FEDERAL BAR ASSOCIATION SOUTHERN DISTRICT OF NEW YORK CHAPTER

NEW YORK MINUTES: The Newsletter of the Southern District of New York Chapter of the FBA

IN THIS EDITION

Newsletter Editors

Samuel A. Blaustein

Eliza M. Scheibel

Wendy R. Stein

SDNY Chapter Events

Promesa Fulfilled? A Discussion on the Legal Responses to the Puerto Rican Debt Crisis and its Real World Impact

November 2, 2016

(Panelists left to right)

Natasha Lycia Ora Bannan
(National Lawyers Guild)

Richard J. Cooper
(Cleary Gottlieb Steen & Hamilton LLP)

Federico de Jesús
(FDJ Solutions, LLC)

Ariadna Godreau-Aubert
(Espacios Abiertos)

Efrén Rivera Ramos
(University of Puerto Rico, School of Law)

Natalie Gomez-Velez
(City University of New York, School of Law)

SDNY Chapter Events

International, Comparative & Foreign Law Affinity Group Mock Interview Program at Fordham Law School

January 23, 2017

(left to right)

Raymond Dowd

Alejandro Cremades, Fordham '09 LLM

(left to right)

Simeon Baum

Honorable Michael Newman, USMJ, FBA President

Raymond Dowd

Olivera Medenica

Wylie Stecklow

Letter from the President

Dear SDNY FBA Members:

Welcome to the SDNY chapter's Winter 2017 Newsletter. As all of you are aware, the FBA is the premier bar association serving the federal practitioner and judiciary and the SDNY Chapter enthusiastically promotes the FBA's mission: strengthen the federal legal system and administration of justice by serving the interests and the needs of the federal practitioner; the federal judiciary; and, the public they serve.

The SDNY chapter has over 300 active members that enjoy vibrant programs aimed at keeping our members abreast of current federal law issues, promoting the high standards of professional competence and ethical conduct and encouraging professional and social interaction between the judges and attorneys practicing in the District. We are also looking forward to hosting the Annual Conference of the Federal Bar Association in 2018.

Our members also enjoy the benefit of receiving this award winning semi-annual Newsletter. In this edition you will find two very interesting articles, one about voir dire-style questioning of prospective FINRA arbitrators and another providing a legislative and case law update on major changes in special needs law. We also include information about our exciting lineup of 2017 events.

Please share the newsletter and encourage your colleagues to join the SDNY chapter. If you wish to contribute an article to our next Newsletter, please contact Wendy Stein (wstein@gibbonslaw.com). I also invite you to contact me if you have any questions regarding the SDNY Chapter of the FBA.

Regards,

Liam O'Brien 212-286-4471 x111

Voir Dire-Style Questioning of Prospective FINRA Arbitrators

By Melissa Curvino

FINRA Dispute Resolution is the largest dispute resolution forum in the securities industry and provides the primary means of resolving disputes for customers and securities professionals.[1] Unlike claims brought in state or federal court, where the plaintiff may be allowed to request a jury trial, a FINRA arbitration is decided by an arbitration panel that acts as both judge and jury.[2] The panel may include lawyers and securities industry professionals, or it may not. The panel reviews the pleadings, determines the hearing schedule, decides evidentiary and dispositive motions, listens to arguments, studies evidence, renders legal and factual decisions, and issues or denies awards. Rightly or wrongly, cases are heavily influenced by the arbitration panel. Further differentiating FINRA arbitration awards from decisions in state or federal court cases, FINRA arbitration awards are final. There is no appeal process within FINRA, and decisions of the arbitrators are subject to very limited review by the courts.[3]

1. FINRA's Current Arbitrator Selection process Does Not Permit the Parties to Voir Dire Potential Arbitrators

Because arbitration panels act as both judge and jury, and because the panel's decision is final, it is critically important for parties and their representatives to gather as much information as possible about the potential arbitrators and to attempt to choose an arbitration panel that will understand their arguments. Unfortunately, the current arbitrator selection process does not allow for a full vetting of potential arbitrators. Parties to a FINRA arbitration are presented with a randomly generated list of potential arbitrators and provided with very limited information about those arbitrators, including the arbitrator's name, place of residence, education and work history, "skills in controversy", a conflicts of interest disclosure, a listing of the publicly available awards decided by the arbitrator, and a narrative. From this information, parties may exercise a limited number of "strikes" and then must rank the remaining arbitrators in order of preference. FINRA then combines the ranking lists and appoints the highest ranked

