including percentages and how expenses are to be deducted. Upon conclusion of the matter, the attorney is to provide the client with a further written statement setting forth the recovery, the remittance and method of determination. [Rules of Professional Conduct Rule 1.5(c); see 22 N.Y.C.R.R. §§ 603.7(e), 691.20(e), 806.13, 1022.31.]⁴¹ For attorneys practicing in the 1st and 2nd Departments, retainer and closing statements in contingency fee matters must also be filed with OCA.

A sample letter of engagement is available on NYSBA’s website. Go to www.nysba.org/managingyourpractice.

7. Attorney-Client Fee Dispute Resolution Program

Many bar associations in New York have long provided for arbitration and mediation of attorney-client fee disputes. Part 137 of the Rules of the Chief Administrator establishes a statewide Attorney-Client Fee Dispute Resolution Program which is administered by bar associations and district administrative judges’ offices throughout the state. Local fee dispute resolution programs are approved by the Board of Governors and the appropriate Presiding Justice of the Appellate Division. Arbitration under Part 137 is mandatory for an attorney if requested by a client. Awards are final and binding unless de novo review is sought as provided by the rule. It applies where representation commenced on or after January 1, 2002, to attorneys who undertake to represent a client in most civil matters. Although the rules provide for arbitration as a primary means of resolving fee disputes, mediation is also available. For more information: Web: www.nycourts.gov/feedispute; Email: feedispute@nycourts.gov; Toll-free: (877) 333-7137 or Mail: Board of Governors, Office of Court Administration, 25 Beaver Street, Room 885, New York, New York 10004.

8. Judiciary Law § 470

Attorneys practicing in New York state should be aware of Judiciary Law § 470, which states:

A person, regularly admitted to practice as an attorney and counselor, in the courts of record of this state, whose office for the transaction of law business is within the state, may practice as such attorney or counselor, although he resides in an adjoining state.

For further explanation of this statute, attorneys should read the decided cases which have interpreted it, especially, *Schoenefeld v. State of New York*, 25 N.Y.3d 22, 6 N.Y.S.3d 221 (2015) (statute does not violate the Privileges and Immunities Clause); *Schoenefeld v. Schneiderman*, 821 F.3d 273 (2d Cir. 2016), cert. denied, 137 S. Ct. 1580 (2017); *Stegemann v. Rennselaer County Sheriff’s Office*, 153 A.D.3d 1053 (2017); *Arrowhead Capital Finance v. Cheyne Specialty Finance Fund*, 154 A.D.3d 523, lv. to appeal granted, 30 N.Y.3d 909 (2018). (See, also, Brennan, “Repeal Judiciary Law § 470,” *NYSBA Journal*, January 1990).

9. Standards of Civility

Preamble

The New York State Standards of Civility for the legal profession set forth principles of behavior to which the bar, the bench and court employees should aspire. They are not intended as rules to be enforced by sanction or disciplinary action, nor are they intended to supplement or modify the Rules Governing Judicial Conduct, the New York Rules of Professional Conduct and its Disciplinary Rules, or any other applicable

41. Judiciary Law § 468-b; State Finance Law § 97-t.

rule or requirement governing conduct. Instead they are a set of guidelines intended to encourage lawyers, judges and court personnel to observe principles of civility and decorum, and to confirm the legal profession's rightful status as an honorable and respected profession where courtesy and civility are observed as a matter of course. The standards are divided into four parts: lawyers' duties to the court and court personnel; judges' duties to lawyers, parties and witnesses; and court personnel duties to lawyers and litigants.

As lawyers, judges and court employees, we are all essential participants in the judicial process. That process cannot work effectively to serve the public unless we first treat each other with courtesy, respect and civility.

