



**NEW YORK STATE LAWYER ASSISTANCE TRUST**

**ANNUAL REPORT OF THE BOARD OF TRUSTEES FOR THE CALENDAR YEAR**

**2008**

**SUBMITTED TO THE JUDGES OF THE COURT OF APPEALS**



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## TABLE OF CONTENTS

FOREWORD & DEDICATION . . . . .	1
BOARD OF TRUSTEES . . . . .	2
PURPOSE . . . . .	3
THE STAFF . . . . .	4
COMMITTEES . . . . .	5
JUDGE ADVISORY PANEL UPDATE . . . . .	6
PUBLICATIONS . . . . .	7
LAW SCHOOL OUTREACH & RELATED EFFORTS . . . . .	8
PROJECTS IN DEVELOPMENT . . . . .	9
GRANT PROGRAM AWARDS . . . . .	10
LAT FUNDED CLE PROGRAMS . . . . .	11
COMMITTEES & COMMISSIONS . . . . .	12
LOOKING BACK & AHEAD . . . . .	13
HISTORY . . . . .	14
RULES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST . . . . .	15

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## FOREWORD & DEDICATION



HONORABLE JUDITH S. KAYE

THE YEAR 2008 MARKED THE HON. JUDITH S. KAYE'S COMPLETION of a quarter-century of service on the Court of Appeals, and it is to her that we dedicate this Annual Report.

With the creation in September 1999 of the Commission on Alcohol and Substance Abuse in the Legal Profession, Chief Judge Kaye laid the groundwork for a statewide action plan to address the problem and recommend funding for solutions.

Following more than a year of discussion and information-gathering, the Commission, chaired by then Court of Appeals Associate Justice Joseph Bellacosa, recommended policy change and program creation — including the establishment of the Lawyer Assistance Trust, which was created in 2001.

Thanks to Chief Judge Kaye's vision and support, the Trust has grown from a noble idea into a thriving program, creating awareness and building consensus among varying branches of the profession regarding the prevention and treatment of alcohol and substance abuse and mental health issues impacting lawyers, judges and law students.

The Trust's Board and Staff offer Judge Kaye our sincere appreciation and all best wishes.



Very truly yours,

Michael A. Cooper, *Chair*



## THE BOARD OF TRUSTEES

*The Trust is administered by a blue-ribbon panel of Trustees appointed by the Chief Judge of the New York State Court of Appeals. In 2008, they were:*

**MICHAEL A. COOPER**, *CHAIR*  
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**NEW YORK CITY**

**CHARLES W. BEINHAUER**  
Pfalzgraf, Beinhauer & Menzies, LLP  
**BUFFALO**

**KATHERINE STRONG BIFARO**  
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**KATHLEEN COUGHLIN**  
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Special Counsel for Grievance Matters  
**LINDENHURST**

**HON. COURTENAY HALL**  
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Medical Director, Office of Alcoholism  
and Substance Abuse Services  
**ORANGEBURG**

**HENRY E. KRUMAN**  
Kruman & Kruman, PC  
**MALVERNE**

**HON. CHARLES D. McFAUL**  
Office of Administrative Trials & Hearings  
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**SARAH DIANE McSHEA**  
Law Offices of Sarah Diane McShea  
**NEW YORK CITY**

**M. KATHRYN MENG**  
Cianciulli Meng & Panos, P.C.  
**GARDEN CITY**

**AVROM ROBIN**  
Attorney at Law  
**NEW YORK CITY**

**STEVEN F. SEIDMAN**  
Heidell, Pittoni Murphy & Bach, LLP  
**NEW YORK CITY**

**HEENA SHAIKH**  
Grimaldi & Yeung LLP  
**BROOKLYN**

**MARJORIE A. SILVER**  
Professor of Law  
Touro Law Center  
**CENTRAL ISLIP**

**PATRICIA SPATARO**  
Director, Lawyer Assistance Program  
New York State Bar Association  
**ALBANY**

**EILEEN C. TRAVIS**  
Director, Lawyer Assistance Program  
New York City Bar Association  
**NEW YORK CITY**



## PURPOSE

THE PURPOSES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST are to provide statewide leadership and financial assistance to existing programs for the prevention and treatment of alcohol and substance dependency and mental health issues among judges, lawyers and law students, and to encourage the development of new lawyer assistance programs to accomplish such goals; to develop and seek adoption of court rules necessary to implement the Trust's mission; to provide education and outreach to the bar and the legal profession about alcohol, other substance abuse and mental health issues; and to promote research in the field.

