

# JUDGES & LAWYERS BREAST CANCER ALERT



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Editor: Martha L. Golar, Esq.

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## JALBCA's ANNUAL DINNER

JALBCA's Annual Awards Presentation and Installation Dinner, which was celebrated at Cipriani's Wall Street on May 12, 2014, drew an impressive crowd of approximately 750 people and was a resounding success. Guests convened to install the new officers, directors and advisory board members, honor outgoing Co-President Hon. Jennifer G. Schechter and present awards. The event was organized by dinner Co-Chairs Sandra C. Katz and Cynthia B. Rubin, with the assistance of the Dinner Committee. Former Judge Judith Kaye presided over the installation of offices and directors.

New York State Attorney General Eric Schneiderman opened the dinner program. The Leadership Achievement

Award was presented by Manhattan District Attorney Cyrus R. Vance, Jr. to Hon. Jonathan Lippman, Chief Judge of the State of New York. Co-President Sharon Nelles presented the Maite Aquino Memorial Grant Award to Jill Centella and the JPMorgan Chase Litigation Team. The award honors the memory of Maite Aquino, who had been a partner at Sullivan & Cromwell, and provides funds to community-based breast health programs and programs that provide legal and social support to families in crisis. Ms. Aquino died of breast cancer in June 2011 after a valiant fight against the disease.

Hon. Lynn R. Kotler was installed as JALBCA's new Co-President. She sits

on the Criminal Court in Manhattan. She will share JALBCA's co-presidency with Sharon Nelles, a member of the law firm Sullivan & Cromwell LLP, whose term will continue.

Former JALBCA Co-President Judith Livingston then conducted the live auction for sponsors of the mobile mammography vans in connection with JALBCA's October Alert Project, which supplemented the silent auction that was organized by Robert Schuette and Arielle Albert. The mammograms will be performed by independent medical providers but the cost of the mammograms is subsidized by JALBCA. JALBCA is very thankful for the generosity of each of the many sponsors:

## 2014 Sponsors of Mammogram Vans - 42

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## INCOMING JALBCA OFFICERS

At its annual dinner, JALBCA will installed and welcomed its new officers for the 2014-2015 year, as listed below. The newly elected members of the JALBCA Board and Advisory Board were also installed.

### Presidents

Hon. Lynn Kotler Sharon L. Nelles, Esq.

### Vice Presidents

Jacqueline Flug, Esq. Vilia B. Hayes, Esq.  
Hon. Lori Sattler Hon. Lisa A. Sokoloff

### Secretary

### Assistant Secretary

Hon. Saliann Scarpulla Sandra Lespinasse, Esq.

### Treasurer

Hon. William C. Thompson

### Assistant Treasurers

Sandra C. Katz, Esq. Edward S. Kornreich, Esq.

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*Hon. Helen Freedman, Hon. Sheila Abdus Salaam, Hon. Saliann Scarpulla*



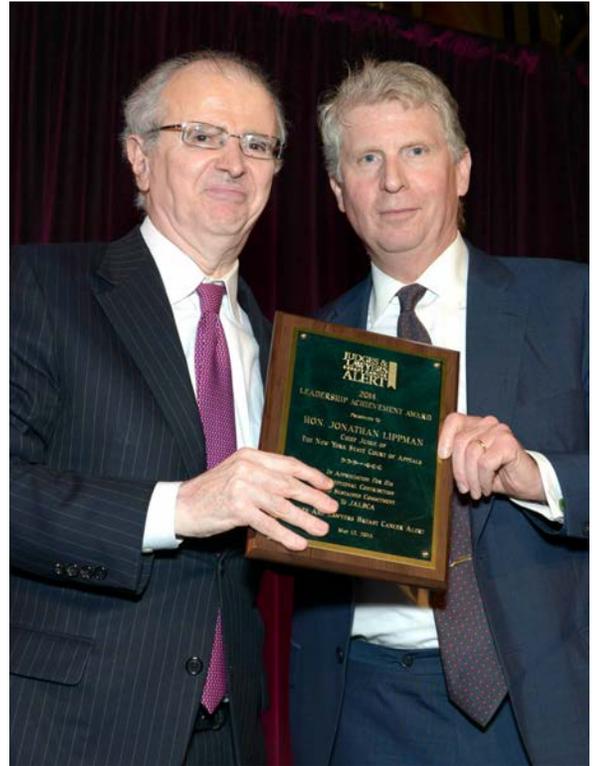
*Judith Livingston, JALBCA Mammogram Van Auctioneer*



