

Dutchess County Bar Association

JUDICIAL SCREENING QUESTIONNAIRE

1. Full Name: *Michael Grace*
2. Identify the Court or public office and, where applicable, Judicial Department, Judicial District, County, or Court District for which you are a candidate and state whether you are a candidate for election or for appointment:

N.Y. Supreme

3. List the Political party or parties which are supporting your candidacy, or of which you are seeking nomination:

Republican

4. List in reverse chronological order all employment and periods of unemployment since graduation from law school. (If law school attendance did not commence within a few months following completion of undergraduate course study, list also all employment and periods of unemployment between college and law school.) Continue on additional page, if necessary. You may also attach a resume or CV.

Name of Employer	City and State	Dates of Employment (Month /Year)	Job Title
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<i>Pete DeBrosio</i>	<i>333 Bway NY NY</i>	<i>5/04 - 9/85</i>	<i>assoc.</i>
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<i>Finkelstein Law office</i>	<i>Newburgh NY</i>	<i>9/85 - 11/86</i>	<i>assoc</i>
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*Self Employed as my own practice since
1986 - to date*

Acting Town Atty - Town of Yaphank 16 years

Acting Town Supervisor Town of Water 2011-2017

12. Have you ever been issued a license, other than a marriage license, license to practice law, license as a notary public or a driver's license? Yes No If yes, please describe the license, and list the dates of its initial issuance and its last renewal:

(b) Has any license, including a license to practice law, a license as a notary public, or a driver's license, ever been revoked or suspended? Yes No If yes, please describe the circumstances:

13. College and professional schools (other than law schools) attended:

School	Major/Course of Study	Dates Attended	Date of Graduation
Fordham University		class of 1988	

16. Law Schools attended:

School	Location	Dates Attended	Date of Graduation
Fordham University	School of Law	class of 1984	

(d) FOR ATTORNEYS: Have you complied with all registration requirements for lawyers, including Continuing Legal Education, in the State of New York and any other jurisdiction in which you are licensed to practice law? Yes No If no, please describe the circumstances:

FOR JUDGES: Have you attended the mandatory Judicial Ethics Training courses offered at the Judicial Institute? Yes No If yes, please provide dates and location of all such courses attended.

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If no, please provide the dates and location of any such courses for which you are registered in the future.

18. State all courts in which you are admitted or have ever been admitted to practice, together with dates of admission:

(a) New York (give Judicial Department): 2nd

Date of 2/84

Admission:

Dates of NY

Admission:

(b) All other Federal and State Courts:

(ii): Southern Dist

U.S. Supreme Ct.

(iii): Eastern Dist.

(iv): 2nd Circuit Ct. of Appeals N.Y. Dist Ct

19. State all areas of law in which you have concentrated or have had substantial experience for any sustained period of time:

NY - State Bar

Personal injury

Medical Malpractice

Commercial Litigation

Land Use and Development

- Environmental Law

Transactional Law

Attach the following to this questionnaire.

FOR ATTORNEYS:

1. A list of the last ten trials or appeals in which you have actively and substantially participated in. Please include the title of the case, the index or docket number and the court in which the case was heard and a brief description of the case.

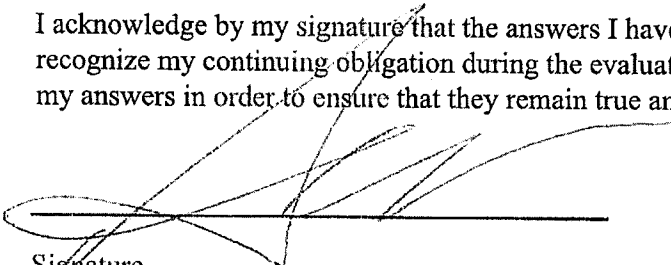
FOR JUDGES:

1. A list of the last ten opinions, trials or appeals. Please include a citation for each (if published) or a brief description of the nature of the case (if not published).

FOR ALL CANDIDATES

Please specify any additional information which is reasonable to expect the Committee would want to know when it considers your qualifications for the office you seek.

I acknowledge by my signature that the answers I have given are true and complete and recognize my continuing obligation during the evaluation process to correct and supplement my answers in order to ensure that they remain true and complete.


Signature


Date

Farm Family Insurance Company v. Habitat Revival 91 A.D. 3d 903 (2nd Dept., 2012) .