### THE NEW YORK STATE LAWYER ASSISTANCE TRUST BOARD OF TRUSTEES



PICTURED:  
(FROM BOTTOM, L-R)  
AVROM ROBIN,  
BARBARA F. SMITH  
(DIRECTOR),  
HENRY E. KRUMAN,  
PATRICIA SPATARO,  
EILEEN C. TRAVIS,  
HEENA SHAIKH,  
SARAH DIANE McSHEA,  
TOMAS GONZALEZ,  
MARJORIE A. SILVER,  
MICHAEL A. COOPER (CHAIR),  
KATHERINE S. BIFARO,  
KATHLEEN E. COUGHLIN,  
CHARLES D. McFAUL,  
COURTENAY W. HALL,  
ROBERT P. GUIDO,  
RICHARD P. JAMES,  
CHARLES W. BEINHAUER  
PHOTOGRAPH, MAY 2008  
PHOTO BY: COLLEEN BRESCIA

ABSENT FROM PHOTO:  
ANNE M. GRAND,  
WILLIAM E. HAMMOND,  
STEVEN S. KIPNIS,  
M. KATHRYN MENG, AND  
STEVEN F. SEIDMAN



## THE STAFF



BARBARA F. SMITH,  
*Director*



SUSAN L. MCDUGALL,  
*Assistant Court Analyst*

IN 2008, DIRECTOR SMITH RECEIVED RECOGNITION from the New York State Bar Association's Committee on Attorneys in Public Service, upon receipt of the "Excellence in Public Service" Award at the Bar's Annual Meeting in New York City. Ms. Smith's contributions as NYLAT Director were highlighted.



PICTURED AT THE AWARD EVENT [L-R]: HON. SALLIE KRAUSS, NYSBA LAWYER ASSISTANCE COMMITTEE CHAIR; PATRICIA SPATARO, NYSBA LAP DIRECTOR; KATHRYN GRANT MADIGAN, THEN NYSBA PRESIDENT; BARBARA SMITH, NYLAT DIRECTOR; EILEEN TRAVIS, NYC BAR ASSOCIATION LAP DIRECTOR



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## COMMITTEES

These committees of the Board of Trustees carry out the work of the Trust:

**THE EXECUTIVE COMMITTEE** maintains oversight of the implementation of the goals of the Trust, makes policy decisions when necessary between board meetings, and conducts periodic reviews of the Executive Director and other staff. It consists of the Chair, Vice-Chair and Finance Committee Chair as voting members, plus the Executive Director as a non-voting member.

*CHAIR, MICHAEL COOPER*

**THE STRATEGIC PLANNING COMMITTEE** recommends to the Board priorities and new objectives for the Trust, and assists the Executive Director and the Board in developing long-range plans. *CHAIR, CHARLES McFAUL*

**THE GRANTS COMMITTEE** establishes and recommends to the Board the types of activities and purposes for which Trust funds may be used, participates in the review of applications for funding, makes recommendations concerning which applications to approve and oversees the fulfillment of the terms of the grant agreements. *CHAIR, WILLIAM HAMMOND*

**THE AWARENESS/OUTREACH COMMITTEE** makes recommendations concerning communications about the prevention and treatment of alcohol and substance dependence and mental health issues within the legal community including law students, law faculty and administrators, lawyers, members of the judiciary, bar association leaders and local lawyer assistance committees. *CHAIR, CHARLES BEINHAUER*

**THE LAW SCHOOL OUTREACH COMMITTEE** maintains outreach and ongoing initiatives to law schools to promote awareness of LAP topics and develops projects to facilitate that awareness and understanding. *CHAIR, MARJORIE SILVER*

**THE FINANCE COMMITTEE** advises the Board concerning expenditures of the Trust, makes recommendations for additional funding and investigates potential sources for private funding to support Trust programs and events. *CHAIR, KATHERINE BIFARO*

**THE DISCIPLINE COMMITTEE** advises the Board concerning court rules, policies and programs involving the attorney and judge disciplinary processes as they relate to lawyer assistance program issues, and makes recommendations for changes as appropriate. *CHAIR, ROBERT GUIDO*

**THE NOMINATING COMMITTEE** may recommend to the Chair or its Executive Committee individuals to fill vacancies on the Board of Trustees. Following consultation with the Board, the Chair or Executive Committee may submit such recommendations to the Chief Judge for action.