*Hon. Jonathan Lippman, New York State Attorney General Eric Schneiderman and Roy Reardon*



*Hon. Lynn Kotler, Sharon Nelles, JALBCA, Co-Presidents and Hon. Judith S. Kaye, JALBCA, Honorary President*



*Hon. Jonathan Lippman and Hon. Cyrus Vance*



*Honoree, Jill Centella, JP Morgan Chase and Sharon Nelles*



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## NEWS BRIEFS

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### NYS RIGHT TO EXTERNAL APPEALS

Since 1998, health care consumers in NYS have had a right to an external appeal when their HMO or insurer (health plan) denies health care services as not medically necessary (including appropriateness, health care setting, level of care, or effectiveness of a covered benefit), experimental/investigational (including a clinical trial or rare disease treatment) or, in certain cases, out-of-network. The external appeal law was codified in Title I & II of Article 49 of the Insurance Law and Title I & II of Article 49 of the Public Health Law. Current external appeal regulations can be found at 11 NYCRR 410 (Regulation 166).

External appeal cases are assigned to external appeal agents that are certified by the New York State Department of Financial Services and Health Department and have a network of medical experts available to review a health plan's denial. The currently selected agents to perform this task are: Independent Medical Expert Consulting Services, Inc. (IMEDECS, formerly known as HAYES Plus, Inc.), located in Lansdale Pennsylvania, certified on June 21, 2001; Island Peer Review Organization (IPRO), located in Lake Success New York, certified on June 30, 1999; and Medical Care Management Corporation (MCMC), located in Bethesda Maryland, certified on July 2, 1999.

To obtain an external appeal, the patient/enrollee must first appeal the denial with his/her plan, or the patient and the plan must agree to waive the internal appeal process. Applications for an external appeal must be filed within 45 days of the plan's final adverse determination from the first level of appeal or from receipt of the plan's letter waiving the internal appeal process. The NYS Department of Financial Services will presume that the applicant received the final adverse determination within eight days of the date on the determination, so that one has 53 days (45 plus 8) from the date on the final adverse determination to request an external appeal. Health care providers also may request an external appeal on their own behalf to obtain payment when a health plan makes a concurrent or retrospective adverse determination denying

health care services. More information and applications are available from the Department of Financial Services or by calling 1-800-400-8882.

The last annual report of the NYS Department of Insurance health bureau on the external appeals program that is posted on the NYS Department of Financial Services website is for calendar year 2005.

### **ASCO CONFERENCE 2014**

The American Society of Clinical Oncology held its annual meeting in Chicago on May 30-June 3, 2014. Following are some of the highlights from the meeting that were particularly relevant to breast cancer.

#### Optimum Endocrine Therapy for Premenopausal Hormone-Responsive Breast Cancer; Exemestane

An analysis of two phase III clinical trials showed that exemestane, an aromatase inhibitor, may be better than tamoxifen to prevent recurrence in women with early-stage hormone receptor-positive breast cancer. The two trials were the Tamoxifen and Exemestane Trial (TEXT) and the Suppression of Ovarian Function Trial (SOFT). The trial results showed that, when exemestane was combined with ovarian function suppression (OFS) in premenopausal breast cancer patients who have hormone-sensitive disease, there was a reduction in the risk of breast cancer recurrence by 34%, compared with treatment with tamoxifen in combination with OFS. The results were presented by study author Olivia Pagani, MD, of the Oncology Institute of Southern Switzerland in Bellinzona, Switzerland. Longer-term follow-up will be needed to assess overall survival, long-term toxicities and effects on fertility. Presently, tamoxifen is the standard adjuvant therapy for women with early-stage breast cancer, and it is used to prevent recurrence in those with hormone-sensitive disease. OFS is sometimes added to a tamoxifen regimen in higher-risk patients in countries outside the United States, but the combination is seldom used in the United States. The two trials followed a total of 4,690 women. The women were randomized to either exemestane or tamoxifen with OFS. The median age of the women in the trial was 43. The study used the drug

triptorelin, surgical oophorectomy, or ovarian irradiation in order to achieve OFS. Some of the patients also received adjuvant chemotherapy, a decision made by their oncologists.

