
The Dutchess County Bar Association



President's Message	WHAT'S IN THIS ISSUE
Dear Colleagues: I hope everyone has been enjoying the summer thus far. It has been a busy and eventful time for the Dutchess County Bar Association. Under the direction of our new executive director, Jamie Cannizzaro, we have hosted a CLE on courthouse technology, a wonderful Law Day luncheon with excellent guest speakers and presentation of the Gartland Award to the Honorable Denise M. Watson, and are working hard on more upcoming CLE presentations, luncheons and other events. To that end, our next luncheon will be held in September and will include presentation of the Amee VanTassell Young Lawyer Award. I encourage all members to submit nominations for that award, as it is a very meaningful and special award that we present every year. Finally, it is membership renewal time, and all of the DCBA board members have been greatly encouraged by the support we received at the Law Day luncheon and in the days since. We are hopeful that you will renew your memberships and/or join the Bar if you are not already a member, as we have much to look forward to in the coming days. Thank you.  Danielle Fenichel, Esq. President, Dutchess County Bar Association	President's Message
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Law Day 2026



The Dutchess County Bar Association proudly celebrated Law Day on May 1, 2026, with its annual Law Day Luncheon, bringing together members of the bench and bar to recognize the importance of the rule of law and the legal profession's commitment to justice.



This year's luncheon featured a keynote address by the Hon. Mark Dillon. During the event, the Association was honored to present the Gartland Award to the Hon. Denise Watson in recognition of

her outstanding contributions to the administration of justice and her dedicated service to the legal profession and the residents of Dutchess County.

The Dutchess County Bar Association extends its sincere appreciation to everyone who attended, our event sponsors, and all who helped make this year's celebration a success.



Scenes from the 2026 Law Day Luncheon



Above: Members of the Dutchess County Bar Association enjoy the Annual Law Day Luncheon

Left: Hon. Denise Watson accepts the Gartland Award from Immediate Past President, Carl Chu

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Letter from Hon. Denise Watson, Recipient of the Gartland Award

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Hon. Denise M. Watson
Acting Justice

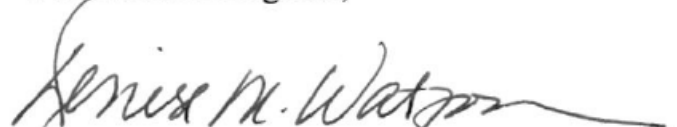
June 1, 2026

Danielle Fenichel
President
Dutchess County Bar Association
P.O. Box 1837
Poughkeepsie, New York 12601

Dear President Fenichel:

I would like to thank the Bar Association members and Past President Carl Chu for honoring me with the Gartland Award at the Law Day Luncheon. The luncheon was a lovely event and it was so nice to see so many attorneys, judges and local officials attending. As I said that day, the Gartland Award is especially meaningful to me as Jack Gartland was a neighbor and friend, as well as a role model. I look forward to attending future luncheons and hope to see the Bar Association continue to grow under your leadership.

With warmest regards,

A handwritten signature in black ink, reading "Denise M. Watson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Hon. Denise M. Watson

The Practice Page

The Who and When of Serving Process

Hon. Mark C. Dillon *

Appellate Division, 2nd Dep't

Two requirements must be met for persons to validly serve process within our state. The first is that the server be an adult, meaning at least 18 years old. The second is that the server not be a party to the action (CPLR 2103[a]). As to that second requirement, the plaintiff's attorney may serve process in the action since an attorney is not a "party" in the caption of the case. But attorneys typically delegate the task to process servers who are well versed in locating defendants for process and dealing with whatever related circumstances might arise.

There is no statewide requirement that process servers be licensed. The state requires only that process servers and agencies who serve five or more pieces a year must maintain specified records of each service (GBL 89-cc, 89-dd). However, the City of New York requires licensure for any agency or person serving five or more legal papers in a calendar year (NYC Admin. Code 20-404). The license is issued by the NYC Department of Consumer and Worker Protection. The license application requires a \$340.00 fee and the posting of a signed \$10,000 surety bond (NYC Admin. Code 20-406.1 and 407). Attorneys and government employees who serve process within the scope of their employment need not obtain the city license (NYC Admin. Code 20-405).

