

THE SARATOGA COUNTY BAR ASSOCIATION

P.O. Box 994
Saratoga Springs, New York 12866
(518) 587-5829
pclute@saratogacountybar.org
Patricia L. Clute, Executive
Coordinator
www.saratogacountybar.org

Volume 2, Issue 2

February 2008



SCBA Officers

- Karl J. Sleight, President
- James S. Cox, Vice President
- John M. Hogan, Treasurer
- Marne L. Onderdonk, Secretary
- William F. Reynolds,
Immediate Past President

Inside this issue:

- How to Safeguard Your Power of Attorney from Your Agent
By Susan A. Fitzpatrick, Esq. 2
- YLC First Annual Ski Night 4
- Announcements 5



Saratoga County Bar Association Law Notes

Serving the Interests of Justice

Recent Decisions of Interest in New York Criminal Case - January 2008

By: George P. Conway, Esq.

People v. Perez, __ AD3d __, [4th Dept. 0 1/09/08]:

The Appellate Division, Fourth Judicial Department, reversed a defendant's conviction of two counts of assault 2nd, one count of resisting arrest and one count of obstructing governmental administration arising out of an altercation with police on the grounds that the initial arrest for criminal impersonation was illegal.

People v. Rosa, __ AD3d __, [3rd Dept. 01/10/08]

The Appellate Division, Third Judicial Department, affirmed a Sandoval ruling allowing a prosecutor in a burglary case to inquire whether the defendant had been convicted of a felony in 1978, had his parole revoked seven times, and was convicted

of criminal trespass in 1997 over the defendant's objections that the convictions were too remote in time on the grounds that incarceration can toll periods of time when assessing remoteness.

People v. Balram, __AD3d __, [3rd Dept. 01/10/08]

The Appellate Division, Third Judicial Department, affirmed the denial of a motion to suppress a written statement made by the defendant who was hospitalized at the time the statement was taken for a self inflict facial gunshot wound and who had been given morphine amongst other drugs sometime prior to the police interview on the grounds that neither the defendant's physical

condition nor the circumstances of the interview rendered it involuntary and the People proved voluntariness beyond a reasonable doubt.

People v. Shemesh, __ AD3d __, [1st Dept 01/15/08]

In 3-2 decision, the Appellate Division, First Judicial Department, affirmed an order granting defendant's motion to dismiss the indictment, with leave to represent, on the grounds that the People failed to offer the defendant a reasonable or meaningful opportunity to testify before the grand jury by insisting the defendant testify on a date that conflicted with his professed religious observance of Passover.

Continued on page 6

Torts and Civil Practice Update : Selected Cases

By: Timothy Higgins, Esq.

"Prompt" payment after settlement means just that

Leipold v. Arnot Ogden Medical Center (Rose, J., 12/27/07)

The parents of a brain-injured infant agreed to settle their malpractice claim for \$5.3 million, the particulars of which were stipulated to on the record by counsel and approved by Su-

preme Court (Mulvey, J., Chemung Co.). A written "global agreement", release and stipulation of settlement were sent to defense counsel accompanied by a demand for prompt payment (within 21 days) as required by CPLR 5003-a(a). When payment was not made within the 21 days, plaintiffs applied for interest, costs and disburse-

ments allowed for in CPLR 5003-a(f). Supreme Court denied the request, but the Third Department reversed, noting that the 21-day clock for payment begins to tick upon defendant's receipt of the settlement documents, and that the 5-day extension afforded by CPLR 2103(b) (2) does not apply in this circumstance.

Continued on page 3



How To Safeguard Your Power of Attorney From Your Agent

By Susan A. Fitzpatrick, Esq.

The late, great, New York altruistic socialite, Brooke Astor, was described posthumously by Mr. Gregory Vartan as “She’s a teacher; she teaches by example, by analogy.” With the indictment of her son, Anthony Marshall and her former attorney, Francis X. Morrissey, Jr., this description certainly fits. Mrs. Astor teaches us by example what safeguards to consider including in a durable power of attorney in an effort to prevent fraud and abuse by the nominated agent and to prevent being the subject of a guardianship procedure.