Declaratory judgment action in which the carrier sought to disclaim coverage based upon an exclusion in a general liability commercial insurance policy for an injury to an employee. The injured party being the managing member of the insured LLC. We represented the injured party and successfully litigate the issue, the Court finding coverage under the policy. The case involved numerous appeals both in the underlying action and in the collateral coverage issue litigation. The underlying personal injury case was settled after vacatur of a default judgement. The insurance carrier after appeals was held liable to Plaintiff for his attorney's fees incurred in litigating the insurance coverage issues.

Kami v. Town of Yorktown, 73 N.Y.2d 707. (Court of Appeals , 1989). Issue presented was whether the Town could charge recreation impact fees for a cooperative residential development under its municipal home rule powers or was such action barred by New York State Town Law.

Ardizzone v. Elliott, 75 N.Y. 3d 150 (1989). Issue presented was whether the Town of Yorktown could exert concurrent jurisdiction over State mapped Freshwater wetlands or was the regulation of same preempted by state law and solely jurisdictional with the New York State Department of Environmental Conservation.

Terranova v. New York, 646 F.3d 305(2012) Issue was whether the District Court properly instructed the jury in a case alleging excessive force used during a motor vehicle stop where the district court instructed that the Plaintiff had the duty to prove a lack of probable cause for the stop shifting the burden from the police who under the fourth amendment of the U.S. Constitution needed to have probable cause for the stop.

Schaffer v. Batheja, 76 A.D. 2d 970 (Second Dept., 2010}. This was an appeal of an 8 million dollar verdict obtain in Westchester Supreme Court in a medical malpractice case where it was alleged that the defendant caused the Plaintiff's decedent to become comatose by a failure to properly treat low serum sodium (hyponatremia). The jury awarded the decedent's husband 3 million for loss of consortium and 5 million for the decedent's conscience pain and suffering over the last four years of her life. I tried the Supreme Court case. The issue on appeal was whether the jury verdict was excessive. An issue in addition to liability allocation in the underlying case was whether the Plaintiff's decedent could recover for conscience pain and suffering as she was in a coma. I handled the appeal as well.

Coleman v. Hayes 294 A.D. 2d 458 (2nd Dept., 2002). Issue presented was whether a driver of a motor vehicle that caused an accident is liable to a volunteer fireman who came to the negligent driver's rescue and suffered a severe heart attack as a result. The theory of liability against the driver of the vehicle was that "danger invites rescue". It was alleged that the driver that caused the accident was intoxicated and therefore the accident foreseeable as was the rescue. Case settled for the available policy limits (1,000,000.00 dollars) after an appeal which sustained Plaintiff's cause of action.

Gordon v. New York State Claim No.: 103754 (Court of Claims, 2004) Case involved a single car accident on the New York State Thruway. The Plaintiff was a passenger in a vehicle that

hydroplaned due to rutting on the roadway and hit a guide rail. The vehicle rode the guide rail, flipped and struck a concrete "Jersey" barrier. The Plaintiff sustained serious spinal injuries. The firm represented two of the passengers in the vehicle; an injured passenger and the Estate of a deceased passenger. The issue was whether the New York State Thruway Authority was negligent by having installed a particular guide rail end treatment that upon testing was not recommended for use on roadways where the speed limit was in excess of 45 miles per hour. In order to prevail the Plaintiffs needed to show that the New York State DOT's highway design manual was superceded by an engineering instruction issued as a result of NYSDOT testing of the guide rail. Case settled during trial for 5 million dollars for the injured plaintiff. (She recovered one million four hundred thousand from the driver's policies prior to trial). The Estate recovered four hundred fifty thousand dollars.

