

THE LGBT BAR ASSOCIATION OF GREATER NEW YORK

# NAME CHANGE TRAINING

A FREE CLE PROGRAM | MONDAY, JUNE 26, 2017 | 6:30-7:30 P.M. | BLANK ROME LLP

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## **FACULTY:**

**Mark Hager**, Senior Staff Attorney/Domestic Violence Project at Urban Justice Center

**Andy Izenson**, Associate Attorney at Diana Adams Law & Mediation, PLLC

**Inbal Paz Garrity**, Partner at Blank Rome LLP

**Christopher Oldi**, Supervising Attorney at Legal Services of the Hudson Valley

**Thomas R. Westle**, Partner at Blank Rome LLP

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# **NAME CHANGE TRAINING**

*CLE program presented by LeGaL & Blank Rome LLP*

Monday, June 26, 2017, 6:30 to 7:30 p.m.

Blank Rome LLP | New York, NY

## **AGENDA**

- I. Cultural Competency, 6:30 - 6:40 (Izenson)**
- II. Basics of the Petition Process and Special Considerations, 6:40 - 6:50 (Westle and Paz Garrity)**
- III. The Importance of Name Changes, 6:50 - 7:00 (Hager)**
- IV. Considerations for Trans Clients, 7:00 - 7:10 (Hager and Oldi)**
- V. Different Considerations for Trans Clients, 7:10 – 7:20 (Panel)**
- VI. Q&A, 7:20 – 7:30 (Panel)**

## Name Change Training

### Faculty Biographies

**Mark Hager, Senior Staff Attorney, Domestic Violence Project at Urban Justice Center**

Mark Hager is the Senior Staff Attorney at the Domestic Violence Project of the Urban Justice Center, representing victims of domestic violence in order of protection, custody/visitation, and child support matters. As the LGBTQ Initiative Coordinator at DVP, Mark has represented LGBTQ identified individuals in name change petitions and provided specialized training for legal providers at pride centers across NYC and at Lavender Law. Before working at DVP, Mark was a junior associate at a midsize law firm.

**Andy Izenon, Associate Attorney at Diana Adams Law & Mediation, PLLC**

Andy Izenon is the Associate Attorney at Diana Adams Law & Mediation, PLLC, a private law firm serving the family law and mediation needs of LGBTQ, polyamorous, and nontraditional families. Andy provides direct representation in family law matters to LGBTQ clients and handles the firm's pro bono docket, providing pro bono name changes to transgender and gender nonconforming clients and community members. Andy also frequently provides cultural competency training for attorneys and other professionals serving transgender and gender nonconforming clients, including at the Family and Divorce Mediation Council and the New York State Bar Association.

**Inbal Paz Garrity, Partner at Blank Rome LLP**

Inbal Paz Garrity concentrates her practice in the areas of white collar criminal defense, investigations, and complex corporate and commercial litigation. She represents both individuals and corporations in a wide variety of matters, including criminal prosecutions and grand jury investigations involving securities fraud, antitrust, public corruption, FCPA, money laundering, OFAC violations, and bank and insurance fraud, corporate internal investigations, SEC and other federal regulatory proceedings, and design and implementation of compliance programs.

**Christopher Oldi, Supervising Attorney at Legal Services of the Hudson Valley**

Christopher Oldi is a Supervising Attorney located in the Yonkers Office of Legal Services of the Hudson Valley (LSHV), where he supervises staff attorneys and support staff. Prior to becoming a supervisor, Christopher spearheaded and was the staff attorney of LSHV's LGBTQ Legal Project, where he represented low-income LGBTQ individuals in the Hudson Valley in areas such as discrimination, name changes, landlord/tenant matters, disability advocacy, and other civil legal services.

**Thomas R. Westle, Partner at Blank Rome LLP**

Thomas Westle focuses his practice on corporate and securities law. He has extensive experience in legal issues relevant to registered and unregistered investment companies and investment advisers. Thomas provides legal services in the areas of public company, financial services, funds and investment management, emerging companies, and venture

capital. He will be the main point of contact between LeGaL and Blank Rome for name change referrals.