CPLR 306-b requires that service of process be accomplished within 120 days from when an action is commenced by the filing of the initiatory papers in the supreme or county courts. Under the recently-amended CPLR 1007(a), effective as of April 18, 2026, third party summonses and complaints must be served within 20 days of the filing of the third party actions. Of course, the timeframes for service may be extended by the court for good cause shown or in the interest of justice. Good cause requires the plaintiff to demonstrate reasonable diligence in attempting service (*Bumpus v New York City Transit Authority*, 66 AD3d 26 [2d Dep't. 2009]). The interest of justice exception is broader, where the court examines diligence, the expiration of the statute of limitations, the merits of the action, the length of delay, and the promptness of the plaintiff's request for a time extension (*Id.*). While CPLR 306-b does not set a deadline for parties to seek an extension of time for service, it is a better practice to move for that relief before the 120 time frame expires. Doing so demonstrates to the court the conscientiousness of counsel in seeking to comply with the statute.

Counsel has three practical obligations to fulfill when dealing with process servers. The first is to get copies of the papers to be served into the hands of the process server. This should be accomplished early in the 120-day (or 20 day) process period, as there is no telling how long a process server might need to locate a defendant for service and complete the task.

The second obligation of counsel is to inquire of the process server the status of service attempts, if a reasonable time elapses without word from the server. The importance of doing so is to assure that the service is accomplished within the statutory timeframe, and to begin acquiring evidence for a possible motion for a time extension if such a motion is looking necessary.

And third, when service is accomplished, the process server is to provide counsel with an affidavit of service setting forth the particulars of the task --- the who, what, where, when, and how of the service (CPLR 306). The affidavit is presumptive evidence of its contents (*Bank of New York Mellon v Simpson*, 241 AD3d 1412 [2d Dep't. 2025]). The

affidavit must be filed with the clerk within 20 days of service whenever process is effected by means of the suitable age and discretion method under CPLR 308(2) or the nail and mail method under CPLR 308(4), with service not deemed complete until 10 days after the filing. The 10 day completion period under CPLR 308(2) and (4) need not fall within the general 120-day (or 20-day third party action) period for the service.

Counsel should closely examine the affidavit of service, to assure that its contents conform with all statutory service requirements and withstand any potential challenge by the defendant. Overseeing service of process is a non-delegable duty of counsel, which subjects counsel to potential legal malpractice if service is not properly performed by the process server (*Kleeman v Rheingold*, 81 NY2d 270 [1993]). Indeed, if an action is dismissed for lack of personal jurisdiction over the defendant, the plaintiff is ineligible to commence a new action within the 6-month grace period of CPLR 205(a) for actions generally or CPLR 205-a for residential mortgage foreclosures (*HSBC Bank USA, N.A. v St. Hillaire*, __ AD3d __, 2026 WL 216876 [2d Dep’t. Jan. 28, 2026]). Plaintiffs’ only potential means of maintaining a viable claim, while service of process is facing a successful challenge, is to cross-move for leave under CPLR 306-b for an extension of time to make a further attempt at service, which the court may or may not grant in the exercise of its discretion (*State of New York Mortgage Agency v Braun*, 182 AD3d 63 [2d Dep’t. 2020]).

