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# GOLD Group Continues to Shine

By Melinda R. Saran '86

**H**ave you ever done a bankruptcy? What should you do when you go to justice court? Can you give me copies of your forms?

Once again the Law Alumni Association's **GOLD** (Graduates Of the Last Decade) Group helped 100 new practitioners and law students answer these questions at the second annual **GOLD** Links to Practice Seminar. This "nuts and bolts" program was held at the Center For Tomorrow on Saturday, March 12.

**William F. Savino '75**, partner in the Buffalo law firm of Damon & Morey, spoke on the topic of representing the debtor in Chapter 7 and Chapter 13 bankruptcies. The purposes of the bankruptcy law are to afford the debtor a fresh start, rehabilitate the debtor or his business, and treat his creditors equally, he said. He then explained the various chapters of the bankruptcy law and their coverage.

"Don't do this without malpractice insurance," Savino admonished the new practitioners, as this area of practice involves a multitude of details. Mistakes — such as forgetting an exemption — are objective, making for an easy malpractice case.

Savino described the various provisions of Chapter 7 and Chapter 13, including the exemptions. He noted that Chapter 13 bankruptcies — to rehabilitate the debt of a husband and wife — are common in Western New York, but not in New York City, where Chapter 7 liquidation of assets is most common. He named the local bank-

ruptcy judges and the methods of filing. Savino told the audience that you can protect a client from imminent foreclosure by walking into Bankruptcy Court, finding a bankruptcy judge, and handing him the bare petition with a filing fee. Savino admitted that although protected, your client would probably be harassed, and he reminded the unseasoned practitioners to have the petition time stamped before leaving the court.

Discussing the role of the Chapter 7 trustee, Savino said that the trustee wants to raise money, not sell assets.

The trustee may appraise assets to determine if there is any value to raise money.

"The trustee has title during the case," Savino explained, "so if you want to sell the house, some trustees will make you file a motion to abandon, while others will require that you pay the trustee to give you the title." The Chapter 13 trustee administers payment to creditors over three to five years.

**Town of Tonawanda Justice Christopher J. Burns '79** spoke next on practice in town, city, and village



Douglas W. Dimitroff '89

courts in Western New York. According to Judge Burns, 40 town and village courts are located in Western New York. Judges may be attorneys or non-attorneys. City courts have a higher monetary limit than town courts for small and civil claims. On the criminal side, these courts handle crimes which are classified as misdemeanors or below.

"Never abuse a court clerk," warned Judge Burns. "Judges rely heavily on their clerks. Clerks keep things moving and keep the court schedule. All contacts and requests go through the court clerk."

He also stressed the importance of developing a good reputation and good relations with the judges, clerks, prosecutors and all fellow attorneys. "The new practitioner must learn to adjust to a wide range of personalities, intellect and knowledge of the law," he said.

Judge Burns then provided strategies for handling criminal matters and negotiating plea deals. He explained that the assistant district attorneys have plea policies which they must abide by in negotiating with defense attorneys. He also told the audience that it is "better to start sentences with 'My client says, my client tells me,' so it's not your mistake or you who's hiding something — like a long rap sheet."

He said that "you can promise your client your best effort and best results under the circumstances" rather than merely the best result. It is essential, he advised, that an attorney tell a client who decides to plead guilty what the maximum possible sentence will be and to make sure a client understands the ramifications of this plea. He concluded by noting that the attorney should prepare the client for court, including what the judge will say and ask, and what is expected of the client.

The final speaker was **Paula M. Eade Newcomb**, a litigation associate with the Western New York law firm of Hurwitz and Fine and chair of the GOLD group for 1993-1994. Eade dis-

cussed how to commence a personal injury action, including strategies for assessing the merits of a case. She described methods for reviewing records, including police and accident reports, maintenance, road and signal inspection, and medical records.

"Never tell the client what the case is worth," Eade cautioned. "As you learn the facts, you may change your mind on what it's worth." Tell the client the strengths and weaknesses of the case, and stress the weaknesses, Eade continued.

Eade noted the importance of explaining your fee and making clear that the client will have to pay the disbursements, including fees for medical records and possibly an investigator.

Once you retain a case you must file with the Office of Court Administration, Eade stated. "If you don't know the information to complete the form, you are not ready to

retain the case."

If you decide not to accept the case, she cautioned, "send a non-engagement letter detailing the statute of limitations."

"Know what your client's insurance policy says as well as the other side's. See if your client has underinsurance," Eade said. "It may help you negotiating with the defense attorney because you may need the full amount of the respondent's insurance to get to the plaintiff's underinsurance."

She then explained the procedures involved in the investigation, discovery and negotiation of a personal injury case. Eade concluded by stating how important it is to know what the client wants. ■

*Melinda R. Saran is a clinical instructor in the Law School and was Education Chairperson for the GOLD Group in 1993-94.*

## ***New Lawyers to Get Briefings***

*The Bar Association of Erie County has designed a program to ease the transition from law school to practice for new attorneys. The Task Force on Newly Admitted Attorneys will present a three day program on March 16, 17 and 18, 1995, for a registration fee of \$25.*

*The first day of the program, held at Statler Towers in Buffalo, will highlight issues of professionalism. New York Supreme Court Chief Judge Judith S. Kaye is scheduled to appear, along with representatives from Western New York legal organizations. The day will conclude with a cocktail reception for the attendees and local judges.*

*The second and third days of the program will take place at UB Law School. Featured on the second day will be a "nuts and bolts" introduction to establishing a practice, including purchasing equipment, hiring support staff, advertising, and maintaining a client base. The third day will focus on substantive law areas new attorneys frequently encounter such as real property, matrimonial and family, bankruptcy and criminal law, as well as practice in Surrogate's Court and justice courts. All presenters will be local attorneys who are active in the legal community.*

*Sponsors include the Erie County Bar Foundation, UB Law Alumni Association's GOLD Group, and Lawyer's Cooperative Publishing. For more information, contact the Bar Association at (716) 852-8687. ■*