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[1] Fin. Indus. Regulatory Auth., *FINRA Office of Dispute Resolution Arbitrator's Guide* 10 (Oct 2016), https://www.finra.org/sites/default/files/arbitrators-ref-guide.pdf.

[2] If the dollar value of the claim, excluding interest and expenses, is less than $50,000, the arbitration panel will consist of one arbitrator. FINRA Code of Arbitration Procedure for Customer Disputes Rule 12401 [*hereinafter* "Customer Code"]; FINRA Code of Arbitration Procedure for Industry Disputes Rule 13401 [*hereinafter* "Industry Code"]. If the dollar value of the claim is more than $50,000 but less than $100,000, the panel will consist of one arbitrator unless the parties agree in writing to use a three-arbitrator panel. *Id.* If the dollar value of the claim is more than $100,000 or the dollar value is unspecified, or the claim does not request monetary damages, the panel will consist of three arbitrators unless the parties agree in writing to use a one-arbitrator panel. *Id.* For ease of reference, this article will refer to the arbitration panel, whether it consist of a sole arbitrator or a panel of three, as "the panel."

[3] *Arbitrator's Guide*, *supra note* 1, at 9.

arbitrator(s) to the panel.[4] Arbitrators have a continuing duty to update their disclosures and must make a searching inquiry into their ability to be neutral and impartial throughout the proceeding.[5] Parties may challenge members of the panel for cause, but unless all parties request that an arbitrator withdraw, the decision is left to the arbitrator's discretion.[6]

Unlike the voir dire process used in state and federal courts, parties to a FINRA arbitration generally do not pose questions to the potential arbitrators before selecting the panel. Arbitrators are encouraged to submit detailed information about their personal and professional lives and to update their disclosures as frequently as necessary, but the arbitrators make these disclosures in a vacuum, without having read the pleadings or having heard any of the relevant facts. An arbitrator's disclosure is thus not tailored to the particular case for which he or she is being considered.

The information provided in arbitrator disclosures is not much more than a bare-bones resume and the narrative section can be as brief or as detailed as the arbitrator prefers. The disclosure of prior public awards decided by the arbitrator is also of limited use. Reviewing prior cases decided by the arbitrator rarely provides information about the arbitrator's rationale for the award. These decisions may help parties glean some information about the arbitrators, for instance, parties may be able to determine whether a potential arbitrator consistently finds for a customer or industry member, whether an arbitrator typically grants the entire amount of a claim or a lesser amount, whether an arbitrator has awarded punitive damages or sanctions, and whether an arbitrator has dismissed a case prior to the hearing, but parties are not provided much context for these awards. Of course, parties can conduct their own informal due diligence, performing an internet search for the arbitrator, reviewing his or her LinkedIn, Facebook, and other social media pages, and asking colleagues who may have experience with the arbitrator for their impressions. However, there is no opportunity for an individual examination of the mindset of the arbitrator to uncover potential bias. Because disclosures are not tailored to the particular dispute, they may be incomplete or misconstrued. For instance, if claimant's counsel is attempting to choose an arbitration panel for a product case, the fact that an arbitrator typically denies kitchen-sink style customer claims may not provide enough insight to determine whether that arbitrator would be open to this particular claim. At best, the arbitrator selection process requires parties to make an educated guess regarding the suitability of an arbitrator. At worst, it can feel like throwing darts.

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[4] On a three-person panel, the ranking list is split into three categories: chairpersons, public arbitrators, and non-public arbitrators (industry professionals).

[5] *Arbitrator's Guide*, *supra note* 1, at 17-18.