Brooke Astor married into millions when she married her third husband, Vincent Astor. After five years of marriage, Mrs. Astor was left a widow. From his estate, Mrs. Astor inherited approximately \$60 million and an additional \$60 million was placed into a foundation for her to run ‘to help alleviate human suffering’. That she did. Mrs. Astor was generous and benevolent and kind. Many New York City libraries, parks, schools, shelters and institutions benefited from the Astor family fortune.

However, the kindness that Mrs. Astor bestowed on her beloved city was not always returned to her. Her unfortunate circumstances were revealed through the front pages of the Daily News and The New York Post. Her grandson, Philip Marshall, initiated a lawsuit against Anthony Marshall, his father, and Brooke Astor’s only son, accusing him of elder abuse. Anthony Marshall was taking care of his mother and was the appointed agent under her power of attorney. To make a bad situation worse, the Manhattan District Attorneys office investigated and held hearings and the grand jury generated an indictment for Anthony D. Marshall, 83 and an 18-count indictment of former Astor attorney, Francis X. Morrissey Jr., (Morrissey was disbarred for mishandling another client’s estate.) Mr. Morrissey was indicted on charges of forgery, criminal possession of a forged instrument, scheme to defraud and conspiracy. Allegations of a forged codicil abound.

A son selling off his mother’s artwork, liquidating her assets and using

the proceeds for his own benefit, transferring deeds, maintaining mom in squalid living conditions, etc. (It should be noted that the initial issue of elder abuse was later found by a judge to be unfounded.) These are the accusations and allegations that sell newspapers and make for a Sunday night movie, not the last chapter of a Brooke Astor’s life. This scenario begs the question, what else could she have done to protect herself and the integrity of her wishes.

When we execute our estate planning documents we believe, or at the very least hope that we have made the right choices. So, how do we protect ourselves from our trusted agent? Can we put the equivalent of an *in terrorem* clause in all our documents in an effort to guide our agents to act selflessly? Probably not, but there are several safeguard measures that can be added to the Durable Power of Attorney to prevent and limit fraud and abuse by your agent.

The phrase, ‘There is safety in numbers’ has a place in our discussion. To avoid wrongdoing by an independent agent, you can appoint more than one agent. Co-Agents who must act together and who must countersign checks and other transfer documents is an automatic system of checks and balances. The NY GOL §5-1501 statutory short form power of attorney provides a very clear ‘initial the box’ choice for whether you want agents to act separately or jointly. By appointing two agents and indicating that they must act together on all matters, neither agent can act alone. They must act in agreement to accomplish everything and they must also communicate with each other.

An alternative to multiple agents, is to consider the use of a Protector in your planning. A Protector is an individual or an entity who has the ability to remove an agent. Potentially, the Protector may also be able to nominate a replacement agent, depending on the authorized powers under the terms of the document. The basis for removal can be in the sole discretion of the Protector or you can tailor the removal triggers to specific events that would prompt cause for removal. By nominating a Protector, you provide

supervision over and accountability of the agent by a trusted individual when you are no longer in a position to do so for yourself. The Protector does not have any other authority to act under your power of attorney.

Very often abuse and exploitation remain undetected for so long because accesses to the account statements are limited. Trying to obtain duplicate statements from investment firms without the account holder or an authorized representative is practically impossible. Once you have nominated your agent, you can also set up your financial accounts so that duplicate statements are delivered to your financial advisor, accountant, attorney and/or protector. This provides an additional set of checks and balances. Self-serving, improper and unusual account activity can be exposed quickly in monthly statements. The knowledge that someone else has access to the account statements may be enough to keep an agent on the right path.