Bazzo v. American Transit Westchester Supreme Court Index no.: 57633/16. In this case Westchester County Medical Center sought to recover from Plaintiff Anthony Bazzo in excess of 24,000.00 dollars in medical fees for treatment rendered to Plaintiff following a single car accident. The Plaintiff was a sole proprietor of a taxi cab company and was injured while operating the company taxi. American Transit insured the taxi and had issued a no-fault insurance policy, which should have covered all medical bills arising out of treatment rendered the Plaintiff. Plaintiff assigned his rights to medical expenses reimbursement under his no=fault insurance policy to Westchester County Medical Center. Westchester County Medical Center in turn made a claim as assignee of Plaintiff's benefits against American Transit who in turn denied coverage on the grounds that the accident occurred while the Plaintiff was operating a company taxi and therefore the medical expenses should be covered by Workers Compensation. However, Mr. Bazzo as a sole proprietor filed a Workers Compensation exemption from mandatory coverage which made the no-fault policy liable for the medical bills. Needless to say the medical bills were never paid and Westchester Country Medical Center sued Mr. Bazzo for 24 thousand dollars in medical bills. During the litigation it was discovered that WCMC failed to appeal an arbitrator's decision in American Transits favor causing Mr. Bazzo to become essentially uninsured. After trial and post trial briefing of the issues, the Court found American Transit free from liability on the medical expenses per the unchallenged arbitrator's decision and held Westchester County liable to Plaintiff for attorney fees based upon what the Court found was frivolous and bad faith conduct by Westchester County Medical Center for seeking recovery of medical bills which due to their own fault went unpaid by American Transit. As a note it is believed that critical to the Court's decision was the fact that Westchester County Medical Center issued an itemized bill for services in the amount of 4,000.00 dollars to American Transit based upon no-fault rates. However, Westchester County Medical Center in its claim made against Mr. Bazzo sough 24,000.00 dollars in fees for the identical itemized services.

B3 Enterprises Inc. v. Consolidate Yacts et. al Westchester Supreme Court Index No.: 61154-2012. This case is listed as an illustration of the diverse cases we have handled. The claim here was that the Plaintiff's 56 foot Donzi yacht had been damaged by improper storage and dry docking by Consolidate Yachts. Inc and that the hazard liability insurer's disclaimer of certain damages was a breach of their contractual obligations. The insurer was only willing to recognize approximately 25,000.00 dollars in damages. The case settled after extensive litigation for approximately

500.000.00 dollars.

Petar v. Petar Saratoga County Index No.: 001618/2000. In this case the injured Plaintiff was injured as a result of the dump body of a dump truck having been accidentally released striking the injured plaintiff in the head and neck. The Plaintiff sustained significant spinal injuries and died as a result of those injuries. The dump truck was owned by the injured party's company Petar Contracting and the accidental release of the dump body was caused by the injured party's son's negligent operation of the truck. A default judgment was entered against the corporate defendant after a disclaimer of coverage by the company's General Liability Insurer. An action was brought in New York Supreme seeking coverage under the GL policy issued. After briefing the issues before the Court an offer was made and the default judgment vacated.

Deegan v. Hickman Westchester Supreme Court 1991. This case arose out of a real estate deal that went bad. The defendant Barrett Hickman, who at the time was a sitting Justice of the Supreme Court, Putnam County, was under contract to sell his house to the Plaintiff Keenan Deegan and his mother Mildred Deegan. As per the terms of the contract the deal fell through because of a failed engineering inspection and the inability of the Plaintiff to secure a purchase money mortgage. The Plaintiff requested a return of the earnest money down payment pursuant to the terms of the contract. The defendant refused to fully refund the down payment and demanded that he keep some of the down payment for his "troubles." The defendant felt confident that the Plaintiff would not seek, nor be successful should he seek to recover the down payment in Court, as the defendant was the presiding judge in Putnam County. Plaintiff brought an action to recover the down payment in Westchester County as the defendant was the sole presiding judge in Putnam County. The case was thereafter transferred to the Third Department, Albany County. A decision was rendered on October 23, 1991 in which the Court found in favor of the Plaintiff and awarded Plaintiffs their attorney fees and costs as a sanction against the defendant Justice Hickman for frivolous conduct in his defense of the Plaintiffs' cause of action, which interestingly was being defended by the then part time Putnam County District Attorney, Kevin Wright. The decision was reported on the front page of the New York Law Journal. All my Putnam County cases thereafter were transferred to Westchester County Supreme Court/

The above is a small sampling of the cases handled almost exclusively by myself. In addition I have successfully handled numerous personal injury and medical malpractice cases. As well as a variety of real estate, land use and planning, municipal law and commercial litigation and transactional work.

As to reference contacts please see the following:

Honorable Lewis J. Lubell, Lubell@nycourts.gov

Honorable Joan Lefkowitz Lefkowitz@nycourts.gov

Hon. Michael McDermott. Michael@attorneymcdermott.com

Hon. Paul Marx. Marx@nycourts.gov

Hon. Terrence Murphy, former New York State Senator: Terrencemurphy5@gmail.com