Service of civil process on any Sunday is void (GBL 11). The only exception to that rule is if an emergency TRO needs to be served on a Sunday to prevent irreparable harm (Judiciary Law 5; *City of New York v Andrews*, 186 Misc.2d 533 [Sup. Ct. Queens Co. 2000] [Lonschein, J.]). Service may also not be effected on Saturdays when the process server, acting maliciously, knows that the defendant observes that day as a holy time (GBL 13; *Wells Fargo Bank, N.A. v Gross*, 202 AD3d 882 [2d Dep’t. 2022]). The beneficiaries of GBL 13 are those who belong to the strict versions of Judaism. A showing of maliciousness in the timing of Saturday service requires evidence that the process server had actual knowledge the defendant was observant (e.g. *Signature Bank NA v Koschitzki*, 57 Misc.3d 495 [Sup. Ct. Kings Co. 2017] [Baynes, J.]). Incongruously, service of process is not prohibited on high holy days that fall on non-Sundays in any given year such as Christmas, Yom Kippur, or Laylat Al-Qadr during Ramadan. Service on non-Sunday national or state holidays is also permissible (*People ex rel. Patterson v Warden*, 36 Misc.3d 1235[A] n. 4 [Sup. Ct. Bronx Co. 2012] [Massaro, J.]).

For foreign defendants being served out-of-state under New York’s longarm jurisdiction (CPLR 302), the service must be accomplished in a manner recognized by New York law, such as the methods of CPLR 308. However, the individual process server may be anyone that is eligible under the laws of either New York or the laws of the foreign state where the service is effected (CPLR 313). For most international service of process, check the procedures of the Hague Convention.

The need for process servers is circumvented if mail service is used as authorized under CPLR 312-a, where any person may mail the summons, complaint, acknowledgment forms, and self-addressed postage-paid return envelope to the defendant (CPLR 312-a[a]). Traditional process serving may also be circumvented when service upon a New York corporation is effected by delivering two copies of the summons and complaint to the Secretary of State, a designated agent under BCL 306(b)(1), which forwards one set of papers to the corporation’s office address on file. Similar procedures for serving foreign corporations through the Secretary of State are described in BCL 307. And finally, process servers may be unnecessary if a court orders an alternative method of service under CPLR 308(5), when standard methods prove to be impractical (e.g. *Cheung v Kinsey*, 234 AD3d 958 [2d Dep’t. 2025] [service by e-mail and follow-up text]).

*Mark C. Dillon is a Justice of the Appellate Division, 2nd Dep’t., an Adjunct Professor of New York Practice at Fordham Law School, and a contributing author of the CPLR Practice Commentaries in McKinney’s.



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Surrogate’s Court Practice Update

Hon. Michael G. Hayes

Dutchess County Surrogate

The COVID pandemic forced the New York court system to explore creative solutions that addressed the realities we were all forced to confront during the lockdown. Many of those solutions were thankfully temporary. For instance, I am pleased to report that the seal of the Dutchess County Surrogate’s Court has been restored to its rightful home in the Chief Clerk’s Office, after having been temporarily liberated so that Letters and other official documents bearing the raised seal of the Court could be issued during the period of time that we were forced to work remotely.

While many of these solutions were specific to a unique moment in time, the virtues of some COVID-era practices have given them staying power. Virtual conferences and meetings certainly seem to fall in that category, although I understand that the frequency of that usage varies from judge to judge (further proof that the term “Unified Court System” can be inapt at times). And while Dutchess County Surrogate’s Court was an early adopter of e-filing, there is no question that the COVID lockdown accelerated its adoption in other courts around the state.

One of the thorny issues that Surrogate’s Courts were forced to address at the very outset of the lockdown was the seemingly irreconcilable conflict between SCPA §307’s requirement of personal service on New York domiciliaries and the social distancing and isolation mandates imposed by various Executive Orders. The temporary solution that most Surrogates settled upon was a standing Order dispensing with the personal service requirement and authorizing service by registered or certified mail or special mail service¹ for the duration of the pandemic. Some Surrogates went even further and issued standing Orders authorizing service by electronic means.

¹ SCPA §102(37-a) defines “special mail service” as express mail or any designated delivery service within the meaning of United States Internal Revenue Service Code §7502(f)(2).

When the COVID-era Executive Orders, Administrative Orders and Judicial District Protocols were terminated or otherwise expired, the Surrogate's Courts no longer had the authority to preemptively dispense with SCPA §307's requirement of personal service on New York domiciliaries. And so it was back to business as usual - the personal service obligation for a New York domiciliary could only be lifted upon a successful motion for permission to make substituted service upon a showing that personal service could not be completed through the exercise of due diligence.

