

# THE NEW YORK CRIMINAL BAR ASSOCIATION

An Affiliate of the National Association of Criminal Defense Lawyers



## *NYCBA Members Newsletter*

Vol. 2, No. 7

April, 2005

**W**elcome to the April 2005 issue of our Newsletter.

### **In Memoriam:**

We mourn the passing of Thomas J. Concannon (September 18, 1943-April 23, 2005), longtime Federal Defender. Our condolences to his family, friends and colleagues.

### **President's Message:**

As this is my first newsletter message to you as President, I would like to start by thanking Harvey Fishbein for his service as President from February 2003 to March 2005. I would also like to thank Scott Tulman, Past President from February 2001 to February 2003, for his work in the creation of the "NYCBA" Website which is so valuable in our daily practice and which enables us to communicate with each other by email. I also thank Scott for continuing as Chair of our Internet and Newsletter Committee. And, I thank Peter Schmidt, whose continuing work on our newsletter, on our Website and on his own *Punch and Jurists'* sites is so important to us. I also remind you that if you wish to receive the **free** email versions of the *Punch and Jurists'* weekly newsletter, which I highly recommend, you may sign up by clicking [here](#) and sending an email requesting that your name be added to that mailing list.

I congratulate the other new NYCBA officers: Mathew J. Mari, Vice President, Leonard J. Levenson, Secretary, and Michael K. Bachrach, Treasurer, on their

election on 3/28/05. Len and Michael deserve special thanks because it is their work in these time-consuming positions which keeps NYCBA going on a day-to-day basis. I also congratulate our three re-elected directors: Michael Joseph, Michele Maxian and Norman Reimer.

I would also like to thank the members of the Dinner Committee - Mat Mari, Genay Leitman, Len Levenson, Michael Bachrach, Neil Checkman, Nancy Ennis and Dan Hochheiser - for their continuing efforts to make our 6/1/05 annual dinner a most enjoyable and successful event.

As I noted in my inaugural remarks on 3/28/05 (full text will be available on our Website), there are many vital issues on which we can make a difference, especially if we work together. In my view, it is essential that we respond to the recent attacks on the judiciary by Congressional leaders and to what The New York Times called a "religious war" declared by Senate Majority Leader Bill Frist over the selection of federal judges. The National Association of Criminal Defense Lawyers and the Network of Bar Leaders recently adopted resolutions urging that this year's Law Day be an occasion for reaffirming the fundamental importance of the rule of law and respect for the independence and integrity of the judiciary. (Law Day is officially Sunday, May 1, but is observed at various ceremonies and gathering this week and next).

The next week or two are apparently the crucial time regarding the controversy in the Senate over certain judicial nominees and elimination of the cloture/filibuster rule (called the "nuclear option"). I urge you to let your elected representatives know how you feel about what is going on. Contact information is as follows:

White House Comment Line: (202) 456-1111, (fax) (202) 456-2461  
Senator Charles Schumer, (202) 224-6542, (fax) (202) 228-3027  
Senator Hilary Clinton: (202) 224-4451, (fax) 202) 228-0282  
House of Representatives: see pp. 153-156 of N.Y. Lawyers' Diary for list.

## Upcoming Events:

**Don't Forget.** The Annual Dinner for the New York Criminal Bar Association will be held at Tavern on the Green in Central Park on Wednesday evening, June 1, 2005. This year's event will feature two of the legendary figures from the New York criminal bar: **Larry Hochheiser** will be our Honoree - and **Murray Richman** will be our principal speaker.

So, send your payment now to Michael Bachrach, Treasurer (see below for Michael's address). Tickets are \$135 for Members and \$145 for guests. A table of

ten may be purchased for \$1,300.

## Annual Dues:

If you have not yet paid your New York Criminal Bar Association dues for 2005, which were due on Jan. 1, please make your payment today by sending your check or faxing your credit card authorization for \$100 to Michael Bachrach, Treasurer, 1735 York Ave., Ste. 35-C, New York, New York, tel. (212) 369-3900; fax (212) 369-4516; email [mbach2000@yahoo.com](mailto:mbach2000@yahoo.com)

## Richard Ware Levitt's Criminal Law Update:

We are pleased to announce that the entire "2004 Case Supplement" for Richard Ware Levitt's annual summary of Recent Developments in the Second Circuit has now been posted online. All paid Members of the NYBCA can access that compendium by going to <http://www.fedcrimlaw.com/members/cgi-bin/LevittSearch/>, where you can search all of his case summaries going back to January 1, 1988 - either by using plain-English key words, or by clicking on the topics and subtopics from the drop-down list that is provided. We remind you that the online version of Mr. Levitt's incomparable survey of Criminal Law in the Second Circuit includes the full text of every decision since January 1, 1995.

## U.S. v. Booker Update:

For those interested in following the latest *Booker* developments we continue to recommend the special *Booker* Resource Center on the Internet maintained by *Punch and Jurists* at <http://www.ussguide.com/members/BulletinBoard/Booker/index.cfm/> and Professor Douglas Berman's [Sentencing Law and Policy](http://www.sclm.com/) site on the Internet. Although the *P&J* site requires a Username and a Password, all members of the NYCBA have free and full access privileges to it simply by using the same access codes they use to login to the NYCBA's Website at [www.nycrimbar.org](http://www.nycrimbar.org). Professor Berman's site is also free.