One further measure is to have the nominated agent execute a document indicating that they will act in the best interest of their loved one. Although this document is mainly for pomp and circumstance, is non-binding and has no legal effect, it often has the desired effect of reinforcing the elevated level of care and integrity that is expected of the agent.

While one cannot prevent all the wrongs and misdeeds of others, one can certainly try. By nominating more than one agent, an independent Protector, or at the very least, providing duplicate statements to trusted advisors, one can try to persuade their agent to walk the line.

To finish the tale of Mrs. Astor, pursuant to the guardianship proceeding, a long-time friend, Annette de la Renta and JP Morgan Chase were appointed as her guardians. Unfortunately, Mrs. Astor passed away at the age of 105 in August. Will contest papers were filed with the Westchester County Surrogates Court shortly thereafter by the New York Metropolitan Museum of Art and the New York Public Library. However, probate proceedings have been put on hold until May 2008, pending the result of the criminal charges faced by Anthony Marshall.

TORTS AND CIVIL PRACTICE, *continued from front page*

Auto accident cases

• *Emergency doctrine*

Quinones v. Community Action Commission (Kane, J., 12/27/07)

Plaintiff and her daughter were passengers in a van that collided with another car. The van driver moved for summary judgment contending she was not at fault because the other driver created an emergency situation when she veered into the opposite lane, making it impossible for the defendant to avoid the crash. Supreme Court (Meddaugh, J., Sullivan Co.) and the Third Department found summary judgment improper given “divergent factual situations” described by the defendant and the plaintiff mother, who among other things, testified that the defendant was exceeding the speed limit, talking on her cell phone and did not apply the brakes prior to impact.

• *Left turn across lane of oncoming traffic*

Lohraseb v. Miranda (Kane, J., 12/27/07)

Plaintiff and defendant are sisters who were in a van being driven through Virginia on the way home from a family vacation. The van was hit by another vehicle while the defendant was making a left turn at an intersection controlled by a traffic light. Plaintiff’s motion for summary judgment on liability was granted by Supreme Court (Kramer, J., Schenectady Co.) and affirmed on appeal. Defendant was ticketed after the crash and pleaded guilty to failure to yield the right of way. The guilty plea is “some evidence of negligence” but was compelling proof on the motion

when defendant failed to offer any explanation for the plea (such as the convenience of entering a plea instead of traveling out of state to contest the ticket).

• *No duty owed to third party*

Moran v. City of Schenectady (Spain, J., 1/3/08)

A car-pedestrian accident in Schenectady resulted in suit which included as defendants two engineering and construction companies that had worked on a plan to renovate the traffic signal system in the area where the plaintiff was injured while trying to cross State Street. Supreme Court (Kramer, J., Schenectady Co.) granted those defendants summary judgment on the theory they owed no duty to the plaintiff. The Third Department affirmed finding no proof that the claim met one of the three exceptions to the general rule that a breach of a contractual obligation does not, by itself, “impose tort liability to noncontracting third parties upon the promisor”.

Labor Law §240(1): dissenting justices

Stringer v. Musachia (Mercure, J., 12/27/07)

Plaintiff, a self-employed contractor, was injured when he fell from a ladder while building a shed on the defendant’s property. Supreme Court (Ceresia, J., Greene Co.) granted his cross-motion for summary judgment on liability under Labor Law §240(1), rejecting the defense argument that plaintiff acted an unpaid volunteer and therefore was not an “employee” entitled to the protections of the statute. A divided (3-2) Appellate Division reversed and dismissed the

plaintiff’s complaint in its entirety. Plaintiff conceded at deposition that he agreed to build the shed in exchange for an invitation to join in a hunting trip held annually on defendant’s property, that he paid his own travel expenses on the trip and that he neither expected nor received payment for the construction work. That, said the majority, made plaintiff a “volunteer” under no obligation to complete the shed, which brought his efforts outside the protections of §240 (1).