The Surrogates in New York are a tight-knit bunch, and as we compared notes it became clear that service by registered and certified mail and special mail service on domiciliaries had proven just as effective as personal service. And it also appeared that service by electronic means had also largely proven to be effective. After careful study and discussion, the Surrogate's Court Advisory Committee presented a legislative proposal in its 2025 Report seeking to amend the service provisions contained in SCPA §§307-309 in a manner designed to improve the efficiency of service and to reduce its costs, while still preserving its reliability.

Thankfully, New York State Senator Luis R. Sepulveda, Chair of the Committee on Judiciary, saw the value in this approach, and sponsored a bill (S8175) supporting the Surrogate Court Advisory Committee's proposal. This bill was passed by the Legislature in June of 2025, and went into immediate effect upon Governor Hochul signing it into law on November 21, 2025.

As revised, SCPA §307 expands the authorized means of service on New York domiciliaries to include registered or certified mail. Of course, personal service remains an option. But it is no longer the only option. And crucially, there is no longer any need to seek Court permission before turning to registered or certified mail – the practitioner can simply opt to select registered or certified mail as the preferred means of service.

The rules governing service by registered or certified mail have also been relaxed by another amendment to SCPA §307. In the past, when service by registered or certified mail was authorized, the statute required the petitioner to request a return receipt. As revised, the return receipt obligation has been eliminated - service by registered or certified mail is now sufficient, no return receipt is required.

A practitioner who is unable to secure service through personal service or any of the authorized mailing methods may still seek a court order authorizing service by alternate means. SCPA §307(3) has always included a list of potential alternate means of service that a court may authorize, while also noting that this list shall not be considered an exclusive list of tools in the Surrogate's toolbox.

Previously, service by electronic means was not one of those expressly listed options. In 2015, my predecessor, Hon. James D. Pagones, authored a decision finding that – even though not expressly included in the non-exclusive SCPA §307 list – a Surrogate can authorize service by email when service by other means is impracticable. (*Matter of Sucich*, 47 Misc.3d[A] [Dutchess County Sur. Ct. 2015]).

It is my understanding that Surrogates throughout New York State swiftly adopted Judge Pagones's line of reasoning in *Sucich*, and authorized service by electronic means when other means of service were impracticable and electronic service appeared to offer an effective and reliable approach. With the 2025 amendment to SCPA §307(3)(b), all doubt has now been eliminated - service by electronic means (as defined in CPLR 2103[f][2]) is now expressly included in the non-exclusive list of alternate means of service that a Surrogate may consider.

SCPA §308 sets forth the minimum number of days that a citation must be served prior to the return date. As revised by the 2025 amendment, SCPA §308 sets the following minimums:

for personal service, ten (10) days

for service other than by personal delivery in the United States, District of Columbia, Puerto Rico or the possessions or territories of the United States, twenty (20) days,

for service on the New York State Attorney General, thirty (30) days,

in all other cases, thirty (30) days.

Service when the Attorney General is a party has been a point of confusion since the 2025 amendment became effective. Practitioners are asked to take special note of this thirty (30) day minimum – failure to comply may needlessly delay the Court’s ability to obtain jurisdiction over the Attorney General.

Finally, SCPA §309 identifies the point at which service will be deemed complete for various forms of service. SCPA §309(1) remains unchanged – service by personal delivery is complete immediately upon that delivery. SCPA §309(2)(a) has been revised to eliminate the now-obsolete reference to a return receipt when registered or certified mail is used – when these means are used, service is complete upon the mailing. And a new SCPA §309(2)(f) has been added, which provides that service by electronic means is complete upon transmittal of the electronic communication.

Hopefully the trusts and estates bar will see these changes as welcome reforms reflective of modern practices that faithfully serve their dual goals of increasing efficiency while preserving reliability. Early reports are encouraging, but as always if you encounter any problems or have any questions, we encourage you to contact the Surrogate’s Court Chief Clerk’s Office at (845) 431-1770. We are here to help!