**Name Change Training**  
**June 26, 2017**

*Prepared for a CLE program presented by  
LeGaL—The LGBT Bar Association of Greater New York  
in conjunction with Blank Rome LLP*

**I. Cultural Competency (Andy Izenson):**

- a. Introductions – name, pronoun, and how being asked your pronouns makes you feel
- b. Assess prior experience – have you ever had a transgender client or a case involving transgender issues?
- c. Background information and key terms for practitioners
- d. Making your office a welcoming place
- e. Avoiding common mistakes and problems
- f. Handling mistakes

**II. Basics of the Petition Process and Special Considerations (Tom Westle and Inbal Paz Garrity):**

- a. Initial Petition Procedures
  - i. Applicant must submit a petition to the court
  - ii. Typically, the applicant must publish notice at least once in a designated newspaper within 60 days of the court-issued name change order
  - iii. With the Court's approval, the publication requirement may be waived and the records sealed for the applicant's safety.

**The following are some of the facts and potential issues with petitions that may arise:**

- a. *Paragraphs 3 and 4*: personally identifiable information, including date of birth, city of birth, birth certificate information and current address
  - iv. **Potential issues:**
    1. § Must reside in NYC if applying through Civil Court of the City of New York
    2. § Right to apply for a name change if not a U.S. citizens
- b. *Paragraph 5*: relates to marital status and spousal support obligations

- i. **Potential issues:**
  - 1. if spousal support is owed from a prior marriage, courts may have concern that the applicant may be able to evade payment of court-ordered support if name change is granted
- c. *Paragraph 6:* discloses minor children and any child support obligations
  - i. **Potential issues:**
    - 1. as with Paragraph 5, courts may have concern that the applicant may be able to evade payment of court-ordered support if name change is granted
- d. *Paragraph 7:* representation that the applicant has never been convicted of a crime, or if the applicant has been convicted of a crime, disclosure of the conviction and resulting sentence
  - i. **Potential issues:**
    - 1. § Effect of a prior conviction on the application
    - 2. § Misdemeanor vs. felony conviction
    - 3. § Conviction for violent vs. non-violent offense
    - 4. § Submission of certificate of disposition
- e. *Paragraphs 8 and 9:* disclosure of prior or pending bankruptcy proceedings and disclosure of judgments or liens of record
  - i. **Potential issues:**
    - 1. courts may have concern that the applicant is seeking a name change to evade creditors, particularly if a waiver of publication is granted
- f. *Paragraph 10:* disclosure of any pending litigations to which the applicant is a party
  - i. **Potential issues:**
    - 1. § Ensuring that applicant will not be shielded from a judgment rendered in pending litigation due to a change in legal name
    - 2. § Ensuring that caption and pleadings in any pending litigations will be updated to reflect name change
- g. *Paragraph 13:* request to waive name change publication requirement
  - i. **Potential issues:**
    - 1. handling this request if before a hostile court that is reluctant to offer this protection

### III. **The Importance of Name Changes (Mark Hager):**

- a. The Importance of Name Changes in New York City and the world
- b. Obama protections and the Trump era
- c. Statute (Special Considerations)
- d. NY Civil Rights Law 60-65
- e. § Immigration Status
- f. § Birth Certificates
- g. § Minors
- h. § Fraudulent Purposes

### IV. **Considerations for Trans Clients (Mark Hager and Christopher Oldi)**

- a. Personal Safety Waivers under 64a
  - i. General waiver for trans clients due to greater risk for violence and harassment.
- b. Notice – Alternatives to requirement
- c. Publication Waived - NYS Civil Rights Law § 64-a
- d. Sample Petitions and Attorney Affirmations
  - i. **See Appendix A**

### V. **Different Considerations in Different Courts (Panel)**

- a. **Mark Hager:**
  - i. General mechanics of Process of Name Change (Filing, fee, notice, publication etc.)
  - ii. Changing other documentation
  - iii. Venue Specific
- b. **Christopher Oldi:**
  - i. Hudson Valley Specifics for Name Changes
    - 1. Filed in Supreme Court
    - 2. RJI and Filing fee of \$210 required, unless fee waived
    - 3. Generally there are no appearances required



4. Provide self-addressed stamped envelope to receive signed order from judge
5. Client can request certified copies from clerk's office

## Appendix

### A.

#### Sample Language for Petition

- The Petitioner was assigned the gender of male at birth but has transitioned to the female gender. The Petitioner will hereinafter be referred to using female pronouns.
- The Petitioner provides the information in the above paragraph solely for the purpose of requesting that publication be waived and the records be sealed in order to protect her personal safety.
- The petitioner further requests waiver of the requirement to publish notice of the court-ordered name change (Civil Rights Law section 63) and requests waiver of the requirement to file an affidavit of publication (Civil Rights Law section 64) and further requests that the Court order the records of the name change to be sealed, including removal of petitioner's name from any electronic records, to be opened only by order of the Court for good cause shown or at the request of the Petitioner. These requests are made pursuant to Civil Rights Law section 64-a, Exemption from Publication Requirements, in order to protect the Petitioner's personal safety

Sample Language for an Attorney Affirmation, if using: Supreme Court applied NYS Civil Rights Law § 64-a to waive publication and seal the records in a name change for a transgender individual in the case of *In re EPL*, 26 Misc.3d 336, 891 N.Y.S.2d 619 (2009).