We also highly recommend Yuanchung Lee's timely and detailed summaries of the latest *Booker* decisions from the Second Circuit on the [Second Circuit Blog](http://www.nycrimbar.org/secondcircuitblog/). See, for example, his analysis of the Second Circuit's ruling in [U.S. v. Fagans, No. 04-4845-cr \(2nd Cir. April 27, 2005\)](http://www.nycrimbar.org/secondcircuitblog/2005/04/27/4845-cr-2nd-cir-april-27-2005/), where the Court held that a preserved *Blakely*/*Booker* error warrants resentencing (and not merely a *Crosby* remand).

## NYCBA Web Site Features:

Each month, we try to point out some of the latest resources that we have posted on our Website at [www.nycrimbar.org/](http://www.nycrimbar.org/). In keeping with that tradition, we note the following items:

- We remind our readers that the [\*\*New York State Web Crims Case Information Service\*\*](#) now provides both **case searches** and **court calendars** for criminal cases in 13 downstate counties in New York - namely, the five boroughs in New York City (Bronx, New York, Queens, Kings and Richmond), plus the following eight counties: Dutchess, Erie, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

For the case search all you need is the docket name, or a portion of the Defendant's name. You'll get a full description of the charges, as well as a listing of the currently-scheduled court appearances. You can also sign up for e-mail notification of the court appearance up to 4 weeks in advance. We have posted the link to that site in several places on our Website, including under the [\*\*Legal Research - NYS Decisions\*\*](#) button.

- We have recently posted under the [\*\*Briefs & Motions - Legal Memoranda\*\*](#) button the following items:

[\*"The Complete Search Warrant, Annotated - November 2004,"\*](#) a 164-page manual written by Albert M. Rosenblatt for the New York State Unified Court System; and

[\*"Eyewitness Identification Evidence: Science and Reform,"\*](#) by Gary L. Wells, The Champion Magazine, April, 2005; and

[\*"Jailhouse Informants: Is it Time for Judicial Regulation?,"\*](#) by Prof. Abraham Abramovsky, Fordham University School of Law, as published in the New York Law Journal, March 4, 2005.

In addition, following up on our recent coverage of the new amendments to the Rockefeller Drug Laws, we call to your attention the following article: [\*"New Drug Law Legislation and Sentencing,"\*](#) by Joel M. Goldberg and Ernest M. Hambrook, which was published in the New York Law Journal on April 21, 2005.

## New on the Web and in the Media

[Google](#) continues to add new services and features that can help even the novice find answers quickly - many of which are listed on the [Google Help Center](#). For example, [Google](#) has been providing definitions of words for some time (just type in **define:[word]**) to get definitions of the word from other web sites). Now you can also get words in other languages, because [Google Definitions](#) has gone multilingual.

Another neat and easy-to-use site for definitions is [Answers.com](#) which started the whole trend towards 1-click searching for definitions (and is rumored to be affiliated with Google.)

[Google](#) also has added a [U.S. street address and phone number lookup](#) that is faster and more accurate than most of the best-known telephone search services that are available on the Internet.

And last, but by no means least, [Google](#) has recently added a couple of new mapping tools. [Google](#) has long had a powerful [map making tool](#); but it has recently added two great new features - one called [Google Maps](#) and the other called [myGmaps](#). [Google Maps](#) lets you create a map or find directions to a designated address - either in regular map format **or in satellite image view!!** Both come with a zoom tool that lets you focus in on a site in astonishing detail. Simply type in an address or a zip code or a name of the location. [MyGmaps](#) allows you to create - and save on the Internet - up to ten maps with ten marked locations on each - and it is really a fun tool.

## The NYCBA Bulletin Board:

The "Bulletin Board" feature of the NYCBA Website is an excellent way for NYCBA members to exchange information about the latest developments regarding legal issues of interest. A member can post letter submissions, and write memos about oral arguments and judges' reactions and rulings. Formal motions and briefs can also be posted. To post an item, just go to the ["Bulletin Board"](#) section of the Website, click on "new message", select an existing subject (such as "*Booker*") or, if there is no existing subject for your topic, create a new descriptive subject, then fill in your name, etc., as directed, and type in your message or "copy and paste" your posting from your word processing program.

## Comments and Newsletter Contributions Welcome

Comments on this and future issues of this Newsletter are most welcome, as are your own stories about cases, issues, arguments, events. etc. - whether just a sentence or a paragraph to alert us to a recent development, or a longer piece. Please send your material to Scott Tulman, Chair of the Internet and Newsletter Committee at Tel.: (212) 867-3600 or email: [stulman@aol.com](mailto:stulman@aol.com) - or send your comments by email directly to our committee at: [nycrimbar@nyc.rr.com](mailto:nycrimbar@nyc.rr.com).

Yours for a better defense,

Henry J. Steinglass  
President

---

### Internet and Newsletter Committee:

Scott Tulman, Chair  
Harvey Fishbein  
Michael K. Bachrach  
Peter G. Schmidt