And, as the saying goes... I’ll see you in Court!

The Prosecutor in the Digital Age: Balancing Innovation, Ethics, and Due Process

Anthony Parisi

Dutchess County District Attorney

The legal profession is no stranger to change. From the introduction of forensic science to the transition to electronic filing and digital discovery, lawyers have consistently adapted to new tools and new realities. Today, however, we find ourselves at the beginning of something different; an era where technology is not simply assisting the practice of law but actively reshaping it.

Artificial intelligence, digital evidence platforms, cloud-based case management systems, advanced analytics, and real-time information sharing are rapidly changing how legal professionals work. For prosecutors, these developments present remarkable opportunities, but they also raise important questions about ethics, accountability, and the enduring principles that define justice.

Technology has transformed modern prosecution in ways that would have seemed unimaginable only a decade ago. Body-worn camera footage, surveillance systems, cellular data, forensic evidence, and digital communications now generate enormous volumes of information in nearly every significant criminal case. Advanced evidence

platforms and case management systems allow prosecutors and defense attorneys to review, organize, and exchange this material with a speed and efficiency previously unattainable. Artificial intelligence adds another dimension to this transformation.

AI-assisted legal research and analytical tools hold tremendous promise. They can help attorneys identify relevant authority, organize information, summarize large bodies of material, and reduce time spent on repetitive administrative tasks. Used appropriately, these technologies may allow lawyers to devote greater attention to strategy, litigation, and the exercise of professional judgment.

But as exciting as these developments may be, they also require caution, as technology should enhance the pursuit of justice and never replace the human judgment that justice demands.

The legal profession has already seen examples of attorneys relying too heavily on artificial intelligence, submitting filings containing fabricated citations or unverified legal conclusions.

Those incidents are more than embarrassing mistakes; they are reminders that competence and diligence remain personal and non-delegable responsibilities. No software platform, regardless of sophistication, can assume an attorney's ethical obligations.

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Recognizing both the promise and the risks of artificial intelligence, New York's Unified Court System recently adopted Part 161. The rule reflects a thoughtful and balanced approach to emerging technology. It expressly acknowledges that attorneys and litigants may use artificial intelligence tools in preparing court submissions and rejects the notion that such use should be prohibited or automatically disclosed. At the same time, the rule reinforces a fundamental principle of the legal profession: regardless of whether a filing was prepared with the assistance of artificial intelligence, the attorney who signs and submits it remains fully responsible for its accuracy and legal sufficiency.

The rule specifically cautions that AI systems can generate fabricated information, fictitious legal authority, and other inaccuracies; commonly referred to as "hallucinations." It therefore requires attorneys and parties to independently review and verify all submissions before filing them with the court. The message is clear: technology may assist legal professionals, but it cannot replace professional judgment, ethical responsibility, or accountability. In many respects, Part 161 serves as a blueprint for how the legal profession should approach technological innovation; embracing its benefits while preserving the standards that safeguard the integrity of our justice system.

That principle carries particular significance for prosecutors, who occupy a unique role within the legal system. Unlike traditional advocates whose responsibility is singularly focused on advancing a client's interests, prosecutors carry dual obligations: enforcing the law while simultaneously protecting constitutional rights and ensuring fairness. The pursuit of justice requires both advocacy and restraint. I often say to my assistant district attorneys, "Don't ask yourself can we do it? Ask yourself, should we do it?"

Technology does not alter that responsibility. If anything, it heightens it.

Modern prosecutors must now navigate issues that extend well beyond traditional legal analysis. Questions involving digital privacy, cybersecurity, electronic discovery, cloud-based evidence storage, algorithmic bias, and data integrity increasingly intersect with everyday prosecutorial decision-making. The challenge is no longer whether prosecutors will use technology; it is whether we will implement it thoughtfully and responsibly.

Equally important is maintaining public confidence as these technologies evolve. Communities rightly expect that emerging technologies used within the justice system will operate under clear legal and ethical guardrails. Whether discussing artificial intelligence, digital evidence systems, or intelligence-sharing tools, transparency matters. Public trust depends not merely on the effectiveness of these systems but on confidence that they are being deployed lawfully, responsibly, and with appropriate oversight.