[6] *Id.* at 19; Customer Code Rule 12406; Industry Code Rule 13409. *But see* Customer Code Rule 12407 and Industry Code Rule 13410 (the director of dispute resolution may remove an arbitrator for conflict of interest in limited circumstances).

2. The FINRA Arbitration Task Force Has Indicated an Unwillingness to Create a Voir Dire Procedure for Panel Selection

In 2015, the FINRA Arbitration Task Force examined whether to institute the use of written *voir dire* questions into the process of arbitrator selection. The Task Force felt strongly that a *voir dire* process would be time-consuming and potentially counterproductive, because it would create the risk that parties would pose hypothetical questions to potential arbitrators as a way to solicit opinions as to substantive issues, in essence asking the arbitrators to decide the case before the presentation of evidence.[7] Although the Task Force did not recommend instituting a *voir dire* process during arbitrator selection, it did recommend that the arbitration panel emphasize during the initial pre-hearing conference that the parties have the right to request further information from the panel at any time.[8]

In addition to requesting further information from arbitrators after the arbitration panel has been selected, parties also have the right to pose questions to potential arbitrators during the selection process. Parties may send written requests to the FINRA case administrators seeking more information from potential arbitrators before they make arbitrator selection, through Rules 12402(c)(2) or Rule 12403(b)(2) for customer cases, or Rule 13403(c)(2) for industry cases. These rules do not limit the types of additional information that can be requested, nor do they limit the number of requests a party may make, but FINRA has indicated that requests for additional information should be made sparingly. FINRA's publication for arbitrators and mediators, *The Neutral Corner*, advises arbitrators that parties "may **on occasion** ask for additional information from arbitrators".[9] FINRA explains that this additional information can include information "about an arbitrator's knowledge of or experience with a particular security product."[10] Arbitrators are not required to answer a party's questions, but in an effort to increase transparency and perceived fairness, arbitrators are advised to "answer reasonable requests posed to learn relevant information related to the arbitration."[11] Further, "since additional information with regard to an arbitrator's knowledge of, or experience with, an investment product is neither personal nor confidential, FINRA strongly encourages arbitrators to answer investment product-related questions in a detailed and timely manner."[12]

FINRA's statements regarding these rules contemplate a limited opportunity to request additional information about arbitrators, not a robust voir dire of the arbitration pool.

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[7] FINRA Dispute Resolution Task Force, *Final Report and Recommendations of the FINRA Dispute Resolution Task Force* 14 (Dec 2015), http://www.finra.org/sites/default/files/Final-DR-task-force-report.pdf.

[8] *Id.*

[9] Fin. Indus. Regulatory Auth., *Arbitrator Tip: FINRA Encourages Arbitrators to Answer Parties' Requests for Additional Information*, THE NEUTRAL CORNER, 2011 Vol. 2, at 16 (emphasis added).

[10] *Id.*

[11] *Id.*

[12] Fin. Indus. Regulatory Auth., *Arbitrator Tip: FINRA Encourages Arbitrators to Answer Parties' Questions about Specific Investment Products*, THE NEUTRAL CORNER, 2009 Vol. 1, at 18.

Conclusion: Direct Questioning Could Improve Arbitrator Selection, but Should be Used Sparingly

Although the FINRA Task Force did not adopt a *voir dire* procedure for arbitrator selection, it did not recommend eliminating the right of parties to request additional information about arbitrators during the selection process. Parties may be able to make a limited use of Rules 12402(c)(2), 12403(b)(2), and 13403(c)(2) to delve deeper into a prospective arbitrator's experiences, inclinations, or biases. The opportunity to pose pointed questions to a pool of arbitrators could greatly improve the selection process. For instance, if an arbitrator discloses that he or she worked as a general securities principal at a broker-dealer, and the case involves claims of negligent supervision, parties may find it useful to ask the arbitrator a pointed question relating to the arbitrator's experience implementing his or her firm's supervisory system as well as his or her thoughts about the kinds of activities that raise red flags. Further, if the claims relate to a specific product, parties may wish to ask the potential arbitrators to explain their familiarity with that product, whether they have ever sold or purchased the product, and their impressions of its suitability for various types of investors. Such questioning would allow parties to gather information about the arbitrator pool that is tailored to the specific issues in their case, and could be much more revealing than attempting to extrapolate the arbitrator's views by reading the arbitrator's bare-bones CV and reviewing his or her prior unexplained decisions. It could also increase the public perception of fairness, which is "of paramount importance" to FINRA[13] and increase transparency of the arbitrators to help ensure that parties select impartial panels.[14] A party that poses questions tailored to the specific claims or facts at issue may increase its ability to differentiate between potential arbitrators, improve its insight into the arbitrator pool, and make better-informed decisions when choosing the panel.