Lawyers' Duties to Other Lawyers, Litigants and Witnesses

1. Lawyers should be courteous and civil in all professional dealings with other persons.
 - A. Lawyers should act in a civil manner regardless of the ill feelings that their clients may have toward others.
 - B. Lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.
 - C. Lawyers should require that persons under their supervision conduct themselves with courtesy and civility.
2. When consistent with their clients' interest, lawyers should cooperate with opposing counsel in an effort to avoid litigation that has already commenced.
 - A. Lawyers should avoid unnecessary motion practice or other judicial intervention by negotiating and agreeing with other counsel whenever it is practicable to do so.
 - B. Lawyers should allow themselves sufficient time to resolve any dispute or disagreement by communicating with one another and imposing reasonable and meaningful deadlines in light of the nature and status of the case.
3. A lawyer should respect the schedule and commitments of opposing counsel, consistent with protection of their client's interests.
 - A. In the absence of a court order, a lawyer should agree to reasonable requests for extensions of time or for waiver of procedural formalities when the legitimate interests of the client will not be adversely affected.
 - B. Upon request coupled with the simple representation by counsel that more time is required, the first request for an extension to respond to pleading ordinarily should be granted as a matter of courtesy.
 - C. A lawyer should not attach unfair or extraneous conditions to extensions of time. A lawyer is entitled to impose conditions appropriate to preserve rights that an extension might otherwise jeopardize, and may request, but should not unreasonably insist on, reciprocal scheduling concessions.
 - D. A lawyer should endeavor to consult with other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts. A lawyer should likewise cooperate with opposing counsel when scheduling changes are requested, provided the interests of his or her client will not be jeopardized.
 - E. A lawyer should notify other counsel and, if appropriate, the court or other persons at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed.
4. A lawyer should promptly return telephone calls and answer correspondence reasonably requiring a response.
5. The timing and manner of service of papers should not be designed to cause disadvantage to the party receiving the papers.
 - A. Papers should not be served in a manner designed to take advantage of an opponent's known absence from the office.
 - B. Papers should not be served at a time or in a manner designed to inconvenience an adversary.
 - C. Unless specifically authorized by law or rule, a lawyer should not submit papers to the court without serving copies of all such papers upon opposing counsel in such a manner that opposing counsel will receive them before or contemporaneously with the submission to the court.
6. A lawyer should not use any aspect of the litigation process, including discovery and motion practice, as a means of harassment or for the purpose of unnecessarily prolonging litigation or increasing litigation expenses.
 - A. A lawyer should avoid discovery that is not necessary to obtain facts or perpetuate testimony or that is designed to place an undue burden or expense on a party.
 - B. A lawyer should respond to discovery requests reasonably and not strain to interpret the request so as to avoid disclosure of relevant and non-privileged information.

7. In depositions and other proceedings, and in negotiations, lawyers should conduct themselves with dignity and refrain from engaging in acts of rudeness and disrespect.
 - A. Lawyers should not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.
 - B. Lawyers should advise their clients and witnesses of the proper conduct expected of them in court, at depositions and at conferences, and, to the best of their ability, prevent clients and witnesses from causing disorder or disruption.
 - C. A lawyer should not obstruct questioning during a deposition or object to deposition questions unless necessary.
 - D. Lawyers should ask only those questions they reasonably believe are necessary for the prosecution or defense of an action. Lawyers should refrain from asking repetitive or argumentative questions and from making self-serving statements.
8. A lawyer should adhere to all express promises and agreements with other counsel, whether oral or in writing, and to agreements implied by the circumstances or by local customs.
9. Lawyers should not mislead other persons involved in the litigation process.
 - A. A lawyer should not falsely hold out the possibility of settlement as a means for adjourning discovery or delaying trial.
 - B. A lawyer should not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.
 - C. In preparing written versions of agreements and court orders, a lawyer should attempt to correctly reflect the agreement of the parties or the direction of the court.
10. Lawyers should be mindful of the need to protect the standing of the legal profession in the eyes of the public. Accordingly, lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate.

Lawyers' Duties to the Court and Court Personnel

1. A lawyer is both an officer of the court and an advocate. As such, the lawyer should always strive to uphold the honor and dignity of the profession, avoid disorder and disruption in the courtroom, and maintain a respectful attitude toward the court.
 - A. Lawyers should always speak and write civilly and respectfully in all communications with the court and court personnel.
 - B. Lawyers should use their best efforts to dissuade clients and witnesses from causing disorder or disruption in the courtroom.
 - C. Lawyers should not engage in conduct intended primarily to harass or to humiliate witnesses.
 - D. Lawyers should be punctual and prepared for all court appearances; if delayed, the lawyer should notify the court and counsel whenever possible.
2. Court personnel are an integral part of the justice system and should be treated with courtesy and respect at all times.