Favreau v. Barnett & Barnett, LLC (Carpinello, J., 1/3/08)

Plaintiff (assisted by a co-worker) was walking backwards up a roof carrying a piece of sheetrock. A few feet before reaching the peak of the roof he stepped on ice and fell, but did not fall off the roof or slide downward. Supreme Court (McGill, J., Clinton Co.) denied defendant’s request to dismiss the §240(1) cause of action, but the Third Department reversed, again by a 3-2 majority, concluding that “plaintiff’s alleged injury did not flow from the application of the force of gravity” and that his fall on ice was not due to an elevation differential and “could have happened at ground level”.

Legal malpractice claim dismissed as untimely

Chicago Title v. Mazula (Peters, J., 1/3/08)

The third-party defendant was an attorney retained in an estate matter by a woman who owned property with her

late husband as tenants by the entirety. The lawyer represented the widow in the sale of the property, after which problems with the deeds affecting title resulted in suit by the purchaser against the widow, who brought a third-party claim against the attorney. Supreme Court (Dawson, J., Clinton Co.) granted the lawyer’s motion for summary judgment finding that the third-party claim was not timely commenced (3-year SOL; CPLR 214(6)). The Third Department agreed with the trial court that the “continuous representation” toll did not apply, as the services rendered by the lawyer in 2004 and 2005 were for estate work and not for the widow individually.

Burial, disinterment and summary judgment

Estate of LaMore v. Sumner (Rose, J., 12/27/07)

Plaintiff, the son of decedent LaMore, sued individually and on behalf of the estate of his father, seeking money damages for emotional distress and permission to remove decedent’s remains to New Hampshire (where plaintiff lives). Based on the mistaken belief

Timothy Higgins, Esq.

Power & Santola, LLP
39 North Pearl Street
Albany, New York 12207
(518) 465-5995
thiggins@powers-santola.com



THE SARATOGA COUNTY BAR ASSOCIATION

P.O. Box 994

Saratoga Springs, New York 12866

(518) 587-5829

pclute@saratogacountybar.org

Patricia L. Clute, Executive Coordinator

www.saratogacountybar.org

Editorial Staff

M. Elizabeth Coreno, Esq.

Jones Ferradino

68 West Avenue

Saratoga Springs, NY 12866

(518) 587-0080

mcoreno@saratogalaw.com

James A. Fauci, Esq.

Kupferman & Fauci

30 Remsen Street

Ballston Spa, NY 12020

(518) 885-5011

spalaw@nycap.rr.com

Laura M. Hoffman, Esq.

Burke & Casserly, P.C.

255 Washington Ave. Ext.

Albany, NY 12866

(518) 452-1961

lhoffman@burkercasserly.com

*please contact the editorial staff submit an item of interest



WE'RE ON THE WEB
WWW.

SARATOGACOUNTYBAR.ORG

MECHANICVILLE John Serbalik, 84, of West St., Riverside, died Wednesday morning, December 26, 2007 at St. Mary's Hospital, Troy, after being stricken at home.

A native and lifelong resident of the Riverside section, he was born April 16, 1923, son of the late Ignatz and Theodosia Washenko Serbalik. He was a graduate of the Mechanicville High School class of 1940. He entered the U.S. Army Air Corps during World War II, and served with the 483rd Bombardment Group of the 15th Air Corps, serving in Italy as a bomb loader.

After the war, John returned home and under the G.I. Bill, received his undergraduate studies at Siena College and his law degree from Albany Law School.

An attorney all his professional life, he led the Serbalik and Serbalik Law firm of Mechanicville for many years. In addition, John, along with partners, owned and operated the former Bus Terminal, Val's News Room, and Riverside Grocery, all of Mechanicville and the Coffee Shop of Stillwater. He

and family also owned and operated the former Bowlero Lanes in Mechanicville for a number of years.