[13] *Arbitrator's Guide*, *supra note* 1, at 9.

[14] *See id.* at 17.

Melissa Curvino is an associate at McCormick & O'Brien, LLP. She splits her practice between the firm's commercial litigation and corporate finance groups. Ms. Curvino is a 2013 Graduate of Emory University School of Law, where she was a member of the Dean's List, completed a certificate program in transactional law, and served as a Notes & Comments Editor of the Emory International Law Review. She earned a Bachelor of Arts degree from the University of Notre Dame in 2010.

Major Changes in Special Needs Law: Legislative and Case Law Update

By Mira B. Weiss, Esq. and Chelsey B. Gottlieb, Esq.

I. Introduction

Two significant, and long awaited, changes to special needs trust law occurred in late 2016. Of major importance is the adoption of the *21st Century Cures Act* (H.R. 34 – 114th Congress (2015-2016), Pub. Law No. 114-255) (the "Act"), signed in to law by President Obama on December 13, 2016. The Act represents the culmination of a long fought battle against discrimination of persons with disabilities, by establishing the right of disabled individuals to establish, and fund, a first party special needs trust ("SNT") in accordance with 42 U.S.C. § 1396p[d][4][A] without risking the loss of government benefits such as Medicaid and Social Security.

Concurrently, the application of New York state's version of U.S.C. § 1396p[d][4][A]—New York Soc. Security Law § 366[2][b][2][iii]—was being tested in Matter of Kroll v. New York State Dept. of Health, 39 N.Y.S.3d 183 (2nd Dept., Oct. 5, 2016) ("Matter of Kroll"). Matter of Kroll is significant to the practice of elder law, special needs, and trusts and estate law in New York. As explained below, the court in Matter of Kroll upheld the use of the trustee's power of appointment to decant an irrevocable third party special needs trust into a successor third party trust, and not to a trust that would require, pursuant to Social Services Law § 366[2][b][2][iii], the inclusion of a "payback provision" allowing the state, at the time of the beneficiary's death, to recoup from the trust amounts remaining in the trust up to the total value of all medical assistance paid on behalf of such individual.

II. The 21st Century Cures Act

On December 13, 2016, former President Obama signed the *21st Century Cures Act.* Included in the Act is Section 5007: *Fairness in Medicaid Supplemental Needs Trusts* which, by incorporating text from the Special Needs Trust Fairness Act of 2015, enables first party SNTs to be established and funded by individuals with disabilities for his or her own benefit. Notably, Congress inserted the words "the individual" after "for the benefit of such individual by", thereby empowering disabled individuals to establish a first party SNT for their own benefit. Section 5007 of the *Fairness in Medicaid Supplemental Needs Trusts* reads as follows:

> (a) IN GENERAL.—Section 1917(d)(4)(A) of the Social Security Act (42 U.S.C. 1396p(d)(4)(A)) is amended by inserting "the individual," after "for the benefit of such individual by".

> (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to trusts established on or after the date of the enactment of this Act.

(21st Century Cures Act, Pub. L. 114-255 § 5007).
Currently, New York legislators are working on conforming New York Soc. Security Law § 366[2][b][2][iii] to the federal Act. The revision to Soc. Security Law § 336 will add the words "by the individual" to the list of parties permitted to create a first party SNT as such: "…a trust containing the assets of such a disabled individual which was established for the benefit of the disabled individual while such individual was under sixty-five years of age *by the individual*, a parent, grandparent, legal guardian, or court of competent jurisdiction…" SSL § 336[2][b][2][iii](emphasis added).