- In his name change petition, E.P.L., who transitioned from female to male, requested that the court waive publication and seal the records of the proceeding pursuant to Civil Rights Law section 64-a.
- The grounds for waiver of publication in *EPL* were that publication: would publicly out me [E.P.L.] as a transgender person and violence against transgender people permeates our society . . . The Washington Transgender Need Assessment, conducted by Gender Education and Advocacy, found that 43% of transgender individuals surveyed had been a victim of violence or crime with 75% attributing a motive of transphobia or homophobia to the violence. *In re EPL*, 26 Misc.3d 336, 337-338, 891 N.Y.S.2d 619, 621 (2009).
- *In re EPL* was codified when, on September 22, 2015, Governor Cuomo signed into law amendments to Civil Rights Law § 64-a. Exemption From Publication Requirements, that make it clear that, "If the court shall find that the publication of an applicant's change of name would jeopardize such applicant's personal safety, *based on totality of the circumstances* the provisions of sections sixty-three and sixty-four of this article requiring publication shall be waived and shall be inapplicable. *Provided, however, the court shall not deny such waiver solely on the basis that the applicant lacks specific instances of or a personal history of threat to personal safety.* The court shall order the records of such change of name proceeding to be sealed, to be opened only by order of the court for good cause shown or at the request of the applicant.

26 Misc.3d 336

Supreme Court, Westchester County, New York.

In the Matter of the Application  
of **E.P.L.**, Petitioner,  
For leave to Assume the Name of **E.P.L.**

Nov. 10, 2009.

### Synopsis

**Background:** Transgender individual applied for name change, requesting that notice not be published in newspaper and that proceeding be sealed.

**Holdings:** The Supreme Court, Westchester County, William J. [Giacomo, J.](#), held that:

[1] purpose of name change was not fraudulent, and

[2] request for non-publication was justified.

Application granted.

West Headnotes (3)

#### [1] Names

 [Change](#)

An adult does not need permission of the court to change his name, however, public policy favors a court's review and granting of name change applications because this makes the change of name a matter of public record. [McKinney's Civil Rights Law § 63.](#)

1 Cases that cite this headnote

#### [2] Names

 [Change](#)

Application of transgender individual for name change would be granted, absent evidence of fraud, misrepresentation, or interference with the rights of others. [McKinney's Civil Rights Law § 63.](#)

[Cases that cite this headnote](#)

#### [3] Names

 [Change](#)

Requirement that name change be published in newspaper would be waived with respect to transgender applicant; although applicant did not cite a personal experience of violence or crime against him based on his gender identity, publicly revealing name change would jeopardize twenty-year-old's personal safety by exposing him to risk of anti-gender bias crimes. [McKinney's Civil Rights Law §§ 63, 64-a.](#)

1 Cases that cite this headnote

### Attorneys and Law Firms

\*\*620 **E.P.L.**, petitioner pro se.

### Opinion

WILLIAM J. [GIACOMO, J.](#)

\*337 This is an application by Petitioner, a transgender individual, for a name change to correspond with his male gender identity.

[1] An adult does not need permission of the court to change one's name [*Smith v. United States Casualty Co.*, 197 N.Y. 420, 90 N.E. 947 (1910) ], however, “public policy favors a court's review and granting of name change applications because this makes the change of name a matter of public record.” *In re Boquin*, 24 Misc.3d 473, 473–474, 875 N.Y.S.2d 788, 788 (N.Y.Sup., West.Cty., 2009), citing, *Matter of Halligan*, 46 A.D.2d 170, 361 N.Y.S.2d 458 (4th Dept., 1974); *In re Mohamed*, 3 Misc.3d 402, 775 N.Y.S.2d 488 (S.Ct. Rockland County, 2004); *Matter of Linda Ann A.*, 126 Misc.2d 43, 44, 480 N.Y.S.2d 996 (N.Y.Sup., Queens Co.,1984).

