

Kings Columbians Start Fall Season With Evidence Expert Professor Farrell

The Kings County Columbian Lawyers Association will get an early start on its fall agenda Sept. 2 when members gather at the Rex Manor on 11th Avenue in Brooklyn to hear Professor **Richard Farrell** expatiate on a very timely and useful topic — Court of Appeals Decisions Update: Evidence and the CPLR.

Leading the Columbians this year is President **Bartholomew Russo**, aided by a talented team, composed of First Vice President **Rose Ann C. Branda**, Second Vice President **Dean Delianites**, Third Vice President **Linda Locascio**, Treasurer **Mark Longo**, Corresponding Secretary **Joseph Rosato** and Recording Secretary Hon. **Frank R. Seddio**.

Since the Columbians have a long and storied history here, they've opted for a true authority on the topic to serve as historian in the person of venerated trial lawyer **George Siracuse**. Chaplain is the highly respected Msgr. **David L. Cassato**. All are aided in their service by Executive Secretary **Lucinda DiSalvo**, court attorney to Justice **Ellen Spodek**.

The event features a delicious meal at the Rex Manor, starting at 6 p.m. Also on the "menu" will be appropriate Continuing Legal Credit recognition.

Kings County Inn of Court Sets Sept. 30 CLE Session

The Kings County Nathan R. Sobel Inn of Court will hold its first meeting Sept. 30, starting at 6 p.m., at Brooklyn Bar Headquarters, 123 Remsen St., we've been advised by Inn Administrator **Lucy DiSalvo**.

Leading the highly regarded legal organization — which is fashioned in the style of the ancient Inns of Court in London — is President **Dave Chidekel**, a well-known solo practitioner who has gained a reputation as one of the leading directors and actors in the Inn's courtroom reenactment dramas, which illustrate various points of law and various ways to avoid the perils of everyday practice.

Diligently at work preparing for the Inn's season premiere are the Inn's Group #1, headed by Judge **Theresa Ciccotto**, **Steve Goolnick** and **Mark Longo**. Also featured in the cast are **Michael Good**, **Brian Kiernan**, **Francis Malfa**, **Gus Mallas**, **Judy Mock**, **H.Q. Nyguen**, the Hon. **Martin Schneider**, **Steve Solomon** and **Victoria Wickman**.

For more than 800 years, the London Inns have served as social and educational centers for British barristers and the Kings Inn does the same, starting out with a gourmet buffet dinner, followed by an (often) inspiring presentation of particular interest to younger lawyers, many of



Bartholomew Russo, Columbian Lawyers Association president



Rose Ann C. Branda



Professor Richard Farrell



Dave Chidekel, Kings County Inn of Court president

whom have not officially appeared in a courtroom representing a client.

Other new Inn officers include President-Elect Justice **Arthur Schack**, Counselor Justice **Miriam Cyrulnik** and Treasurer **Jon Besunder**.

The Inn was founded almost 15 years ago by Justice **Marsha Steinhardt**, retired Justices **Gerard Rosenberg** and **Abraham Gerges** and former Justice **Edward Rappaport**, now the president emeritus. Among those serving as inn masters are Justice **Carl Landicino**, Judge **Joanne Quinones**, Hon. **Barry Kamins**, Appellate Division Justices **Cheryl Chambers** and **Sylvia Hinds-Radix**, Hon. **Gloria Cohen Aronin**, **Steve Harkavy** and **Steve Goolnick**.

Inn executive director is **Jeffrey Feldman**.

Porn-Distracted Trucker Kills Woman Driver, 'Graves' Defense Denied

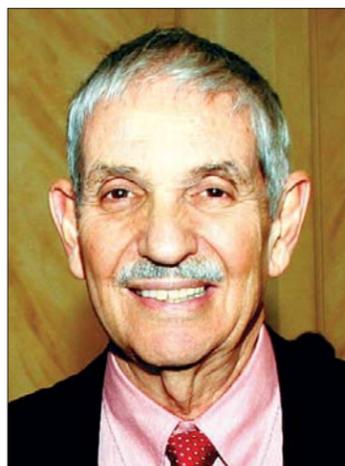
Though Professor Farrell will

probably limit his initial presentation to New York State rulings when he addresses the Kings Columbians, there will be more than a few barristers in the Columbian audience interested in a Federal Court decision by Western District Judge **Richard Arcara** that blasted a hole in the so-called "Graves" defense — a rule promulgated by Congress in an attempt to protect rental truck lessors from vicarious liability in motor vehicle accidents.

According to the NYLJ, the fatal drama began when decedent **Julie Stratton's** auto struck a deer on a highway near Pembroke, N.Y. and her car stalled on the spot. Then a rented truck, operated by **Thomas Wallace**, smashed into her car, killing her. Wallace — who was apparently distracted by watching porn at the time of the crash — was tried and found guilty of second-degree manslaughter and is serving a three-to-nine-year prison term.

Pro Bono Barrister

By *Charles F. Otey, Esq.*



Ret. Justice Gerard Rosenberg



Ret. Justice Abraham Gerges



Justice Arthur Schack



Justice Carl Landicino

The truck's owners successfully invoked the "Graves Amendment" when the matter was initially heard before a magistrate, who recommended a finding in their favor, stating that the owner was protected from vicarious liability under the federal rule.

Judge Arcara, sitting in Buffalo, flat out rejected the magistrate's recommendation and went into some detail, explaining how rental car companies had tried and failed to limit the liability of owners when the lessee's negligence had caused the accident.

Rental car lobbyists had fared poorly in their attempts, years back, to convince the legislature to repeal, or modify, Section 388 of the Vehicle 7 Traffic law, which specifies that an owner can be vicariously liable involving the rented vehicle.

As a result, they went to Washington, hoping that Congress members might be more amenable to doing their bidding. They were right. Their expensive lobbying efforts achieved, for them, a more satisfactory response and, in 2005, Congress enacted the "Graves Amendment," which, on its face, would overcome "388."

Ironically, the amendment was inserted into the "Safe, Accountable, Flexible, Efficient Transportation Act" and public servants in the legislative halls were indeed more "flexible" than their counterparts in Albany.

While the plaintiff's bar (and, secretly, some defendant barristers as well) welcomed Judge Arcara's decision, their joy was tempered by the fact that his decision did not do fatal

damage to "Graves."

As Judge Arcara said, "Run-of-the-mill Graves Amendment cases — where the vehicle owner and operator are related only by an arm's length contract — are generally simple."

He then drew a distinction, noting, "However, what differentiates this case from the ordinary Graves Amendment case is the fact that, here, the lessor and lessee are related by more than just a lease agreement; in this case, the lessor and lessees are owned by the same parent company [Great River Leasing]."

The federal jurist obliquely alluded to the aggravating factor that probably triggered the accident: the undisputed fact that driver Wallace had been watching pornography on his laptop just before he crashed into Stratton's vehicle. Judge Arcara noted that the Graves barrier applies when "the owner (or an affiliate) of the owner" is in the business of renting or leasing motor vehicles and there is "no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner)."

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Steve Harkavy



Justice Marsha Steinhardt



Edward Rappaport, Kings County Inn of Court president-emeritus