Judges' Duties to Lawyers, Parties and Witnesses

1. A judge should be patient, courteous and civil to lawyers, parties and witnesses.
 - A. A judge should maintain control over the proceedings and insure that they are conducted in a civil manner.
 - B. Judges should not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with lawyers, parties or witnesses.
 - C. Judges should, to the extent consistent with the efficient conduct of litigation and other demands on the court, be considerate of the schedules of lawyers, parties and witnesses when scheduling hearings, meetings or conferences.
 - D. Judges should be punctual in convening all trials, hearings, meetings and conferences; if delayed, they should notify counsel when possible.
 - E. Judges should make all reasonable efforts to decide promptly all matters presented to them for decision.
 - F. Judges should use their best effort to insure that court personnel under their direction act civilly toward lawyers, parties and witnesses.

Duties of Court Personnel to the Court, Lawyers and Litigants

Court personnel should be courteous, patient and respectful while providing prompt, efficient and helpful service to all persons having business with the courts.

- A. Court employees should respond promptly and helpfully to requests for assistance or information.
- B. Court employees should respect the judge's directions concerning the procedures and atmosphere that the judge wishes to maintain in his or her courtroom.

10. Assistance Available

If you, or a colleague in the legal community, suffer from depression or substance abuse (alcohol or drugs) to a degree significant enough to adversely affect your work and those about you, there is help available. For the New York State Bar Association's Lawyer Assistance Program, call (800) 255-0569; for the lawyer assistance program of the Association of the Bar of the City of New York, call (212) 302-5787. Their advice is free and confidential. Several county bar associations offer similar services.

B. Unauthorized Practice

At present, there is no single place to turn in New York state for a definition of the practice of law and what may constitute the unauthorized practice of law in New York State. However, attorneys are referred to the provisions of article 15 of the Judiciary Law (especially §§ 478 and 484). Investigation and prosecution of allegations of unauthorized practice are handled by the Attorney General's office (Judiciary Law §§ 476-a to 476-c). Unauthorized practice may subject the violator to misdemeanor prosecution (Judiciary Law § 485) or contempt of court (Judiciary Law § 750[b]). (See also Judiciary Law §§ 16, 250.)

C. Partnerships and Professional Corporations

In addition to the "solo" practice of law, attorneys form partnerships and professional corporations to engage in the practice of law. In New York state, attorneys forming such entities should consult, at least, New York's Partnership Law (New York has adopted the Uniform Partnership Act) and Article 15 (Professional Service Corporations) of the Business Corporation Law. Contact information: Department of State Division of Corporations, State Records and Uniform Commercial Code, 99 Washington Avenue, 6th Floor, Albany, New York 12231, www.dos.state.ny.us/corps/mission.html.

D. Judiciary Law Article 15

Because of the frequency of references to Judiciary Law article 15 in this pamphlet, its sections are listed below:

- 460. Examination and admission of attorneys.
- 460-a. [Repealed]
- 460-b. Applications for special arrangements.
- 461. Compensation of state board of law examiners; appointment and compensation of employees.
- 462. Annual account by state board of law examiners.
- 463. Times and places of examinations.
- 464. Certification by state board of successful candidates.
- 465. Fee for examinations and for credential review for admission on motion; disposition; refunds; funds.
- 466. Attorney's oath of office.
- 467. Registration of attorneys.
- 467-a. [Repealed]
- 468. Official registration of attorneys to be kept by the chief administrator of the courts.
- 468-a. Biennial registration of attorneys.
- 468-b. Clients' Security Fund of the State of New York.
- 469. Continuance where attorney is member of legislature.
- 469-a. [Renumbered.]
- 470. Attorneys having offices in this state may reside in adjoining state.
- 471. Attorney who is judge's partner or clerk prohibited from practicing before him or in his court.
- 472. Attorney who is surrogate's parent or child prohibited from practicing before him.
- 473. Constables, coroners, criers and attendants prohibited from practicing during term of office.
- 474. Compensation of attorney or counsellor.
- 474-a. Contingent fees for attorneys in claims or actions for medical, dental, or pediatric malpractice.
- 474-b. Attorney retainer statements.
- 475. Attorney's lien in action, special or other proceeding.
- 475-a. Notice of lien.