Innovation and accountability should never be viewed as competing interests.

In my view, the strongest institutions are not those that resist change, nor are they those that adopt technology without question. Rather, they are institutions willing to modernize while remaining firmly anchored to enduring principles of fairness, transparency, and due process.

That balance matters because prosecution is ultimately a human endeavor.

Behind every case file are people; victims seeking justice, defendants entitled to fairness, families confronting trauma, and communities looking to the legal system for safety and accountability. Technology can help us manage information, improve efficiency, and strengthen investigations. What it cannot do is replace judgment, empathy, discretion, or integrity.

Those responsibilities remain ours alone.

As legal professionals, we have an obligation not only to embrace innovation but to shape it responsibly. The question before us is not whether technology will continue to influence the practice of law. It undoubtedly will. The more important question is whether we, as members of the legal profession, will ensure that technological progress remains guided by ethical principles and constitutional values.

The future of prosecution will undoubtedly be more digital, more data-driven, and more technologically sophisticated. Yet the core mission remains unchanged. New York's recent guidance on artificial intelligence serves as a timely reminder that while technology will continue to evolve, responsibility cannot be automated. Justice will continue to depend upon people committed to fairness, accountability, and the rule of law. Technology may change how we perform our work, but it must never change why we do it.

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Practice Alert: New Rule Governing Use of AI in the Courts

Michael Treybich

Treybich Law, P.C.

Effective June 1, 2026, a new Part 161 of the Administrative Rules of the Unified Court System & Uniform Rules of the Trial Courts took effect, titled “Use of Artificial Intelligence Technology”. (the “Rule”)

Practitioners should be advised that section 161.1 of the Rule makes it applicable to both civil and criminal cases.

The Rule expressly does not prohibit the use of artificial intelligence (“AI”) to assist in the preparation of papers, and it further does not require disclosure of the use of AI in doing so.

However, the Rule reiterates the duties and responsibilities of all parties and attorneys who submit papers to court, and we all should be reminded of our ethical obligations as officers of the Court.

Be advised, as well, that the Rule empowers the courts to implement a part rule governing the use of AI in preparing papers submitted to such court, and in an appendix to the Rule, provides a proposed model rule for adoption.

If you use, or are contemplating the use, of AI to assist you in the preparation of court papers, you would be well served to familiarize yourself with the limits of such technology generally, the software you are using specifically, re-familiarize yourself with the rules of practice and ethics relating to filing of court papers, and check whether the parts you are practicing in have adopted a rule relating to the use of AI.

When a Misdemeanor is More Than it Seems: Professional Discipline Risks in Criminal Pleas

Robert Irving Miller

Sholes Miller Rodriguez & Brown, PLLC

Criminal defense practitioners should remain mindful that, when representing licensed professionals, a plea that appears minor in criminal court may carry significant collateral consequences for the client's professional license. Under New York Education Law § 6509, certain criminal convictions - including misdemeanors and felonies - almost automatically constitute professional misconduct, triggering investigation and potential discipline by the New York State Education Department's Office of Professional Discipline. For physicians and certain other health professionals, parallel authority exists through the Office for Professional Medical Conduct at the NYS Department of Health.

In practice, plea discussions often focus - appropriately - on incarceration exposure, fines, and the immediate criminal disposition. However, the professional consequences of a conviction may be equally, if not more, consequential. A client who elects to resolve a case by pleading guilty to avoid the cost or uncertainty of litigation may later face disciplinary proceedings, monetary penalties, reputational harm, or even suspension or loss of licensure. These risks are not always apparent to the client and, in some instances, may not be fully appreciated at the time of the plea.

Accordingly, when representing a licensed professional, defense counsel should identify potential licensing consequences at the outset and ensure that the client is adequately advised before any plea is entered. In appropriate cases, consultation with counsel experienced in professional disciplinary matters may be prudent. What may seem like an efficient resolution in criminal court can, without careful consideration, lead to far more enduring professional consequences.

