

New York Trial Answer Book

Techniques, law, and forms for trial preparation and presentation.

Lawyers no longer have as many opportunities to polish their trial skills. Small cases rarely reach courtrooms, and specialists and public defenders now handle the criminal cases that used to keep civil lawyers trial-ready.

However, the procedures and cases governing New York courtrooms ... and the techniques that work in them ... must still be learned and remembered. Here is the solution.

Courtroom veterans Ed Birnbaum, Carl Grasso, and Justice Ariel Belen have blended their hard-won trial lessons with the law and rules governing New York trials in an accessible single volume called *New York Trial Notebook*.

Sophisticated guidance

This practical work is heavily-supported with **2,900 cases** containing parenthetical descriptions and pinpoint citations, **79 forms** in print and on CD, and dozens of practice tips. *New York Trial Notebook* delivers:

Expert witness disclosure

- Boundaries of the treating-physician exemption from disclosure. \$5:04
- Good practice on requests for expert witness disclosure. \$5:22
- How much disclosure is sufficient. \$5:41
- When preclusion is the appropriate remedy for late disclosure, \$5:50, and when it is not. \$5:51
- Tactics for admission and preclusion, with forms. \$5:51

Eve-of-trial preparation

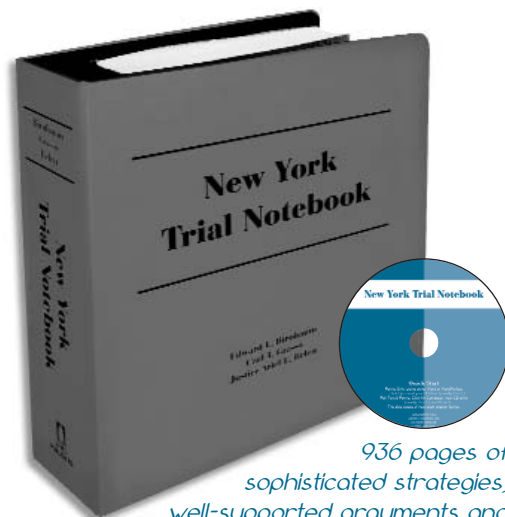
- Case law for common motions in limine. \$13:06
- Responsive tactics. \$13:23
- Plaintiff's proven case themes for liability, \$14:20, and damage. \$14:21
- Same for the defense. \$14:32 and 33
- Themes effective in commercial litigation. \$14:40
- What to put in your trial notebook. \$14:51

Expert witness testimony

- When cumulative expert testimony is permissible. \$15:81
- Rules and cases on expert opinion evidence. \$15:90
- Frye hearings during trial, with forms. \$15:131
- Adequate and inadequate bases for expert opinions. \$15:141
- For medical opinions. \$15:163
- Is a complete factual predicate necessary? \$26:53

Jury selection

- Objecting to questions omitted in judicial voir dire. \$20:13
- Tactfully excusing jurors. \$20:18
- Procedures and tactics in White's and Struck methods. \$20:31
- How to conduct a skillful voir dire. \$20:50
- Pattern language for responding to negative comments about lawyers, size of awards, and the like. \$20:56



936 pages of sophisticated strategies, well-supported arguments and answers, and practice-proven forms. Book and CD for \$119.

- Model commitment questions. \$20:100
- Batson-challenge cases and procedure. \$20:141

Trial tips

- Argument tips from the bench. \$19:03
- An easy way to obtain daily feedback during trial. \$19:40
- Handling forgetful witnesses. \$23:20
- Helping plaintiffs make a good impression. \$24:20
- A fallback question format to avoid leading-question objections. \$24:60

Cross examination of lay witnesses

- How to attack credibility when you must also bring out new evidence. \$25:11
- Questions for attacking the foundation for testimony. \$25:20
- Techniques for impeachment. \$25:30
- Scope of use of inconsistent statements. \$25:32
- Pattern questions for showing bias without overstepping. \$25:52

And much, much more: cross-examination of experts, making and meeting objections, persuasive openings and closings, motions during trial, and jury instruction preparation and objections.

See inside for table of contents, list of forms, author biographies, and sample pages...

About the Authors

Edward L. Birnbaum is the head of the Litigation Department at Herzfeld & Rubin, P.C., in New York. He is a prolific author of litigation articles and lectures frequently on litigation strategy and techniques for Bar Associations and Continuing Legal Education Institutions. His practice areas in litigation include personal injury, product liability, professional liability, and commercial trials.