- 476. Action against attorney for lending his name in suits and against person using name.
- 476-a. Action for unlawful practice of the law.
- 476-b. Injunction to restrain defendant from unlawful practice of the law.
- 476-c. Investigation by the attorney-general.
- 477. Settlement of actions for personal injury.
- 478. Practicing or appearing as attorney-at-law without being admitted and registered.
- 479. Soliciting business on behalf of an attorney.
- 480. Entering hospital to negotiate settlement or obtain release or statement.
- 481. Aiding, assisting or abetting the solicitation of persons or the procurement of a retainer for or on behalf of an attorney.
- 482. Employment by attorney of person to aid, assist or abet in the solicitation of business or the procurement through solicitation of a retainer to perform legal services.
- 483. Signs advertising services as attorney at law.
- 484. None but attorneys to practice in the state.
- 485. Violation of certain preceding sections a misdemeanor.
- 485-a. Violations of certain sections a class E felony
- 486. Practice of law by attorney who has been disbarred, suspended, or convicted of a felony.
- 486-a. Conviction for felony of person who is an attorney and counselor at law; notice thereof to be given by clerk to appropriate appellate division of the supreme court.
- 487. Misconduct by attorneys.
- 488. Buying demands on which to bring an action.
- 489. Purchase of claims by corporations or collection agencies.
- 490. Limitation.
- 491. Sharing of compensation by attorneys prohibited.
- 492. Use of attorney's name by another.
- 493. Attorneys forbidden to defend criminal prosecutions carried on by their partners, or formerly by themselves.
- 494. Attorneys may defend themselves.
- 495. Corporations and voluntary associations not to practice law.
- 496. Statement to be filed by organizations offering legal services.
- 497. Attorneys fiduciary funds; interest-bearing accounts.
- 498. Professional referrals.
- 499. Lawyer assistance committees.

V. Useful Addresses

The clerk's offices of the Appellate Division departments can provide addresses and telephone numbers and other information about attorney admissions, Committees on Character and Fitness, Committees on Professional Standards (disciplinary committees), the Law Guardian Programs and Mental Hygiene Legal Service Programs.

A. State Agencies

Office of the Clerk

Appellate Division, **First Department**
27 Madison Avenue
New York, NY 10010
(212) 340-0400
www.nycourts.gov/courts/ad1

and

Appellate Division, **Second Department**
45 Monroe Place
Brooklyn, NY 11201
(718) 875-1300
www.nycourts.gov/courts/ad2

and

Appellate Division, **Third Department**
Robert Abrams Building for Law and Justice
Capitol Station, Box 7288
Albany, NY 12224-0288
(518) 471-4777
www.nycourts.gov/courts/ad3

also

Appellate Division, **Fourth Department**
50 East Avenue
Rochester, NY 14604
(585) 530-3100
www.nycourts.gov/courts/ad4

Office of Court Administration

25 Beaver Street
New York, NY 10004
(212) 428-2700
www.nycourts.gov
questions@nycourts.gov

Attorney Registration Unit

Office of Court Administration
Church Street Station, Box 2806
New York, NY 10008
(212) 428-2800
www.nycourts.gov/attorneys/registration/
attyreg@nycourts.gov

State Board of Law Examiners

Corporate Plaza, Bldg 3
254 Washington Ave. Ext.
Albany, NY 12203-195
(518) 453-5990
www.nybarexam.org

Court of Appeals

Court of Appeals Hall
20 Eagle Street
Albany, NY 12207-1095
(518) 455-7700

Court of Claims

Justice Building
Capitol Station, Box 7344
Albany, NY 12224
www.nyscourts.gov/courts/nyscourtofclaims/