*CHAIR, AVROM ROBIN*

**THE JUDGE PANEL LIAISON COMMITTEE** – an ad hoc committee for the duration of the Panel project – recommends goals, strategies and tactics for utilizing the Judge Advisory Panel and assisting the Panel to accomplish its purposes in coordination with the overall NYLAT vision/mision. *CHAIR, COURTENAY HALL*



## JUDGE ADVISORY PANEL UPDATE

IN 2007, ITS STRATEGIC PLANNING PROCESS, THE TRUST IDENTIFIED AN UNMET NEED with respect to the audience of judges – that education, outreach and policy changes would likely be required for judges to recognize the signs and symptoms of addictions and mental health problems in the attorneys who appear before them, or in their colleagues, or themselves; to be aware of resources available for seeking help, and to insure that the policies and processes in place would encourage appropriate behavior.

With those goals in mind, the Trust requested that the Chief Judge appoint an Advisory Panel of judges to guide the development of programs and policies.

Hon. John Rowley (Tompkins County Court), then a member of the Trust, was named to serve as the Chair. Working Groups were formed to consider education, resources and administrative aspects of the issues presented. The Panel has met quarterly since its inception, with speakers invited to share their experience and expertise.

Among those who made presentations to the Panel were: Chief Administrative Judge Ann Pfau; Robert Tembeckjian, Administrator & Counsel, Commission on Judicial Conduct; Diane Schilling, Special Counsel to the Justice Courts and Paul Toomey, Director Office of Justice Court Support; and Lauren DeSole, Director of Human Resources for OCA and William Gilchrist, OCA Deputy Director for Judicial Benefits.

*continued on page 7*



MEMBERS OF NYLAT JUDGE ADVISORY PANEL, AND TRUST LIAISONS, INCLUDE, L-R (SEATED) HON. THOMAS VANSTRYDONCK; HON. JOHN ROWLEY (CHAIR); HON. SHARON TOWNSEND; DAVID R. PFALZGRAF (FORMER NYLAT CHAIR); (STANDING) BARBARA SMITH (NYLAT DIRECTOR); HON. MARGUERITE GRAYS; HON. SHERYL PARKER; PAUL CURTIN (NYSBA LAP STAFF); HON. CHARLES McFAUL; HON. KAREN PETERS; HON. JOHN OWENS, HON. A. GAIL PRUDENTI, HON. TANYA KENNEDY; HON. DAVID GIDEON; EILEEN TRAVIS, NYC LAP DIRECTOR; HON. VINCENT REILLY, AND HON. SALLIE KRAUSS. ABSENT WHEN THE PICTURE WAS TAKEN: HON. ERNEST CAVALLO, HON. ROBERT KEATING; HON. ANTHONY MARANO; HON. GEORGE MARLOW, HON. JAMES McLEOD; HON. JOHN NESBITT AND PATRICIA SPATARO, NYSBA LAP DIRECTOR.

## PUBLICATIONS



**THE TRUST'S NEWSLETTER "LAT NEWS" CONTINUES** its features of news from the local, state and national scene and articles submitted by guest columnists. Circulated to about 4000 recipients — law firms with more than 25 members, judges, bar administrators, law school deans and administrators, government agency counsels and the members of the ABA's Commission on Lawyer Assistance Programs — the newsletter focuses on the activities of the Trust and lawyer assistance committees, events and related news. Through its straightforward approach to the topic, the Trust has raised the consciousness among many members of the legal profession.

Once again, at year's end, the Trust sent a mailing to 40,412 attorneys who are in solo or small firm practice consisting of a brief newsletter and calendar card with information on lawyer assistance services throughout the State. These hard-copy publications join with the Trust's Internet site at [www.nylat.org](http://www.nylat.org) to provide current news and in-depth information for interested readers.

**THE TRUST DISTRIBUTED 18,346 COPIES** of its brochure on the Character and Fitness aspect of admission law students at fourteen of the State's law schools.

The brochure notes that "neither receiving treatment for alcoholism, drug addiction or mental health concerns, nor the status of being a recovering alcoholic or recovering addict are grounds for denial of admission to the bar." Instead, the focus is whether abuse, addiction or mental condition impairs the applicant's "current ability to practice law."

*continued from page 6*

In addition to the Panel meetings, Chair Rowley and NYSBA LAP Staff member Paul Curtin on special assignment to this project conducted a listening tour of administrative and supervising judges. They coordinated a presentation by Isaiah Zimmerman at the summer Judicial Institute training sessions and facilitated small-group meetings for interested judges.

It is anticipated that the Panel's final report and recommendations for action will be made in early 2009.