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Dutchess County Bar Association



Planning ahead for our **Autumn 2026** issue of *The Advocate*?

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Interested in contributing an article?

Article submissions for the **Autumn 2026** issue are due by **September 15, 2026**.

Changing Dog-Bite Liability in New York: The Significance of *Flanders v. Goodfellow* and its Ties to the Hudson Valley

Carey Castiglione Beyer

Partner, O'Connor & Partners, PLLC

For nearly two decades, New York was an outlier when it came to dog bites. Last year, that finally changed thanks in large part to two attorneys from the Hudson Valley.

Last April, the Court of Appeals decided a case named *Flanders v. Goodfellow*. In that decision, the Court overturned twenty-year-old precedent in *Bard v. Jahnke*, which limited Plaintiffs injured by animals to only recover when an owner knew or should have known about the animal's "vicious propensity." After the Court of Appeals decision in *Doerr v. Goldsmith* in 2015, the law became so restrictive that it no longer mattered if an owner was unquestionably negligent in a manner that caused an injury. It was vicious propensity or nothing. That all changed when the Court of Appeals decided *Flanders*, rewriting the law on dog-bite cases. While many practitioners are now familiar with the change in the law, few know that the submissions in favor of the change at the Court of Appeals were handled by two attorneys originally from the Hudson Valley.

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Before *Flanders*: A Rule That Ignored Unquestionable Negligence

The prior rule was anchored in *Bard v. Jahnke*, where the Court held that no common-law negligence claim lay for harm caused by a domestic animal. Under *Bard*, liability turned entirely on whether the plaintiff could prove actual or constructive notice of an animal's vicious propensity. The conceptual difficulty was immediate: tort law ordinarily asks whether a defendant acted reasonably under the circumstances, yet *Bard* diverted attention from a defendant's conduct to their knowledge. The practical consequences were equally serious. Because owners could deny awareness of prior aggressive behavior, and because such knowledge is often uniquely within the defendant's control, plaintiffs frequently lost before trial despite evidence of the owner's carelessness. *Flanders* recognized what many practitioners and courts had long observed: the law was unfair.

The Facts and the Road to the Court of Appeals

Flanders arose in a familiar setting. The Plaintiff, a postal carrier, was bitten while making a delivery to the residence of the Defendants. The plaintiff offered evidence that the dog previously behaved aggressively toward postal workers, including barking, growling, and striking the window when they approached. Even so, the lower courts dismissed the action, concluding both that the record did not raise a triable issue as to knowledge of vicious propensities and that negligence was unavailable as a matter of law. The Court of Appeals reversed, holding that the plaintiff had raised a fact issue on constructive knowledge and, more importantly, that New York should no longer bar negligence claims categorically in domestic-animal cases.

The Court's Holding: New York Now Recognizes Dual Paths to Liability

The Court's principal ruling in *Flanders* is the recognition of dual pathways to liability. Strict liability remains available where an owner knew or should have known of the animal's vicious propensities. But negligence is now also available where the owner's failure to exercise reasonable care in handling, restraining, or controlling the animal was a proximate cause of the injury. That reform is best understood as a restoration, not an innovation. The Court reasoned that domestic-animal cases should not occupy a special space detached from ordinary negligence doctrine, particularly where liability is premised on the defendant's conduct rather than on their admitted knowledge of the animal's disposition alone.

In Practice: Why the Decision Matters

The practical implications are substantial. Plaintiffs are no longer required to build an entire case around the elusive question of a Defendant's prior knowledge. Evidence that an owner failed to secure a dog before opening a door, neglected to leash or confine an animal when visitors were expected, or otherwise disregarded a foreseeable risk may now support recovery in negligence even absent proof of a prior bite. Defendants, in turn, will litigate these cases under conventional tort concepts such as duty, breach, causation, foreseeability, and comparative fault. Trial courts should benefit as well. Rather than treating dog-bite cases as a unique exception to normal negligence cases, courts can focus more directly on whether the defendant's conduct was reasonable under the circumstances presented.