The proposed New York legislation is part of Governor Cuomo's FY 2018 Executive Budget released on January 17, 2017. When implemented in New York, this change will amend existing law by enabling a disabled individual to create and fund a first party SNT.

III. Special Needs Trusts

Special needs trusts (sometimes referred to as "supplemental needs trusts") are used to enable beneficiaries to access government benefit programs, such as Medicaid and Social Security, without including the value of trust assets in the government's determination of the beneficiary's eligibility for such benefits.

Like first party SNTs—trusts created and funded by the trust beneficiary—third party SNTs are trusts created and funded by a third party for the benefit of a disabled individual. Unlike first party trusts, the "creator" of a third party SNT must be "a person or entity other than the beneficiary or the beneficiary's spouse" (EPTL 7-1.12[a][5][iv]).

IV. Matter of Kroll

In Matter of Kroll, the court granted co-trustees of an irrevocable trust—which when drafted, did not contemplate the beneficiary having a disability and included a provision giving the beneficiary the right to withdraw trust principal upon reaching twenty one (21) years of age—the right to decant the trust into a supplemental needs trust without requiring the new trust to include a "payback" provision pursuant to EPTL 7-1.12[a][5][iv] and SSL § 336[2][b][2][iii].

Before turning 21 years of age, the beneficiary became disabled and began receiving Medicaid and Social Security benefits. The DOH argued that the beneficiary's right to withdraw principal at age 21 established him as the "creator" of the successor self-settled trust under EPTL 7-1.12[a][5][v], therefore making trust funds countable in the determination of the beneficiary's eligibility for benefits and the trust subject to the payback provisions. The court disagreed with the DOH's position. The court held that because the beneficiary had no vested right in the trust at its creation or at the time of the decanting, the trust assets did not constitute resources or income of the beneficiary, and therefore rejected the DOH's claim that the payback provisions applied to the successor trust.

Matter of Kroll established that assets in a third party trust can successfully be decanted to a successor third party SNT, thereby preserving a disabled beneficiary's eligibility for government benefits.

Mira B. Weiss is the founder and principal of Weiss Law Group, PLLC and "Of Counsel" to Abrams Garfinkel Margolis, Bergson, LLP based in New York and California. With thirty years experience as an attorney and business professional, she brings unique skills and a fresh, holistic approach to the practice of elder law, special needs, and trusts and estates.

Mira counsels individuals and families in matters of: estate planning and probate; special needs and long-term care; Medicaid planning; guardianship, insurance and health advocacy. She is readily available to attorneys seeking advice on management of the special needs and elderly.

Mira is a frequent CLE lecturer and panel participant for such organizations as: The National Law Institute, Fordham Law School, New York State Society of Certified Public Accountants, New York City Bar Association, the American Association of Daily Money Managers, and Caring Kind (f/k/a the Alzheimer's Association) and the Orion Resource Group.

She currently serves as the chair of the New York City Bar Association's Small Law Firm Committee, chair of the Health Committee of the SDNY Chapter of the Federal Bar Association, and is a member of the American Health Lawyer's Association, NYCBA Surrogate's Court Committee, New York State Bar Sections on Elder Law and Special Needs, and Trusts and Estates, and the National Academy of Elder Lawyers.

Mira is a graduate of George Washington University School of Law and admitted to practice in New York State, the District of Columbia, and the U.S. Court of Appeals.

Chelsey B. Gottlieb is an associate at the Weiss Law Group, PLLC, where she concentrates her practice on elder law, estate planning, Medicaid planning and asset protection, and guardianships. She has collaborated with legal and healthcare professionals to prepare educational programs for attorneys, various professionals, and consumers.

Chelsey earned her J.D. from Benjamin N. Cardozo School of Law, where she served as a Staff Writer and Articles Editor of the Cardozo Public Law, Policy, and Ethics Journal. She also holds a bachelor's degree and graduated with Phi Beta Kappa honors from Lehigh University.

Chelsey is admitted to practice in the State of New York. She is an active member of the New York State Bar Association, Elder Law and Special Needs Section; and of the New York City Bar Association, Legal Problems of the Aging Committee.