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## LAW SCHOOL OUTREACH & RELATED EFFORTS

### 6TH ANNUAL LAT STUDENT AWARDS

THE SIXTH ANNUAL LAT STUDENT AWARDS WERE PRESENTED TO FOUR INDIVIDUALS:

#### KEVIN BOWMAN

Mr. Bowman, as the Touro Law Center's on-campus student representative to the New York State Bar Association's Lawyer Assistance Program [LAP] was cited for his ability "to provide confidential counseling and consultation for students, faculty and staff members with alcohol and substance abuse questions and concerns."

Dean Raful also noted that: "Mr. Bowman also speaks at first year Orientation on the availability of LAP services and has also made referrals to community-based service providers and programs where appropriate. Despite a heavy course load, Mr. Bowman always finds the time to serve as a resource, mentor and counselor to fellow students. Most recently, he recruited and is in the process of training his successor as Touro's open-campus LAP rep. His selfless dedication over the last three years has literally saved lives and careers. The school, and the profession, is better as the results of his efforts. And finally, his effective service has demonstrated the benefits that accrue when law schools recruit, train and identify student LAP reps."

#### MEGHAN McLEES

Ms. McLees receives her recognition for awareness of the issues of drug and alcohol use/abuse among Syracuse University's law students through the creation of a mentoring program for the students of the Blodgett School of the Syracuse City School District, an inner-city school.

According to Dean Gonzalez's nomination,

"Through her mentoring program, Meghan and the other law students she recruited (and those who volunteered to join her), met with Blodgett students (mostly ages 11-14) to discuss and work through issues these young people face. Among the major issues addressed was alcohol/drug abuse. Many of the Blodgett students come from difficult neighborhoods and family environments where there is little education and support for healthy lifestyle choices."

Dean Gonzalez also said this about McLees' service: "Meghan and her mentor team returned to the College of Law and through Student Senate and other student organizations, began to raise the issue of alcohol and drug use/abuse in our law school community. Through sponsored programs, collaborations with the Office of Student Life, and the creation of activities as an alternative to drinking (Friday night movies, alternative Spring Break trips, etc.), Meghan has made a significant impact on the culture of the College of Law."



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## LAT STUDENT AWARDS / PROJECTS IN DEVELOPMENT

### PROFESSOR MARJORIE SILVER

According to Touro Law Center Dean Raful's nomination, Professor Silver "edited *The Affective Assistance of Counsel - Practicing Law as a Healing Profession*, a collection of essays intended for lawyers and law students interested in developing the competencies to practice law as a healthy, healing profession, one that the lawyer finds fulfilling and rewarding and that is beneficial and healing for the client. In addition, it is intended for use as text in clinical law teaching as well as other courses aimed at finding alternative, humanistic approaches to legal practice".

Professor Silver was also recognized for her participation in the two-day national conference, "Law as a Healing Profession" that was held at Touro Law Center in November 2007. The event brought together authors, practitioners, judges, social scientists, counselors and academics for a conference on transforming the practice of law into a healthier profession, including substantial time devoted to substance abuse, depression and other psychological problems suffered by many lawyers, as well as available institutional and individual preventive measures.

### EMILY CADWALLADER

*Office of Student Life, Syracuse University School of Law*

According to Syracuse Law School Dean Gonzalez's nomination Ms. Cadwallader was nominated for her "creation of a weekly programming series called Wellness Wednesday's. The Wellness Wednesday program is a bi-monthly series of programs designed to address mental and physical health issues for law students. During the 2007-2008 academic year, Emily sponsored programs on topics including depression/depression screening (collaboration with the SU Counseling Center), stress management, alcohol use/abuse, use of drugs as study aids, yoga, and more."

Dean Gonzalez noted that through "the Wellness Wednesday programs, Emily has made a significant impact on our students. The rate at which law students are now seeking assistance and services from our Counseling Center and Office of Prevention Services has increased from almost zero, to a rate which is comparable to the other professional/graduate programs on our campus. This is a direct result of the awareness that has been raised on these issues by Emily's efforts."

## PROJECTS IN DEVELOPMENT

**A MODEL ALCOHOL/SUBSTANCE ABUSE POLICY**— Following up on the American Bar Association's Commission on Lawyer Assistance Program's Law School Tool Kit suggestions for lawyer assistance-type services to be made available for law students, the Law School Outreach Committee is in the process of finalizing a model policy.

An **ORIENTATION BROCHURE FOR LAW STUDENTS** is also in the works, which summarizes the availability of lawyer assistance services and provides useful contact information.



