



NYSBA News Release

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NEW YORK STATE BAR ASSOCIATION CREATES NEW COMMITTEES TO EXAMINE CANNABIS AND TRANSPORTATION LAW

To address two areas of the law that are continuously evolving, the New York State Bar Association has created new committees to study cannabis and transportation law.

Believing there was a void for lawyers to share developments in cannabis law with their peers, the State Bar's Executive Committee established a Committee on Cannabis Law. The committee, which held its first meeting last week, will examine conflicting state and federal laws pertaining to cannabis use, as well as the ethics rules lawyers must follow.

State Bar President Sharon Stern Gerstman has appointed Brian J. Malkin of Washington, D.C. (Arent Fox) and Aleece Burgio of Buffalo (McGuire Development) to lead the committee.

"This is a developing area of the law, a very intellectually stimulating area for lawyers to work in," said Malkin. "And the committee would provide a great way for practitioners to get together, talk, and learn about best practices, helping the industry develop under an evolving federal and state regulatory system, while at the same time ensuring that we represent our clients effectively and responsibly," he added.

More than 30 states including New York allow for some use of cannabis, whether medically or recreationally, despite federal laws that list marijuana in the same category as heroin and LSD under the Controlled Substances Act. Burgio, who previously worked as an attorney in Oregon's cannabis industry, said the conflicts of federal versus state marijuana laws pose many potential problems for the developing cannabis industry.

"Since cannabis is not legal as a selling entity, you cannot get a trademark on a cannabis-containing product," said Burgio. "The illegal status of cannabis also impacts a cannabis company's ability to buy land, obtain the necessary growing permits, open a bank account or obtain loans."

Committee on Transportation Law

A Committee on Cannabis Law was not the only proposal approved by the New York State Bar Association's Executive Committee. The Committee on Transportation Law has also been formed to address legal issues associated with the rise of cell phone app ride-sharing services like Uber or Lyft and the advent of driverless cars and trucks.

President Gerstman has appointed Frank V. Carone, of Brooklyn (Abrams Fensterman) to lead the committee.

“The combination of rapid growth and large public-private investments in transportation requires a cohesive approach to the legal issues and challenges that affect the daily movement of New Yorkers, their industries and the laws and lawyers serving them,” Carone said. “I applaud the State Bar Association for recognizing this need and entrusting me with the responsibility of advancing much-needed resolutions on pressing and evolving transportation issues.”

Carone provided numerous examples of the kinds of legal issues that the Transportation Committee would review. For example, are the drivers for app companies considered employees, independent contractors or something else? Are newly set insurance standards for these ride-hailing services adequate? How should insurance cover driverless cars and who is liable when the inevitable accident occurs?

President Gerstman reached out to all of the Association’s section chairs asking them to notify their members of the new cannabis and transportation committees and made appointments to the committees based upon their responses. Additional members may be added during the regular committee appointment process commencing in February. Below is a listing of the committees’ current membership.

In addition to the co-chairs, other Committee on Cannabis Law members include:

- Jeffrey A. Asher of New York City (Law Offices of Jeffrey A. Asher)
- Jonathan B. Behrins of Staten Island (The Behrins Law Firm)
- Christian Dominique DeFrancqueville of Ballston Spa (Law Office Of Christian Defrancqueville)
- Robert L. Greenberg of New York City (Robert L. Greenberg)
- Bethany Hills of New York City (Mintz, Levin, Cohn, Ferris, Glovsky and Popeo)
- Regina Kiperman of New York City (RK Law)
- Alyson Mathews of Melville (Lamb & Barnosky)
- John Joseph Montes of Bronx (Law Office of John J. Montes)
- Geoffrey A. Mort of New York City (Kraus & Zuchlewski)
- Telisport W. Putsavage of Albany (Putsavage)
- Elisa Strassler Rosenthal of Brooklyn (The Law Office of Richard A. Klass)
- Thomas J. Schultz of New Canaan, CT (Connecticut Pharmaceutical Solutions)
- Jay B. Silverman of Uniondale (Ruskin Moscou & Faltischek)
- Michael James Sullivan of Newark, NJ (Sills Cummis & Gross)
- Samuel Sverdlov of New York City (Seyfarth Shaw)
- Lee Williams of Buffalo (Dent Neurologic Institute)
- Glenn J. Witecki of Schenectady (Witecki Law Office)

In addition to the chair, other Committee on Transportation Law members include:

- Joel E. Abramson of New York City (Joel E. Abramson)
- Marcy Einhorn of New York City (Marcy Einhorn, Esq.)
- Gail Gottehrer of New York City (Akerman)
- Kevin P. Groarke of New York City (Tarter Krinsky & Drogin)
- David Jonathan Kahne of New York City (Stroock & Stroock & Lavan)
- Robert I. Kantowitz of Lawrence (Sandburg Creek)
- Jeannette A. Koster of Jackson Heights

- Christopher William Meyer of Albany (Whiteman Osterman & Hanna)
- James P. O'Connor of New York City (Maroney O'Connor)
- Frank T. Spano of New York City (Polsinelli)
- Daniel A. Spitzer of Buffalo (Hodgson Russ)

About the New York State Bar Association

Since 1876, the New York State Bar Association has helped shape the development of law, educated and informed the legal profession and the public, and championed the rights of New Yorkers through advocacy and guidance in our communities.