Mark Your Calendar!

February 10, 2017: Fashion Law Conference

The Federal Bar Association is proud to present the fourth annual Fashion Law Conference, featuring high profile experts in fashion and intellectual property law. See flyer on p. 15 for more details.

February 10, 2017: Asylum and Immigration Conference

This conference featuring speakers from private practice, government and leading non-governmental organizations will be held at New York Law School. See www.nyls.edu for further details.

February 16, 2017: Civil Rights Update for the Practitioner

This program including panel discussions on qualified immunity and plausibility pleading seven years post-*Iqbal*, will be moderated by S.D.N.Y. Magistrate Judge Sarah Netburn and FBA Civil Rights Law section National Chair Wylie Stecklow. See flyer on p.17 for more details.

March 23, 2017: Fashion Law in Latin America Event

This conference on Fashion Law in Latin America will be held at Cardozo Law School from 7-8:45. For more information, contact Erica Gould at egould@fzlz.com

March 28, 2017: Critical Issues in Bankruptcy and Securities Law

This program will focus on the current state of financial markets litigation in the United States with a particular focus on ABS. Contact Liam O'Brien at lobrien@mcoblaw.com for more information.

April 6, 2017: Federal Litigation Section/Wagstaffe Group Event

Program on Civil Procedure lead by Jim Wagstaffe, a lecturer at the Federal Judicial Center's New Judges School. Sponsored by the FBA E.D.N.Y. and S.D.N.Y. Chapters and the Federal Litigation Committee.

Spring 2017: TBD: Annual Conversation with Federal Judges in White Plains

This program, exact date TBD, will be organized by Donna Frosco. For more information, please contact Donna Frosco at dfrosco@dunnington.com.

Federal Bar Association

4th Annual

FASHION LAW SEMINAR

February 10, 2017

The New School • New York

Follow the FBA: | www.fedbar.org

Continuing to build on its past success, this year's conference features another impressive lineup of attorneys and judges who will discuss the advancement of fashion law in today's globalizing world. Join legal professionals and industry representatives on Friday, February 10 in New York City for this exciting conference featuring expert panels and multiple networking opportunities! CLE credit is available.

REGISTRATION RATES

	Early Bird Registration *(ON OR BEFORE 1/13/17):*	Regular Registration *(AFTER 1/13/17):*
Sustaining FBA members	$240	$285
FBA Members	$250	$300
Nonmembers	$325	$375
Government/Academic	$175	$175
Student	$60	$60
Observation only	$75	$75

SEMINAR PLANNING COMMITTEE

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Visit www.fedbar.org/FashionLaw17 today for more information about attending this compelling fashion law event.

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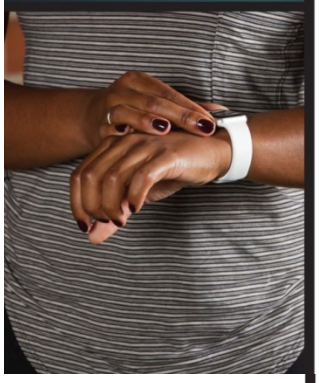
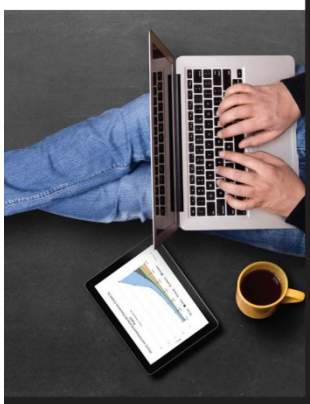




SEMINAR AGENDA • FEBRUARY 10, 2017

8:30-9:00 AM
Opening Remarks: Olivera Medenica
Medenica Law PLLC

Including Written Remarks from U.S. Senator Kirsten Gillibrand (D-N.Y.)

9:00-10:00 AM
Panel I – Litigating a Brand: The Dual Perspective of In-House and Outside Counsel

Panelists will highlight the latest trademark cases that impact fashion brands, both from a federal courts perspective and from the Trademark Trial and Appeal Board (TTAB). Panelists will provide insight into litigation strategies and management of outside counsel by a brand's in house counsel.