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## GRANT PROGRAM AWARDS

A UNIQUE FEATURE OF THE TRUST, which is funded through attorney licensing fees, is the allocation of financial assistance to support lawyer assistance activities around the state. Eligibility standards are described in the Trust's policies (See Appendix A). Briefly, bar associations, bar foundations, lawyer assistance committees and law schools may apply for funding to support services or projects for education, research and efforts at prevention in relation to alcohol and substance abuse among judges, lawyers and law students, and to encourage treatment for alcohol and substance dependency in members of the legal profession. Within allocations made available, the Trust may award grants to develop and distribute educational materials, to pay expenses associated with the conduct of conferences or related events, or attendance thereat; to pay for certain treatment-related expenses; to support existing and new substance abuse prevention programs and to promote and enhance professionalism. The Trust has forwarded applications, instructions and informational bulletins to potential applicants, and that information is available on the Trust's website.

The Trust awarded the following grants in calendar year 2008, totaling \$336,678.39:

### NEW YORK STATE BAR ASSOCIATION

- \$117,272 to continue funding support for the expanded Lawyer Assistance Program
- \$2,390 to defray LAP-related treatment expenses for needy attorneys
- \$1,429 to support the Annual Spring Retreat

### NEW YORK CITY BAR ASSOCIATION

- \$80,250 to fund the LAP's Clinical Staff member and the LAP Administrative Assistant, and to defray treatment related expenses for needy attorneys
- \$17,699 to fund the LAP's Clinical Staff member and produce a new brochure for last quarter of the fiscal year

### NASSAU COUNTY BAR FUND

- \$43,250 to continue funding support for the Nassau Bar's LAP, including a part-time Staff Director and related outreach/CLE programs
- \$8,998 to continue funding support for a part-time LAP Staff Director during the final quarter of the fiscal year
- \$1,950 to support the Nassau Bar Association's Lawyer Assistance Program Retreat

### MONROE COUNTY BAR CENTER FOR EDUCATION

- \$1,390.73 to support a LAP-related CLE program
- \$1,926.36 to support a LAP-related CLE program

### ONEIDA COUNTY BAR ASSOCIATION

- \$1,308.50 to support a LAP- related CLE program



## GRANT PROGRAM AWARDS / LAT FUNDED CLE PROGRAMS

### BAR ASSOCIATION OF ERIE COUNTY

- \$30,000 to continue financial support for outreach and lawyer assistance services in the eighth judicial district
- \$11,600 to defray LAP- related treatment expenses for needy attorneys
- \$5,000 to defray expenses for “lawyers with depression” website
- \$2,000 to support a LAP-related CLE program

### QUEENS COUNTY BAR ASSOCIATION

- \$5,681 to support production of outreach materials; to provide LAP-related educational programs, defray some LAP-related treatment expenses for needy attorneys

### ONONDAGA COUNTY BAR ASSOCIATION

- \$2,533.60 to support a LAP-related CLE program

### TOMPKINS COUNTY BAR ASSOCIATION

- \$2,000.10 to support a LAP-related CLE program

## CLE PROGRAMS SUPPORTED WITH LAT GRANT FUNDING:

- FEBRUARY SYRACUSE: “Balancing Life and the Law: Strategies for Managing Stress”
- MARCH OWEGO: “Balancing Life and Law: Strategies for Managing Stress”
- APRIL BUFFALO: “Effective Lawyering: Dealing with the Stresses and Strains of Today’s Law Practice”
- MAY LAKE GEORGE: Spring Retreat – “Legal Sanity: Don’t be a Victim of your Career”
- MAY ROCHESTER: “Don’t let the Stresses of Law Practice Lead to Ethical Issues”
- SEPTEMBER MANHASSET: “Problem Gambling & Lawyers”
- OCTOBER UTICA: “The ‘Civil’ Practice of Law”



L-R: ARNIE HERZ, PROGRAM SPEAKER; SARAH KRAUSS, CHAIR, NYSBA LAWYER ASSISTANCE COMMITTEE; BERNICE K. LEBER, THEN PRESIDENT- ELECT NYSBA, PATRICIA SPATARO, DIRECTOR NYSBA LAP; BARBARA SMITH, DIRECTOR, LAT AND MICHAEL COOPER, CHAIR, LAT [MAY, 2008 NYSBA LAP SPRING RETREAT AT LAKE GEORGE]

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## COMMITTEES & COMMISSIONS

### NYSBA COMMITTEE ON PROFESSIONAL ETHICS – OPINION #822

THE TRUST SUPPORTED A REQUEST submitted by the NYS Bar Association’s Lawyer Assistance Program for clarification on the question of the reporting obligation of an attorney who is not a member of the Lawyer Assistance Committee, but who has made a referral of an attorney to the Lawyer Assistance Program and also knows of an ethical violation committed by that attorney.