A charter member of the Riverside Fire Department, a former point guard for the championship Mechanicville Blue Streaks semi-pro basketball teams, John also was a longtime member of the Frog Island Golf League, and had bowled each week, right through the holiday season. John was a member of the Saratoga County Bar Assoc., and St. Nicholas Russian Orthodox Church in Cohoes. John accompanied his wife and many family members to trips around the world, but he was most proud of shooting the Grand Canyon's Colorado River rapids twice.

Survivors include his wife of 61 years, Leona McBride Serbalik, whom he married November 14, 1946; his children, John and Vicki Serbalik Jr., Dr. Judy and Dr. Vincent Fuschino, all of Clifton Park, Janice and Mark Bergeron of Wilmington, N.C., James and Sandy Serbalik of Clifton Park, Jeff and Donna

Serbalik of Mechanicville and Joyce and Ken Choi of Niskayuna; 27 grand and 12 great-grandchildren; sisters, Julia Amodeo and Dora and Donald Daley; and lifelong friends, Dominick and Mary Funaro, all of Mechanicville; along with many nieces and nephews. John was predeceased by his brother, Vladimir Serbalik and sisters, Anna Shakow and Olga Shevchik.

A funeral Mass will be celebrated on Saturday at 10 a.m. at St. Nicholas Russian Orthodox Church, Saratoga Ave., Cohoes. Burial with military honors at 9 a.m. Monday in the Saratoga National Cemetery. Calling hours at the Assumption-St. Paul William Street Church in Mechanicville on Friday from 4-8 p.m. In lieu of flowers, remembrances may be made to either St. Peter's Hospital Cardiac and Vascular Center, 319 S. Manning Blvd., Albany, NY 12208 or St. Nicholas Church, Cohoes. Arrangements by the DeVito-Salvadore Funeral Home, Mechanicville.

YLC First Annual Ski Night



SARATOGA COUNTY BAR ASSOCIATION

General Membership Event

Sponsored by the Young Lawyers Committee

FIRST ANNUAL SKI NIGHT

LOCATION: West Mountain Ski Resort

59 West Mountain Road

Glens Falls, New York

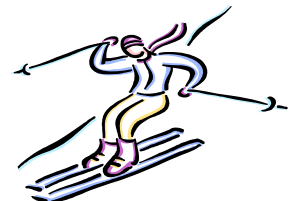
(Exit 18)

DATE: February 25, 2008

TIME: 5:00p.m. to 9:00 p.m.

COST: \$15 per person

Please RSVP to Patty Clute
pclute@saratogacountybar.org
OPEN TO ALL MEMBERS



Announcements . . .**THE SARATOGA COUNTY BAR
ASSOCIATION**

P.O. Box 994

Saratoga Springs, New York
12866

(518) 587-5829

pclute@saratogacountybar.org

Patricia L. Clute, Executive
Coordinator

www.saratogacountybar.org

**SCBA 2007-2008
Executive Board**

Joseph C. Berger
 Brian H. Breedlove
 Hon. Loren N. Brown
 Matthew L. Chivers
 James S. Cox
 Kimberly A. Crocetta
 Ann C. Crowell*
 Karen E.S. D'Andrea
 James H. Densmore
 Hon. James E. D. Doern*
 Hon. Robert F. Doran
 Stephanie W. Ferradino*
 Hon. Stephen Ferradino
 Hon. A. Rita C. Glavin*
 Karen A. Heggen*
 John M. Hogan, III
 Kyle N. Kordich
 Matthew H. Mc Namara
 James A. Murphy, III*
 Hon. Thomas D. Nolan, Jr.
 Marne Onderdonk
 Paul Pelagalli*
 William F. Reynolds*
 Mark M. Rider*
 Hon. Harry W. Seibert, Jr.
 Cynthia L. Schrock
 Peter C. Sipperly
 Karl J. Sleight
 Neil S. Weiner
 Richard J. Zahnleuter

State Bar Delegates

Mark M. Rider*
 Brian H. Breedlove

*Past President of the Bar

Make a Note:

The Saratoga County office of **McNamee, Lochner, Titus, & Williams, P.C.** is now located at