Speakers
Ronald D. Coleman, Partner, Archer P.C.
John L. Welch, Counsel, Wolf, Greenfield & Sacks, P.C.
Rita Odin, Vice President and Senior Trademark Counsel, The Estee Lauder Companies Inc.

10:15-11:15 AM
Panel II – Game Changer: The Marriage of Wearable Technology and the Fashion Industry

This panel will provide an in-depth discussion of unique legal issues pertaining to wearable technology, from privacy considerations to global trade compliance.

Speakers
Louise Bohmann, Global Trade Compliance Manager – Retail, Google
Adam Kardash, Partner, Osler, Hoskin & Harcourt LLP
Mason Weisz, Counsel, Zwillgen PLLC
Barbara Sondag, Senior Vice President, Head of Privacy, Westfield Corp
Kenya N. Wiley, CEO, Fashion Innovative Alliance

11:30 AM -12:30 PM
Panel III – Earning Followers: Influence Marketing, False Advertising and the Federal Trade Commission

Panelists will discuss the latest issues impacting social media marketing, influencers and other related uses of social media, including Twitter, Instagram, Snapchat and Facebook. Get insight into the latest Federal Trade Commission cases and best practices adopted within the industry.

Speakers
Vejay G. Lalla, Partner, Davis & Gilbert LLP
Laura Brett, Assistant Director, National Advertising Division, Council of Better Business Bureaus
Ann Schofield Baker, Partner, Perkins Coie LLP

12:30-1:30 PM
Luncheon Keynote: Professor Barbara Koslun
Professor of Practice and Co-Director, Fashion, Arts, Media & Entertainment (FAME) Law Center, Benjamin N. Cardozo School of Law

1:30-2:30 PM
Panel IV - Retail Strategies: Special Issues for Retailers, Including Class Actions

Learn about the latest issues affecting retailers, from omni-channel marketing trends to the latest class action issues. Panelists will cover the legal and business aspect of retailing, and will include in-house and outside counsel perspectives.

Speaker
Anthony V. Lupo, Partner, Arent Fox LLP

2:45-3:45 PM
Panel V - Corporate Responsibility: Child Labor and Sustainability

Overview of international treaties and U.S. laws affecting child labor and sustainability issues. Panelists will explore best practices and due diligence considerations.

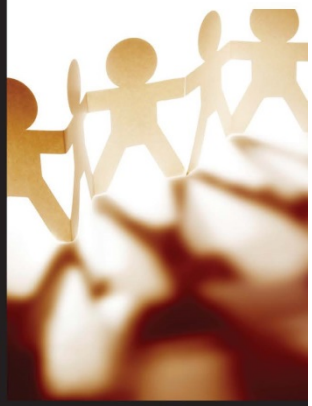
Speakers
Lisa Burley, Chief, Cargo Security, Carriers & Restricted Merchandise Branch, U.S. Customs and Border Protection
Preetha Chakrabati, Associate, Crowell & Moring LLP
Joost Kooijmans, Child Protection Specialist, UNICEF

4:00-5:00 PM
Panel VI - Working in Fashion: Employment Law Issues Affecting the Fashion Industry

Gain insight into recent developments and best employment practices when representing a fashion company, from retailers to fashion brands. Panelists will review the latest wage & hour legal considerations such as the new rules under the Fair Labor Standards Act regarding white-collar exemptions, discrimination cases and guidance (including religious, national origin, transgender) and business policies and practices.

Speakers
Mitchell Borger, Vice President & Assistant General Counsel, Macy's, Inc.
William F. Dahill, Partner, Wollmuth Maher & Deutsch LLP
Philip B. Rosen, Principal, Jackson Lewis P.C.

5:00-5:30 PM
Reception



SEMINAR LOCATION

The New School • Starr Foundation Hall, UL102 (lower level), University Center • 63 Fifth Avenue, New York, NY 10003

Parsons School of Fashion has launched the careers of illustrious designers who are synonymous with American fashion, and established industry figures such as Donna Karan, Marc Jacobs, Tom Ford, and Narciso Rodriguez. At a time when success involves activism as much as innovation, Parsons integrates the fundamentals of design, craft, and marketing with civic and environmental engagement.