Opinion #822 concluded that reporting or referring an attorney who has substance abuse issues or other problems to a lawyer assistance program does not satisfy the referring lawyer’s ethical reporting requirement should that attorney know of some violation of the profession’s disciplinary rules. However, a member of a lawyer assistance committee, or anyone who is an authorized agent of such a committee, has no obligation to report a violation of DR 1-102 as long as that violation has been discovered while attempting to assist the affected attorney within the parameters of the services offered by the lawyer assistance committee or the Lawyer Assistance Program.

### DISCIPLINE MEETING PRESENTATION

THE TRUST’S DISCIPLINE COMMITTEE, consisting of Robert Guido, Patricia Spataro and Eileen Travis made a presentation on attorneys and depression at the annual statewide meeting of discipline committee staff in November.

### INTERNET

THE TRUST’S INTERNET SITE IS FOUND AT [WWW.NYLAT.ORG](http://WWW.NYLAT.ORG). The site features information on the lawyer assistance services available in New York State, and the projects, publications and events sponsored by the Trust. Grant applicants may apply on-line, and information on past conferences may be found there. Links to other sites of interest and a bibliography of related topics are included.

### MEETINGS

THE TRUST MET QUARTERLY DURING 2008, twice in Albany and twice in New York City. The Judge Advisory Panel met quarterly in New York City.

### ABA COMMISSION ON LAWYER ASSISTANCE PROGRAMS

FOR TWO DECADES, THE AMERICAN BAR ASSOCIATION’S COMMISSION ON LAWYER ASSISTANCE PROGRAMS (COLAP) has provided information and model guidelines for assisting lawyers whose practices are affected by alcoholism, drug addiction and mental health problems, including stress and depression. Its primary goal is to advance knowledge of impairments facing lawyers and to coordinate effective responses to those issues in each state. The Commission consists of ten members, more than half of whom are recovering from chemical dependency; Hon. Robert “Butch” Childers served as Chair in 2008.

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In 2008, LAT Director Smith completed her term as a member of CoLAP. Ms. Smith also had served as the liaison for the northeast region, including Maine, Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York and New Jersey. In August, Director Smith coordinated a regional meeting of representatives from LAPs and committees throughout the northeast United States and neighboring Canada, which took place in New York City.

At the ABA's August annual meeting, Trustee Charles Beinbauer was appointed by the ABA president to serve on the CoLAP Advisory Commission and to succeed Director Smith as the northeast region's liaison to CoLAP.

In October, Director Smith served as Chair of the ABA's Twenty-First National Conference held in Little Rock, Arkansas. Michael Cohen of the Florida Lawyer Assistance Program was Vice-Chair.

LAT Trustees Patricia Spataro, New York State Bar Association Lawyer Assistance Program Director, served on the Conference Planning Committee; and Robert Guido was a conference panelist on discipline-related matters.

Sallie Krauss, former LAT Vice-Chair and NYSBA Lawyer Assistance Committee Chair serves as the Chair of the CoLAP's Judicial Initiative's Subcommittee on Education and coordinated a panel at the conference.



*[L-R] SOME NEW YORKERS ATTENDING THE LITTLE ROCK CONFERENCE INCLUDED HON. SALLIE KRAUSS, COLAP JUDICIAL INITIATIVE CO-CHAIR; BARBARA SMITH, NYLAT DIRECTOR; KEN ACKERMAN, FORMER NYLAT TRUSTEE; ROBERT GUIDO, NYLAT TRUSTEE AND CONFERENCE PANELIST; AL LAMPERT, THEN NYSBA LAP STAFF MEMBER; CHUCK BEINHAUER, NYLAT VICE-CHAIR; DAVID PFALZGRAF, FORMER NYLAT CHAIR.*

## **LOOKING BACK & AHEAD**

THE TRUSTEES, ARMED WITH A NEW STRATEGIC PLAN, HAVE GREAT EXPECTATIONS for the coming years, limited only by the resources available to accomplish the goals. We will continue to coordinate with and support the activities of the Lawyer Assistance Program personnel throughout the State, with the ultimate goal of bring resources and awareness to the prevention and treatment of alcohol and substance abuse and mental health issues among members of the legal profession.



