

BBA Public Forums Exemplify Good That Lawyers Do

One survey that was reported on television (so it must be true) claimed that members of Congress are now even less popular than lawyers. Even trial lawyers ranked higher than the intransigents who now rule, or ruin, at a whim — or a campaign contribution — and are clearly more beholden to their financial backers than their electorate.

But, in keeping with this column's 13-year-old theme of "telling about the good that lawyers do," there's a lot to tell.

For instance, increased public outreach programs, wherein skilled — and often expensive — practitioners provide representation to the needy, Pro Bono, are helping the public image of the Bar here in Brooklyn.

One endeavor, the Brooklyn Bar Volunteer Law Program, has helped thousands of the legally underserved over the past two decades.

A newer and also meritorious initiative comes in the form of free Brooklyn Bar Association public forums, at which members of the public are invited to BBA headquarters, 123 Remsen St., to hear from and question lawyers who are experts in a number of fields.

These forums began about six years ago under the BBA aegis of then-President Diana Szochet. Heading the BBA's public forums today is Chair Fern Finkel.

The next forum is titled "Mediation in the Community — What Is it, and How Can it Help?" It will get underway at 6 p.m. on May 13 at BBA headquarters on Remsen Street.

Chair Finkel states, "All members of the public are invited to attend an informational lecture on the mediation process, and how mediation may be a better alternative than formal court or administrative proceedings."

Those who attend will learn "how to avoid costly proceedings by mediating neighbor disputes, family matters, special education needs, attorney-client disputes and even criminal cases," she added.

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Why Joan Millman, Et Al. Should Use Public Forums

Past BBA public forums have involved such timely issues as laws dealing with condominiums and co-ops and advice on why and how to file for bankruptcy. One reader suggested that our political figures, such as Borough President Eric Adams, Assemblymembers Joan Millman and Joe Lentol, and Councilman Steve Levin, would serve their constituents well by directing them to these public forums.

"Many people don't want to go through the formality of engaging a lawyer, even Pro Bono counsel, but they would benefit from hearing from the experts that the forum brings in to deal with their special problems. Mediation is something of which few regular citizens are aware," the reader wrote.

All of the aforementioned office-



Diana Szochet



Fern Finkel

holders have demonstrated the ability to "walk that extra mile" in serving the voters and will hopefully take the hint and direct those in need to 123 Remsen St. on May 13.

And there will even be light refreshments!

The panel presenting the May 13 program is composed of some top-notch speakers, including Michele Kirschbaum, New York Peace Institute, Mediation Committee; Barbara Odwak, Brooklyn Bar, chair, Mediation Committee; and Rebecca Price, U.S. District Court, Manhattan, mediation supervisor.

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De Blasio's Stop-and-Frisk Plan Stirs Kings Legal Community

How will police officers deal with the evolving, hot-button stop-and-frisk policies championed by Mayor Bill de Blasio, which are now being gradually implemented by Police Commissioner Bill Bratton?

Seeking some answers to this question, the Kings County American Inn of Court, led by President Justice Ellen Spodek, held a recent session devoted to the substantially altered stop-and-frisk measures.

One member suggested that some

of the proposed changes — among them the presumption of racial bias when it's alleged in a stop-and-frisk matter — could stir a lot of litigation.

New York City's stop-and-frisk program was started by former Mayor Michael Bloomberg and was — though fraught with potential racial profiling — a statistically valuable tool in crime reduction.

Four full months into his administration, Mayor Bill de Blasio has run into a number of problems, some of which have riled the honeymoon status he enjoyed prior to being sworn in to succeed Mayor Bloomberg.

Relations between the two men were never more than cordial. De Blasio remained silent at his inauguration as various speakers — chief among them singer Harry Belafonte — excoriated the outgoing mayor, who sat stone-faced, barely concealing his discomfort with the assaults on his character as well as the attacks on outgoing NYPD Commissioner Ray Kelly.