Subway Access: The Starr Foundation Hall is accessible by several subway lines. Take the following routes (or visit www.hopstop.com for customized travel directions):

- *The 4, 5, 6, N, R, Q, W, or L trains to 14th Street and Union Square. Walk south to 13th Street, then west (turn right) to 72 Fifth Ave (corner of 13th St and Fifth Ave).*
- *The A, C, and E trains to 14th Street OR the 1, 2, 3, F, or M trains to 14th Street. Walk east along 14th Street to Fifth Avenue (make a right turn). Walk south one block to 72 Fifth Avenue.*

REGISTER ONLINE TODAY AT WWW.FEDBAR.ORG/FASHIONLAW17

Federal Bar Association
Southern District of New York Chapter

Federal Bar Association
Civil Rights Law Section

CONTINUING LEGAL EDUCATION

Civil Rights Update for the Practitioner

Qualified Immunity and Plausibility Pleading 7 Years Post-Iqbal

PANEL I

Plausibility Pleading Practices: 7 Years Post-Iqbal, Red Flag or Red Herring

A Conversation with Counsel, Professor Alex Reinert

PANEL II

General Development in the Law: Qualified Immunity

MODERATORS

Judge Sarah Netburn
United States Magistrate Judge, Southern District of New York

Wylie Stecklow
Stecklow & Thompson
FBA Civil Rights Law Section National Chair

PANELISTS

Betsy Ginsberg, Benjamin N. Cardozo School of Law, Professor of Law; Director, Civil Rights Clinic

Patricia Miller, New York City Law Department, Chief, Special Federal Litigation Division

Alexander A. Reinert, Benjamin N. Cardozo School of Law, Professor of Law; Director, Center for Rights and Justice

Katherine Rosenfeld, New York Lawyers for the Public Interest, Legal Director

Judge Vera Scanlon, United States Magistrate Judge, Eastern District of New York

Thursday, February 16, 2017

5:00pm – 7:30pm

Southern District of New York
Daniel Patrick Moynihan Courthouse · 500 Pearl Street - 9th Floor
Hon. John F. Keenan Ceremonial Courtroom

Registration: https://FBACivilRightsFeb16.eventbrite.com Cost: $20 CLE Credits: 2.0 *(pending)*

Discounts available for public interest, non-profit, city agency, judicial clerks.
Email: FBACivilRightsLaw@gmail.com

We want to remind SDNY Chapter members April 16 to April 22 is National Healthcare Decisions Week!

The National Healthcare Decisions Day Initiative is a collaborative effort of national, state and community organizations committed to ensuring that all adults with decision-making capacity in the United States have the information and opportunity to communicate and document their healthcare decisions.

On May 25, 2016, the Health Law Committee of the SDNY Chapter of the Federal Bar Association, in cooperation with Chief Judge Preska, sponsored a lunchtime "open house" for advanced health care planning which was attended by over 200 courthouse and court security personnel. At the event, attorney volunteers and health care professionals were on hand to answer questions, and to provide information and tips on discussing advance health directives with family and friends. Attorneys assisted participants in completing health care proxies and living wills, and acted as witnesses to the documents. A grant from the Federal Bar Association enabled us to fund copying costs and distribute educational and commemorative materials.

SDNY Chapter of the Federal Bar Association is encouraging all of our members to participate in this year's Health Care Decision Week by organizing a program for your office, participating in events around New York and raising awareness about these important issues by initiating discussion about this important topic with friends and family.

For information about sponsoring a program and access to free materials, visit www.nationalhealthcaredecisionsday.org. Members may also contact Mira Weiss, Chair, Health Law Committee at mweiss@weisslawgroup.com for tips on running a program.

We would like to recognize members who participate in this year's event, so be sure to send in information about your event to Mira Weiss or to the SDNY Chapter President, Liam O'Brien at Lobrien@mcoblaw.com.