New York State Law Reporting Bureau

17 Lodge St.
Albany, NY 12210
(518) 453-6900
www.nycourts.gov/reporter
reporter@courts.state.ny.us

New York State Bar Association

One Elk Street
Albany, NY 12207
(518) 463-3200
(800) 582-2452
www.nysba.org

American Bar Association

321 North Clark Street
Chicago, IL 60654-7598
(312) 988-5000
www.americanbar.org

Interest on Lawyer Account (IOLA)

Fund of the State of New York
11 East 44th Street, Suite 1406
New York, NY 10017
(646) 865-1541
iola@iola.org
www.iola.org

Lawyers' Fund for Client Protection

119 Washington Avenue
Albany, NY 12210
(518) 434-1935
(800) 442-3863
info@nylawfund.org
www.nylawfund.org

Attorney-Client Fee Dispute Resolution Program

Board of Governors
Office of Court Administration
25 Beaver Street, Room 859B
New York, NY 10004
(877) 333-7137
www.nycourts.gov/feedispute
feedispute@nycourts.gov

Commission on Judicial Conduct

61 Broadway, Suite 1200
New York, NY 10006
(646) 386.4800
www.scjc.state.ny.us
and
Corning Tower, Suite 2301
Empire State Plaza
Albany, NY 12223
(518) 453-4600
also
400 Andrews Street
Suite 700
Rochester, NY 14604
(585) 784-4141

New York State Library

Cultural Education Center
222 Madison Ave.
Empire State Plaza
Albany, NY 12230
(518) 474-5355
www.nysl.nysed.gov
refserv@mail.nysed.gov

The Governor/Executive Department

Executive Chamber
State Capitol
Albany, NY 12224
(518) 474-8390
www.governor.ny.gov

Attorney General

Office of the Attorney General
State Capitol
Albany, NY 12224-0341
(518) 474-7330
(800) 788-9898
www.ag.ny.gov
and
Office of the Attorney General
120 Broadway
New York, NY 10271-0332
(212) 416-8000

B. New York State Law Schools

Albany Law School

80 New Scotland Avenue
Albany, NY 12208
518-445-2311
www.albanylaw.edu

Brooklyn Law School

250 Joralemon Street
Brooklyn, NY 11201
718-625-2200
www.brooklaw.edu

Cornell Law School

Myron Taylor Hall
Ithaca, NY 14853-4901
607-255-5141
www.lawschool.cornell.edu

Fordham University School of Law

150 West 62nd Street
New York, NY 10023
212-636-6000
www.law.fordham.edu

New York Law School

185 West Broadway
New York, NY 10013-2921
212-431-2100
www.nyls.edu

Pace Elizabeth Haub School of Law

78 North Broadway
White Plains, NY 10603
914-422-4205
www.law.pace.edu

University at Buffalo School of Law

John Lord O'Brian Hall
Buffalo, NY 14260-1100
716-645-2052
www.law.buffalo.edu

Touro College

Jacob D. Fuchsberg Law Center
225 Eastview Drive
Central Islip, NY 11722
631-761-7000
www.tourolaw.edu

Benjamin N. Cardozo School of Law

55 Fifth Avenue
New York, NY 10003
212-790-0200
www.cardozo.yu.edu

Columbia Law School

435 West 116th Street
New York, NY 10027
212-854-2640
www.law.columbia.edu

CUNY School of Law

2 Court Square
Long Island City, NY 11101-4356
718-340-4200
www.law.cuny.edu

Hofstra School of Law

121 Hofstra University
Hempstead, NY 11549
516-463-5858
www.law.hofstra.edu

New York University School of Law

40 Washington Square South
New York, NY 10012
212-998-6100
www.law.nyu.edu

St. John's University School of Law

8000 Utopia Parkway
Queens, NY 11439
718-990-6600
www.stjohns.edu/law

Syracuse University College of Law

Dineen Hall, 950 Irving Ave.
Syracuse, NY 13244
315-443-2524
www.law.syr.edu



NEW YORK STATE BAR ASSOCIATION

One Elk Street, Albany, NY 12207

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