## HISTORY

IN 1999 CHIEF JUDGE JUDITH S. KAYE APPOINTED THE COMMISSION ON ALCOHOL AND SUBSTANCE ABUSE IN THE PROFESSION, which was chaired by Hon. Joseph W. Bellacosa, then Senior Associate Judge of the Court of Appeals. The 19-member interdisciplinary panel, comprised of lawyers, judges, law school deans, administrators and experts in the field, was charged with the creation of a comprehensive and statewide action plan to address substance abuse in the legal profession. The Commission represented the first systemic effort by the New York State court system to address this problem.

After a year of hearings, study and meetings, the Commission proposed an Action Plan that recommended the creation of an independent statewide entity — the Lawyer Assistance Trust — to address the problems of alcohol and substance dependency and to serve as a respected and visible resource in the justice system and as a source of reliable information and effective help. [See, commission on alcohol and substance abuse in the legal profession, “Action Plan”, December 15, 2000, available at [www.nylat.org](http://www.nylat.org)].

The summer of 2001 saw the appointment of the Trustees, with James C. Moore of the Rochester law firm Harter, Secrest & Emery, as Chair. As of November 1, 2001, the Trust began its work with the hiring of staff and the opening of its offices, housed during the first year at the headquarters of the New York State Bar Association in Albany, then at 54 State Street, Albany, where it currently is located.

Chair Moore was succeeded by David R. Pfalzgraf of Buffalo as the Trust’s second Chair.

In 2008, the Trust welcomed its new Chair, Michael A. Cooper of the New York City law firm Sullivan & Cromwell.



## RULES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST

### Sec.

100 Purposes of the New York State Lawyer Assistance Trust

101 Organization of the Trust

102 Meetings of the board of trustees

103 Powers and duties of trustees

104 Duties of officers

105 Disclosure of conflicts of interest

106 Reports

107 Grant program

108 Confidential information privileged; immunity from liability

109 Construction of regulations

### §100 Purposes of the New York State Lawyer Assistance Trust

The purposes of the New York State Lawyer Assistance Trust are to provide statewide leadership and financial assistance to existing programs for the prevention and treatment of alcohol and substance dependency and mental health problems among judges, lawyers and law students and to encourage the development of new Lawyer Assistance Programs to accomplish such goals; to develop and seek adoption of court rules necessary to implement the Trust's mission; to provide education and outreach to the bar and the legal profession about the effects of alcohol and substance abuse and mental health problems; and to sponsor and promote research that advances understanding of the causes, consequences and effective treatment of such alcohol and substance abuse and mental health problems.

### §101 Organization of the Trust

The New York State Lawyer Assistance Trust (hereinafter "Trust") shall be administered by the board of trustees appointed by the Chief Judge of the Court of Appeals of the State of New York.

The board of trustees shall consist of twenty-one members, one of whom shall be designated as chair by the Chief Judge. The Lawyer Assistance Program Directors of the New York State Bar Association and the New York City Bar Association shall serve ex officio, and the requirements regarding term limitations shall not apply to them.

The term of office of each trustee shall be three years and each trustee shall be eligible for reappointment except that:

upon expiration of the term of office of each trustee first appointed hereunder, the term of office of his or her immediate successor, or his or her next term if he or she is reappointed, shall be one, two or three years as designated by the Chief Judge (for purposes of this

paragraph, one-third of the trustees shall serve terms of one year, one-third shall serve terms of two years, and one-third shall serve terms of three years);

where a vacancy in an office of trustee occurs other than by expiration of term, the vacancy shall be filled for the unexpired portion of the original term; and trustees shall serve no more than two consecutive terms without a break in service of at least one year.

- (c) The trustees shall serve without compensation, but shall be entitled to receive their actual and necessary expenses incurred in the discharge of their duties, which expenses will be reimbursed by the New York State Office of Court Administration at rates approved by the Chief Administrator of the Courts.
- (d) The trustees shall from time to time elect from their membership a vice-chair and shall form such committees as they deem necessary or appropriate, including an executive committee.
- (e) The trustees shall retain an executive director to serve as the chief administrative officer of the Trust and such other staff as may be appropriate.
- (f) The trustees may recommend to the chair or its executive committee individuals to fill vacancies on the board of trustees. Following consultation with the board of trustees, the chair or the executive committee may submit such recommendation to the Chief Judge for action.

### §102 Meetings of the board of trustees

- (a) The trustees shall meet at such regular intervals as the chair shall designate. Special meetings may be called by the chair and shall be called by the chair upon the request of at least one-third of the trustees then in office. Meetings may be conducted by telephone or videoconference or by any other electronic means. The chair shall provide reasonable notice of all meetings.