In evaluating the safety of the exemestane versus tamoxifen therapies, adverse events were comparable with those of postmenopausal women. Depression, hypertension, and hot flashes were the most common. In the exemestane plus OFS patient group, musculoskeletal pain, vaginal dryness, libido decrease, dyspareunia, osteoporosis, and fracture were more common; in the tamoxifen plus OFS group, venous thromboembolism and hot flashes were more common.

The phase III trials were coordinated by the International Breast Cancer Study Group, along with the Breast International Group and the North American Breast Cancer Group. The studies were also partially funded by the National Cancer Institute.

Sources: <http://am.asco.org/ofs-plus-exemestane-improves-dfs-early-breast-cancer>; <http://www.cancernetwork.com/asco-2014-breast-cancer/exemestane-trumps-tamoxifen-early-breast-cancer>

#### Obesity Raises Mortality in Young Estrogen Receptor Positive Breast Cancer Patients

A large study whose findings were presented at the ASCO meeting showed that obesity (defined as a body mass index [BMI] of 30 kg/m<sup>2</sup> or higher) increases the risk of dying from breast cancer by a third. This only was observed, however, in premenopausal women with estrogen-receptor (ER)-positive disease. Study investigator Hongchao Pan, PhD, from the University of Oxford in the United Kingdom, and colleagues gathered data from the Early Breast Cancer Trialists' Collaborative Group on 80,000 patients who participated in 70 early breast cancer trials. They evaluated BMI, ER status, menopausal status, age, recurrence, death, tumor diameter, and nodal status.

Obesity seemed to have little impact on outcomes for postmenopausal women with ER-positive disease, a finding that surprised the researchers. Also, in ER-negative patients they saw no association between morbidity and obesity. The researchers also do not know the underlying

ing mechanism to explain the association and acknowledge that the study did not prove a cause-and-effect link.

One physician commenting on the study noted that it is likely that increased body mass affects tumor biology, including tumor proliferation, increased angiogenesis, and cell survival. It may also be that factors relating to treatment could have contributed to poor outcomes, e.g., obese patients are often underdosed for chemotherapy, with dose calculated based on calculated BSAs [body surface areas] rather than actual BSAs. These dose reductions have been associated with worse outcomes. Sharon H. Giordano, MD, MPH, of The University of Texas MD Anderson Cancer Center, provided these comments. She further noted other aspects of the trial: the non-randomized nature of the trial may have contributed to an imbalance in baseline characteristics; there was no adjustment for race and/or ethnicity, factors which could have affected the metabolic activity and outcomes in the study population; and the pooled

analysis of women choosing to participate in clinical trials may also represent a selection bias because patients who participate in clinical trials, she said, tend to be younger, better educated, and healthier, and so the results may not reflect the general population.

But doctors seem to agree that all patients need to be counseled about losing weight and having a healthy lifestyle because obesity has been linked to other detrimental effects on health. In fact, ASCO president Clifford A. Hudis, MD, FACP, has said, "But any way we look at this, obesity is slated to replace tobacco as the leading overall modifiable risk factor for cancer." Dr. Hudis added, "We are going to have to tackle this from a public health point of view."

Source: <http://www.medscape.com/viewarticle/825267>; <http://am.asco.org/obesity-contributes-higher-mortality-among-premenopausal-women-breast-cancer>

#### Insulin Resistant Metastatic Breast Cancer Patients Fare Worse

Study findings were presented at the

ASCO meeting to the effect that metastatic breast cancer patients with insulin resistance have a significantly worse prognosis. This was found even after adjustments were made for other prognostic factors such as age, endocrine status of tumor, visceral disease, and body mass index. The study was conducted by Alessandra Gennari, MD, PhD, of the National Cancer Research Institute in Genoa, Italy, and colleagues and followed 87 women with metastatic breast cancer. This would suggest that for this category of patient, alternative treatment strategies need to be considered. Gennari stated, "Insulin resistance is associated with a pro-inflammatory state that may be responsible for treatment failure. We must also consider that tissue insulin sensitivity may be different from overall insulin sensitivity... and that breast cancer tissues may also have different insulin sensitivity."