646 Plank Road, Suite 206
 Clifton Park, New York 12065
 (518) 383-9200
 (518) 426-4260 facsimile

Please change your contact information for Richard D. Cirincione to:
 646 Plank Road, Suite 206
 Clifton Park, New York 12065
 cirin@mltw.com
 (518) 447-3389 direct line
 (518) 426-4260 facsimile

Elena Jaffe Tastensen's new e-mail address is ejt@ejtlaw.com

Other contact info remains the same:
 Law Office of Elena Jaffe Tastensen
 358 Broadway, Suite 206,
 Saratoga Springs, New York 12866
 Phone: (518) 587-4419
 Fax (518) 587-1262

Delain Law Office (Nancy Baum Delain) and Liebert Law Office (Glenn B. Liebert) have merged and are known as:

DELAIN & LIEBERT, PLLC

Delain & Liebert, PLLC concentrates in Intellectual Property Law, Business Law, Consumer Protection Law and Personal Bankruptcy Law

Contact Information:
 400 Clifton Corporate Parkway, Suite 470,
 Clifton Park, NY 12065
 Phone: 371-4599
 Fax: 874-5086
 www.ipattorneyfirm.com

Teresa G. Donnellan, Esq., has invited Amy J. Knussman, Esq., to become a partner in her law firm, which will now be known as

Donnellan & Knussman PLLC

Christopher J. Torelli, Esq., and Belinda Munday, Esq., have joined Donnellan & Knussman PLLC as Associate Attorneys.

Albany County Bar Association Elects New Officers and Board

Patrick J. Higgins has been elected as President of the Albany County Bar Association. Mr. Higgins graduated from the University of Buffalo in 1984 and was admitted to the Bar in 1985. Mr. Higgins is a partner at Powers & Santola, LLP in Albany NY where he limits his practice to representing the catastrophically injured and their families. He also practices environmental law. Mr. Higgins is Board Certified by the National Board of Trial Advocacy in Trial Practice, and a graduate of the National Institute of Trial Attorneys' ("NITA") Master Advocate Program. In 2007, Mr. Higgins was selected as the editor in chief of the New York State Bar Association Treatise "The Plaintiff's Personal Injury Action." He was also named as a "Superlawyer" by his peers. In 2007 Mr. Higgins ran the Albany County Bar Association Bike Safety Day that distributed over 160 helmets without charge to area children.

In addition, David P. Miranda with Heslin, Rothenberg, Farley & Mesiti has been elected President-Elect; Elena DeFio Kean with the firm of Towne, Bartkowski & DeFio Kean has been elected Vice President; Edward B. Flink with the firm of Flink, Smith & Associates has become the Treasurer; and Glen P. Doherty, with the firm of McNamee, Lochner, Titus & Williams, is now the Secretary.

Serving on the Board of Directors for three-year terms are Margaret C. Tabak, with the Law Offices of Margaret C. Tabak and Janet M. Silver with the firm of Hinman Straub, P.C.. Continuing to serve on the Board of Directors are: Phillip G. Steck with Cooper, Erving, Savage; Robert T. Schofield with Whiteman, Osterman & Hanna; and, Gaspar M. Castillo with the Law Offices of Castillo and Associates. Michael J. Hutter was elected to serve as Chair of the Committee on Admissions.

WE'RE ON THE WEB
 WWW.

SARATOGACOUNTYBAR.ORG

TORTS AND CIVIL PRACTICE, continued from page 3

there was no room left in the family burial plot in Granville, decedent was interred in a different plot in the same cemetery. After learning of the mistake, the burial vault was then disinterred and reinterred in the family plot. The burial arrangements were made by decedent's sister and a local funeral director, both

of whom were named as defendants. Affirming summary judgment to the defendants in Supreme Court (Krogmann, J., Washington Co.), the Third Department noted that New York does not recognize a cause of action for wrongful disinterment, and that there was no evidence substantiating a claimed violation of the common-law

right of sepulcher, which assures the next of kin's right to have immediate possession of a body for preservation and burial. Removal of decedent's remains to New Hampshire for burial was permitted, but plaintiff's application to have the expense of same charged to defendants failed.