Most cops viewed Bratton's earlier term as NYPD commissioner, under Mayor Rudy Giuliani, with mixed emotions. There was a quiet consensus that while his "Broken Windows" methods were working well, Bratton might have been think-



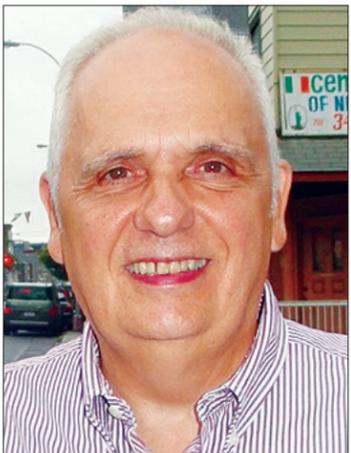
Justice Ellen Spodek



Justice Barry Kamins



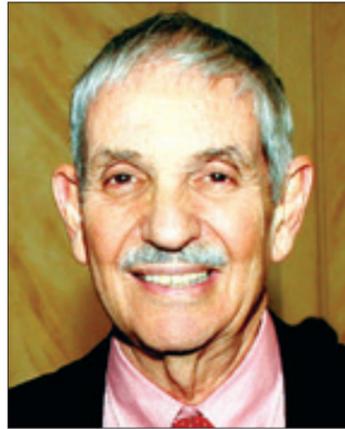
Assemblywoman Joan Millman



Assemblyman Joe Lentol



Justice Marsha Steinhardt



Hon. Gerard Rosenberg, Ret.



Justice Arthur Schack

ing about succeeding Mayor Giuliani and taking over Gracie Mansion — with or without Giuliani's blessing.

Commissioner Bratton won nationwide applause for his policies and was featured on national magazine covers, including *Time*. Yet, he was then summarily fired by Mayor Giuliani. The new commissioner's continuing criticism of Commissioner Kelly is unprecedented.

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Kings Inn Members Debate Merits of Stop-and-Frisk

Meanwhile, back in Brooklyn, the Kings Inn Panel, headed by Appellate Division Justice Sylvia Hinds-Radix, Justice Joanne Quinones, Larry Di-Giovanna and their team, still provided vital guidelines that evening. (Of course, it helped that Criminal Courts OCA Judicial Executive Hon. Barry Kamins was sitting in the audience.)

The federal standards for stop-and-frisk were first established in a Supreme Court case, *Terry v. Ohio* in 1968. The court held that probable cause was not required when making stops on the street, so long as the police officer had a "reasonable suspicion," a belief, "based on experience, observation, and/or prior knowledge" that the suspect "is in the process of carrying out a crime."

New York State has fashioned its own approach, which was developed in the landmark decision in *People v. Debour*. The *Debour* case set up four escalating "levels" of intrusion of stop-and-frisk, based largely on the perception of the inquiring officer.

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Landmark Debour Case Set Four Levels of Intrusion

These guidelines, as reviewed by the esteemed panel at the Inn meeting, are as follows:

The first level of intrusion is harmless police questioning, meaning that there is no need to admit to one's identity, reason for being where one is, or travel plans. Police must have an objective and credible reason still to ask these questions. And, even if they do, a "stop" has not legally occurred.

The second level, according to *Debour*, applies when a police officer "closely and intensely" questions someone. But even this is not actually a "stop" because the citizen has the right to leave legally; also at the second level the officer must have "suspicion that crime is afoot."

The third level is when a person is, in fact, detained, which means that a "stop" has occurred. In order to make an official "stop," during which a citizen is not able to walk or exercise his/her right



Acting Supreme Court Justice Miriam Cyrulnik *Eagle file photos*

to be left alone, a police officer must "entertain reasonable suspicion that a particular person has committed, is committing, or is about to commit a felony or misdemeanor," says *Debour*.

An officer may frisk a suspect if the officer feels a threat of physical injury because the detainee might be armed. The fourth level of intrusion is the arrest itself. At this arresting level, the officer must have probable cause that the detainee has committed a crime or offense in his presence.

Even a bulge in the pocket is not enough to warrant a "stop" because it could be any object. A waistband bulge, on the other hand, is enough to warrant an official "stop" because it could be a gun; the touching of the waistband or waist area upon questioning could lead an officer to believe that the person possesses a weapon and lead to a frisk being performed. The only way a "stop" can be made due to a pocket bulge is if the shape of the bulge can be articulated and defined by the officer as a firearm.

Justice Ellen Spodek is Inn president. Other Inn leaders include President-elect Dave Chidekel, Counselor Justice Arthur Schack, Treasurer Justice Miriam Cyrulnik and Secretary Jon Besunder. The Inn was founded 13 years ago by Justice Marsha Steinhardt, retired Justices Gerard Rosenberg and Abraham Gerges, and former Justice Edward Rappaport, the Inn's president emeritus.

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PRO BONO BARRISTER is a weekly column dedicated to telling about the good that lawyers do. Send your comments or suggestions to this writer care of this newspaper or to COTEYESQ@aol.com.

Notice: Readers seeking legal representation on a Pro Bono Publico basis should not contact this columnist. Rather, they should seek out the Brooklyn Bar Association Volunteer Lawyers Project at 718-624-3894.