Unique Note: The Decision's Ties to the Hudson Valley

While many practitioners are now aware of the change in the law, far fewer know that the change in the law was born from two attorneys from the Hudson Valley. Two briefs were submitted in support of changing the law. Plaintiff's Counsel who handled the appeal was Matthew Kaiser from William Mattar Accident Lawyers. While currently

practicing with William Matter, based out of Western New York, Mr. Kaiser is originally from Woodstock. The only amicus brief submitted in the case was written by Carey Castiglione Beyer on behalf of the New York State Academy of Trial Lawyers, the author of this article. Mr. Beyer is originally from New Paltz and Poughkeepsie and now practices throughout the Hudson Valley as a member of O'Connor & Partners. Both the Plaintiff and the Amicus urged the Court to overturn *Bard*. The Court's decision adopted that basic insight and brought this area of law into closer alignment with the common-law commitment to reasonableness and accountability.

Conclusion

Flanders v. Goodfellow marks a consequential correction in New York tort law. The State no longer asks only what an owner knew about an animal's propensities; it also asks whether the owner acted reasonably in the circumstances that produced the injury. That dual framework is more faithful to common-law principles, more candid about how these cases arise, and more just in operation. For lawyers and judges alike, *Flanders* should stand as an important reminder that tort doctrine functions best when it remains anchored in reasonableness, responsibility, and proof. The Hudson Valley legal community should take pride in knowing that the change was born from the dedicated work of two local products.

Classifieds

Lemery Greisler LLC, a Capital Region business law firm with offices in Albany and Saratoga Springs, New York, is seeking a Corporate/Transaction Associate with one to four years of experience. Experience with commercial contracts, merger and acquisition transactions, transaction due diligence, and business entity formation and structuring is ideal. Looking for a motivated associate with strong organizational and time management skills, strong legal research and drafting abilities, professional judgment and demeanor. The role offers meaningful responsibility, client exposure, and the opportunity to work closely with partners and senior attorneys. The firm offers competitive benefits and perks. Salary range is \$80,000 – \$105,000 plus incentive bonuses, commensurate with skill set and experience. The position is located in their Saratoga office. Send resume, references and sample work product to Mclark@lemerygreisler.com

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Please submit your article, topic idea, or inquiry to director@dutchesscountybar.org.

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Save the Date – September Events

MARK YOUR CALENDARS! The Dutchess County Bar Association has an exciting September planned.

Landlord/Tenant CLE

Join us this September for an informative Continuing Legal Education program focused on landlord/tenant law. Whether you practice in this area regularly or are looking for a refresher, this program will provide valuable insights and practical updates. **Date and registration information coming soon!**

September Membership Luncheon & Awards Presentation

We also invite you to our September Membership Luncheon, where we will celebrate outstanding members of our legal community. During the luncheon, the Bar will present the **Amee VanTassell Young Lawyer Award**, recognizing a young attorney who exemplifies the qualities and values that defined Amees character and commitment to the legal profession. The **Attorney for the Child (AFC) of the Year Award** will also be presented by Hon. Denise Watson.

Keep an eye on your inbox for the official dates, registration details, and additional information.

We look forward to seeing you in September!

Call for Nominations: Amees VanTassell Young Lawyer Award

The Dutchess County Bar Association is now accepting nominations for the **Amees VanTassell Young Lawyer Award**, which recognizes an outstanding young attorney who exemplifies the qualities that defined Amees character, including integrity, good judgment, a sense of humor, exceptional communication, research, analytical and writing skills and a commitment to excellence in the practice of law. Nominees should demonstrate a balance of the following criteria:

- **Admitted to practice 10 years or less**
- **A current member of the Dutchess County Bar Association**
- **Recognized by peers for civility and professionalism**
- **Demonstrated service to the Bar and the community**
- **A strong commitment to pro bono service**

Help us recognize an exceptional young lawyer who embodies the values of our profession.

Additional information regarding the nomination process and submission deadline will be announced soon.