President’s Letter

By Jeremiah J. McCarthy

You Mean I Actually Have to Write This?

Why didn’t somebody tell me before I decided to run? Anyway, here goes. As you know, my main job for the past year has been to keep my mouth shut and to gaze adoringly at Your President, James M. Shaw, during board meetings and various public functions (note to Steve Lamantia – start practicing your adoring gaze). I passed the time by daydreaming about the name I would choose for my presidency. While my predecessor chose “Jim,” I had my heart set on “Benedict,” but somebody beat me to the punch. So, I’m stuck with Jeremiah.

I want to thank Jim Shaw for his tireless efforts on our behalf over the past year. He has done more for our Association this past year than most of you will ever know, and how he’s been able to juggle his bar responsibilities with a very active law practice is a constant source of amazement to me. I’d also like to thank Jim’s brother Joe, and all of the attorneys and staff at Shaw & Shaw, P.C., who enabled Jim to take the time to serve this Association so well. While I’m at it, let me thank in advance my colleagues at Phillips Lytle LLP (“a full service law firm” – they make me say that), and especially our managing partner, Morgan Graham, who has told me that he doesn’t care if I bill a single hour in the next year! (He also doesn’t care if I bill a single dollar in the same time frame.) For that reason, I’m paid a single dollar in the same time frame.) For that reason, I’m paid a single dollar in the same time frame. (He also doesn’t care if I bill a single hour in the next year!)

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Jeremiah J. McCarthy of Williamsville was sworn in as president of the Bar Association of Erie County at its 118th Annual Meeting and Election held on Friday, June 10, 2005. McCarthy is a partner in the Buffalo firm of Phillips Lytle LLP. Buffalo attorney Stephen R. Lamantia was elected vice president in voting by 1,251 members of the Association. Lamantia defeated Buffalo attorney Michael P. Daumen.

Robert N. Convisar of Hamburg was elected deputy treasurer. He will become treasurer following the 2006 Annual Meeting and Election. Assuming the office of treasurer for 2005-06 is Thomas J. Sciolino of Orchard Park.

Non-Lawyer Closings Continue, UPL Committee Warns

The Unauthorized Practice of Law Committee has learned that some “settlement services” companies, corporations and non-lawyers have continued to conduct real estate closings that violate the judiciary law, despite the cautionary notice sent last year by then BAE President, Michael J. Flaherty. In fact, there appears to be a growing number of such companies. Such activity may constitute the unauthorized practice of law in violation of the judiciary law.

As part of its investigation into this unlawful activity, the UPL Committee has made an urgent request for all attorneys in western New York to provide copies of documentation from files to the Committee. The UPL Committee will review these materials with a view toward pursuing potential further action on these violations with the State Attorney General’s Office.

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• Any correspondence from the settlement company or non-lawyer;
• Any mortgage commitment which shows the settlement agent as anyone other than a lawyer or law firm;
• The HUD-1 Settlement Statement;
• Any closing documents prepared by a non-lawyer closing agent; and
• Any other documents reflecting the participation of the settlement company or non-lawyer in the real estate closing.

All documents should be sent to: Bar Association of Erie County, Attn: UPL Committee, 438 Main Street, Buffalo, New York 14202. Your participation and cooperation in this critical investigation are greatly appreciated.

Enjoy the lazy, hazy days ahead.

The Bulletin will be back in September.
Mediation... continued from page 2
committed to an agreement they themselves were responsible for making. Data suggests that parties who directly participate in the settlement process are more likely to go beyond their original financial commitments by willingly and voluntarily assuming responsibility for additional, non-essential child-related expenses, including a greater willingness to finance at least in part, the children's college expenses.

The common element in the reporting of higher levels of satisfaction with the process seems inextricably related to the experience of "being heard, or having been listened to." Ironically, nothing in the black letter law can provide this experience to parties in conflict, yet it is critical that parties feel they have been heard and understood in order to instill the belief that justice has been well served.

The traditional understanding of the justice system as a place where truth wins out in the crucible of adversarial interrogation entirely ignores the concept of party satisfaction. A contest structured as win-lose has been well served.

The collaborative law approach, however, has the potential to provide this experience to parties in conflict, and understanding in order to instill the belief that justice has been well served. This model allows me to fulfill my role as a party's advocate by willingly and voluntarily assuming responsibility for additional, non-essential child-related expenses. The collaborative lawyer is truly an advocate...