Recent Decisions of Interest in New York Criminal Case

Continued from front page

People v. Walker

___AD3d___ [2nd Dept. 01/15/08]

The Appellate Division, Second Judicial Department, affirmed an order designating the defendant a level three sex offender- despite a recommendation by the Board of Examiners of Sex Offenders for a downward departure from level three to level two - on the grounds that the court was not bound by the Board of Examiners of Sex Offenders' recommendation and in the exercise of its discretion, was entitled to depart from that recommendation and determine the defendant's risk level based on the record before it.

People v. Jean-Pierre, ___

AD3d___ [1st Dept. 01/10/08] The Appellate Division, First Judicial Department, vacated an order suppressing marijuana found on the center console of a car pulled over by police who mistakenly believed that a "03" sticker on the upper right corner of the license plate signified that the out-of-state registration had expired in 2003 on the grounds that a stop based upon a mistake of fact -rather a mistake of law- can be used to justify a search and seizure. The officer was correct that

New York law requires vehicles owned by non residents to be validly registered in their home states but was mistaken about what the "03" signified.

People V. Thompson

___AD3d___ [2nd Dept. 01/08/08] The Appellate Division, Second Judicial Department, vacated a plea of guilty to attempted robbery in the first degree on the grounds that the plea was prevented from being made knowingly, voluntarily, and intelligently by the court's failure to advise the defendant that his sentence would include a mandatory period of post release supervision.

People v. Matyszewski, ___

AD3d___ [2nd Dept. 01/08/08] The Appellate Division, Second Judicial Department, affirmed a decision to preclude defendant's "911" call from being admitted into evidence based upon the hearsay rule. The defendant made his exculpatory statements to the 911 operator after he had time to reflect and possibly fabricate a story. Thus, his statements could not be considered an exited utterance or present sense impression.

People v. Guy, ___ AD3d___

[2nd Dept. 01/08/2008] The Appellate Division, Second Judicial Department, affirmed the denial of a motion

to suppress show up identification testimony on the grounds that it was reasonable under the circumstances and not unduly suggestive. The defendant was captured in a nearby hamlet and returned to the scene of the crime. The show up identification procedure took place 51 minutes after the crime was committed. The defendant stood behind a marked police car surrounded by several uniformed and plain closed police officers. He was in a position that obscured the fact that he was handcuffed.

People v. Alteri, ___Ad3d___

[3rd Dept. 01/17/2008] The Appellate Division, Second Department, Third Judicial Department, affirmed a decision finding a search warrant was improperly issued and that all evidence resulting there from was properly suppressed on the grounds that it violated a fundamental constitutional requirement that a valid search warrant be issued by a neutral, detached magistrate. The magistrate in question had voluntarily removed himself from handling the case a month before signing the search warrant in question because he had a "close working relationship" with the defendant.

Bar Dinner Reminder

WHEN:
February 13, 2008

WHERE:
*The Factory Eatery
20 Prospect Street, Suite 111
Ballston Spa, NY
885-0500*

TIME:
*6:00 p.m. - Social Hour with
Hors d'oeuvres
7:00 p.m. - Dinner Buffet*

DINNER BUFFET:
*Chicken Picatta
Pasta Primavera
Baked Scrod
Roast Sirloin of Beef Carving
Station
Tossed Mixed Greens
Fresh Vegetable Medley
Garlic Mashed Potatoes
Assorted Dinner Rolls and
Butter
Soda, Coffee, Assorted Tea
Cookies & Brownies*

PRICE: \$31 per person

PLEASE MAKE YOUR RESERVATIONS BY

Friday, February 8, 2008

by calling the
Saratoga County Bar
Association
at 587-5829