Source: <http://www.cancernetwork.com/asco-2014-breast-cancer/insulin-resistant-metastatic-breast-cancer-patients-fare-worse#sthash.2n68f6il.dpuf>

#### **SAVE THE DATE - NYU CANCER INSTITUTE CANCER EDUCATION SERIES**

Members are reminded of upcoming community talks, screenings and programs offered by the NYU Cancer Institute, listed below. These take place at the NYU Langone Medical Center, NY, NY, unless specified otherwise.

July 16, 5:30 pm - Cancer Survivorship Lecture Series Journaling and Creative Writing

July 24, 5:30 pm - Prostate Cancer Education Series – Genetic Screening

Sept 17, 5:30 pm - Cancer Survivorship Lecture Series

Sept. 18, 5:30 pm- Prostate Cancer Education Series

For additional information and future postings, please visit [www.NYUCI.org](http://www.NYUCI.org). To RSVP, which is required, please call 212.263.2266 or e-mail [NYUCIcommunityprograms@NYUMC.org](mailto:NYUCIcommunityprograms@NYUMC.org). You may also reserve online. Prior programs are available for viewing on the medical center's YouTube channel at [YouTube.com/nyulmc](http://YouTube.com/nyulmc).

#### **SAVE THE DATE - KOMEN RACE FOR THE CURE**

JALBCA Team co-leaders for the 2014 Susan Komen 5K Walk/Run Race for the Cure in Central Park, NYC will again be Hon. Shirley Werner Kornreich and Sandy Lespinasse. JALBCA thanks both Judge Kornreich and Sandy for their continued leadership and assistance in organizing our team for this annual event. To sign-up for the JALBCA team, please go to the Komen site online and register for the JALBCA team.

Susan Komen Race for the Cure

Join Team JALBCA

September 7, 2014

#### **SAVE THE DATE - 19th ANNUAL ELLEN'S RUN**

Time: 9:00 a.m.

Date: Sunday, August 17, 2014

Location: Southampton Hospital/Parrish Hall on Herrick Road

Race Day Registration: 7:30-8:30 am

For more information or to pre-register and download application to register, go to <http://ellensrun.org>, or call 631.907.1952 or 212.940.0916

# JALBCA

c/o Jennifer Fiorentino  
Executive Director  
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New York, New York 10128  
www.jalbca.org



Address Service Requested

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## CALENDAR/CONTACTS

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### ADELPHI NY STATEWIDE BREAST CANCER

*Hotline & Support Program*  
Adelphi University  
School of Social Work  
Garden City, NY 11530  
www.breastcancerhotline@adelphi.edu

### CancerCare

275 Seventh Avenue  
New York, NY 10001  
www.cancercare.org  
1.800.813.HOPE (4673)

### ELLEN's RUN

200 West End Avenue, Suite 12 G  
New York, NY 10023  
www.ellensrun.org  
212.840.0916

### MEMORIAL SLOAN KETTERING CANCER CENTER

Post-Treatment Resource Program  
*Educational Forums*  
215 E. 68th St., Ground Fl.  
New York, NY 10021  
www.mskcc.org  
212.717.3527

*Bendheim Integrative Medicine Center*  
1429 First Avenue (at 74th Street)  
New York, NY

### SHARE (*Self-Help for Women with Breast or Ovarian Cancer*)

1501 Broadway, Ste. 704A  
New York, NY  
www.sharecancersupport.org  
212.719.0364  
Speak to a survivor toll-free:  
1.866.891.2392

### TO LIFE!

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### YOUNG SURVIVAL COALITION

61 Broadway  
New York, NY  
www.youngsurvival.org  
646.257.3025