A majority of the trustees shall constitute a quorum. A majority of trustees present at any meeting of the board may exercise any power held by the trustees, except as otherwise provided in this part.

### §103 Powers and duties of trustees

The trustees shall:

- (a) adopt policies and develop programs to fulfill the purposes of the Trust; manage and distribute that portion of the monies collected pursuant to the provisions of section 468-a of the Judiciary Law and appropriated to the Trust and such other monies as may be credited or otherwise transferred from any other fund or source, pursuant to law, including voluntary contributions; receive, consider and determine applications for

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## RULES OF THE NEW YORK STATE LAWYER ASSISTANCE TRUST

grants under the grant program established pursuant to section 7500.8 of this Part, subject to the availability of funds appropriated by the Legislature to the Judiciary for such purpose;

- (d) establish procedures for applications for such grants;
- (e) employ and at pleasure remove employees, legal counsel, agents and consultants, and fix their compensation within the amounts made available;
- (f) furnish the Court of Appeals with such reports and audits as the court may require; and
- (g) perform all other acts necessary or proper for the fulfillment of the purposes of the Trust and its effective administration.

### §104 Duties of officers

The chair shall preside at all meetings of the trustees, generally supervise the administration of the Trust, and exercise such other functions and duties that the trustees may assign or delegate, or that are customary to the office of chair.

The vice-chair shall assume the duties of chair in the absence or disability of the chair.

The executive director shall assist the trustees, supervise the implementation of the policies of the trustees, prepare reports, supervise staff, serve as secretary at meetings, and fulfill such other duties as may be assigned or delegated by the chair or the trustees.

### §105 Disclosure of conflicts of interest

A conflict of interest exists when a trustee has a material personal interest, direct or indirect, in a proposed contract or transaction to which the Trust may be a party. The conflict may arise from the trustee's personal involvement or from an employment or investment relationship with an entity with which the Trust is dealing, or from some family relationship.

In the event such a conflict of interest exists, the trustee must disclose it to the board of trustees present at the meeting and shall recuse himself or herself from any participation in discussion on the merits or decision making concerning the matter before the trustees for consideration or decision. Such disclosure and recusal shall be noted in the minutes of the meeting.

### §106 Reports

- (a) Each year, the trustees, with the assistance of the executive director, shall prepare and submit to the Court of Appeals an annual report of the activities and operations of the Trust during the preceding year.
- (b) The trustees may also issue periodic reports to the public concerning the activities and procedures of the Trust.

### §107 Grant program

- (a) Establishment. There is hereby established a grant program for the purpose of making available financial support for education, research and efforts at prevention in relation to alcohol and substance abuse and mental health problems among judges, lawyers and law students, and to encourage treatment for alcohol and substance dependency and mental health problems in members of the legal profession. Within appropriations made available by law, grants may be awarded under this program for any service, project or other undertaking that furthers these ends, including, but not limited to: the development and distribution of educational materials; payment of expenses associated with the conduct of conferences or related events, or attendance thereat; payment of treatment-related expenses; support for existing and new substance abuse prevention programs; and general efforts to promote and enhance professionalism. The grant program shall be administered by the Trust.
- (b) Who may apply. Applicants for grants under this program may include, but are not limited to, lawyer assistance committees, bar associations, bar foundations and law schools.
- (c) When and how to apply. All applications for grants under this program shall be on forms prescribed by the trustees and shall be filed at such time, in such place and in such manner as they shall prescribe.

### §108 Confidential information privileged; immunity from liability

- (a) To the extent that the trustees and the executive director are acting as agents of the lawyer assistance committee sponsored by the state bar association pursuant to its resolution of January 25, 2002, then any confidential relations and communications between the trustees, its executive director and any person, firm or corporation shall be deemed to be privileged under Judiciary Law § 499.
- (b) Any person, firm or corporation providing information in good faith to, or in any other way participating in the affairs of the Trust shall be immune from civil liability that might otherwise result by reason of such conduct. The good faith of any such person, firm or corporation shall be presumed.

### §109 Construction of regulations

These regulations shall be liberally construed to accomplish the objectives of the Trust and the policies of the trustees.

The initial Rules were adopted by the Trust on October 14, 2002; amended in July, 2005 to recognize the addition of mental health to the mission; amended in July 2006 to conform the provision regarding the annual report with the practice; amended in January, 2007 to grant "ex officio" status to the NYS and NYC LAP Directors, who will continue as voting members without term limits.



NEW YORK STATE LAWYER ASSISTANCE TRUST



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