[2] In the instant matter, the petition does not reveal any evidence of fraud, misrepresentation, or interference with the rights of others, and therefore the name change petition is GRANTED. See, *In re*

*Winn–Ritzenberg*, 26 Misc.3d 1, 2, 891 N.Y.S.2d 220 (N.Y.Sup.App.Term,2009).

Pursuant to [Civil Rights Law § 63](#), a court ordered name change must be published in a designated newspaper in the county in which the order is entered within sixty days after the making of the order. However, that requirement may be waived pursuant to [Civil Rights Law § 64–a](#).

[3] Here, citing that provision of the law, the petitioner requests that notice of the Order granting his name change not be published in a newspaper in this county or maintained as a court record accessible to the public. [Civil Rights Law § 64–a](#) authorizes waiver of publication and sealing of the court record upon a finding that publication of a name change would jeopardize the safety of the person whose name is changed. There are very few reported decision interpreting the statute, and all of them are based on histories of domestic violence. *See*, [In re M.M.](#), 2 Misc.3d 747, 771 N.Y.S.2d 315 (Sup.Ct., Renn.Cty., 2003); [In re Doe](#), 3 Misc.3d 648, 773 N.Y.S.2d 215 (Civ.Ct., N.Y.Co., 2003); [In re L.V.](#), 2 Misc.3d 249, 768 N.Y.S.2d 304 (Civ.Ct., N.Y.Co., 2003).

Petitioner does not recite a history of violence against him. Instead, in support of his request, petitioner reveals a fear for \*\*621 his personal safety in the event that his status as a transgender individual is revealed, stating in his petition that publication

“would publicly out me as a transgender person and violence against transgender people permeates our society. According to a recent Report of the National Coalition of Anti–Violence Programs (2002), ‘the number of reported incidents [in New York City] involving anti-transgender bias has continued to \*338 rise (21%) in 2001, and anti-transgender bias is now present in 13% of all bias incidents.’ The Washington Transgender Need Assessment, conducted by Gender Education and Advocacy, found that 43% of transgender individuals surveyed had been a victim of violence or crime with 75% attributing a motive of transphobia or homophobia to the violence.”

Unlike the other reported cases in which [Civil Rights Law § 64–a](#) was found applicable, the petitioner does not give specific instances of nor state a personal history of threats to his personal safety. However, in researching this issue this Court found that there exist numerous documented

instances of those targeted for violence based on their sexual orientation or gender identity<sup>1</sup>.

Indeed, the *New York Times* reported that “in 2007, ... there was a 24 percent increase nationally in the number of victims reporting such violence.” *Death of a Transgender Woman Is Called a Hate Crime*, *New York Times*, August 2, 2008. Furthermore, in 2003, the Southern Poverty Law Center published its special “Intelligence Report” on hate crimes against transgender and transsexual women. In that report, one article called “Disposable People” presented evidence that the murder rate of the transgendered was set to outpace that of all other hate killings. *Disposable People*, Bob Moser, *The Intelligence Report* (2003)<sup>2</sup>.

Such violence has become so prevalent that on October 27, 2009, President Barack Obama signed legislation expanding federal hate crimes to include offenses against people based on sexual orientation or gender identity. Recognizing that transgender people continue to be disproportionately targeted for bias motivated violence, the federal statute, known as the “Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act”, adds sexual orientation, gender identity, gender and disability to the categories included in existing federal hate crimes law and will allow local governments to receive assistance from the federal government in these matters.

\*339 In short, while petitioner did not, and hopefully could not, cite a personal experience of violence or crime against him based on his gender identity, he has made a compelling argument as to why, at the age of twenty, he has a right to feel threatened for his personal safety in the event his transgender status is made public.

Accordingly, petitioner's request to be exempted from the publication requirements of Civil Rights Law Article § 63 is GRANTED.

Furthermore, the records of this name change proceeding are hereinafter **ORDERED** to be **SEALED**, and shall be \*\*622 hereinafter opened only by order of the court for good cause shown or at the request of the applicant.

The foregoing shall constitute the decision and order of the Court.

### All Citations

26 Misc.3d 336, 891 N.Y.S.2d 619, 2009 N.Y. Slip Op. 29451

### Footnotes

- 1 It should be noted that the New York State Senate is currently debating the “The Gender Expression Non–Discrimination Act” (S.2406), which has already passed the State Assembly, would make it a hate crime for an individual to attack another because of the victim's gender identity or expression.
- 2 Which can be found at <http://www.splcenter.org/intel/intelreport/article.jsp?pid=276>.