Mr. Birnbaum was Chairman of the New York State Bar Association Committee on the Supreme Court, Chairman of the New York State Bar Association Action Unit No. 6, and a Member of the House of Delegates to The New York State Bar Association. He has served as an arbitrator for the American Arbitration Association, the United States District Court for the Eastern District of New York, and the Small Claims Division of the Civil Court of the City of New York. He has been an adjunct faculty member of New York University School of Continuing Education, teaching a course on the CPLR. He is a Fellow of The Roscoe Pound Institute, a Fellow of the New York State Bar Foundation, and was named New York Super Lawyer in 2006.

Carl T. Grasso is a member of the firm of Herzfeld & Rubin, P.C., in New York City, specializing in litigation and trial work in the areas of personal injury, product liability and commercial litigation. Since 1980 he has been intimately involved in trials all over the United States, as well as in New York. He is an arbitrator in the Small Claims Division of the Civil Court of the City of New York. He holds Martindale Hubbell's highest rating, and is a cum laude graduate of New York Law School.



Mr. Grasso also served in the United States Army in the Corps of Engineers while in Vietnam, and later in the Judge Advocate General's Corps. He has written for the Military Law Review and the Army Lawyer. He retired from the U.S. Army Reserve as a full colonel in 1996. His awards include the Bronze Star and the Legion of Merit.

Justice Ariel E. Belen was elected to the New York State Supreme Court in 1994. He headed the Trial Assignment and Jury Coordinating Parts in Brooklyn Supreme Court, on a rotating basis, from 1998 to 2002. He was appointed to the Commercial Division of the New York State Supreme Court in 2002. In March 2005, Justice Belen was appointed an Associate Justice of the Appellate Term for the Supreme Court for the 2nd and 11th Judicial Districts.



Prior to his judicial career, Justice Belen was a trial lawyer with the Criminal Defense Division of the Legal Aid Society. He later joined the New York City Law Department and served as the Bronx Borough Chief of the Office of the Corporation Counsel. He has participated in clinical programs at Brooklyn Law School, Hofstra Law School, and in many CLE programs sponsored by, among others, the New York State Trial Lawyers Institute. Justice Belen graduated cum laude from Brooklyn College and earned a Doctor of Law with Specialization in International Legal Affairs degree from Cornell Law School.

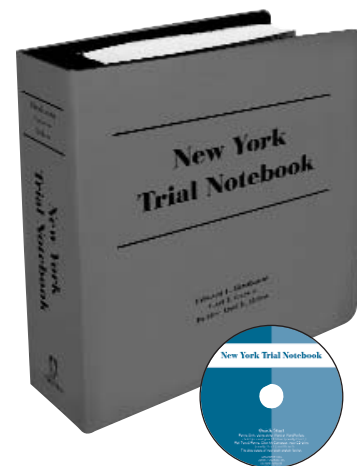
About the Book & CD

Birnbaum, Grasso, and Belen's *New York Trial Notebook* contains 936 letter-sized pages in a sturdy and tabbed 3-ring binder. The book contains 750 pages of answers, tips, and arguments supported by 2,900 cases descriptions and citations, and 100 pages of notices, demands, motions, affirmations, and jury instructions.

You receive detailed answers to the questions that frequently arise in the home stretch before trial, and that arise in the courtroom – disclosure, post-note discovery, pre-trial motions, qualifications of experts, jury selection, witness examination, objections, trial motions, and jury instructions.

Included at no extra charge is an intuitive, full-text CD which requires no installation before use. It may be searched by key word, case name, topic, or form. You may also open and modify any of the CD's forms simply by using your favorite word processor; you need not work with the CD's search program.

\$119 buys the book and CD. The book is updated annually for \$79 with replacement pages and a new CD. Both the book and its updates are sold on a 30-day trial basis, and may be returned if not to your liking. The update service may be cancelled at any time.



79 Forms

Note of Issue, Trial Calendar and Trial Preferences

Note of Issue, Certificate of Readiness for Trial, Civil Court Notice of Trial, Civil Court Certificate of Readiness for Trial, Order Granting Permission to File Note of Issue, Demand to File Note of Issue from Defendant, Notice of Motion to Dismiss Complaint for Neglect to Prosecute, Affidavit in Support of Motion for Dismissal of Complaint for Neglect to Prosecute, Notice of Motion For Trial Preference, Affirmation in Support of Motion For a Trial Preference, Affirmation in Opposition to Motion for Trial Preference, Order Granting Preference

Jury Demand and Waiver

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Motions to Sever and Bifurcate

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Efficient NY Trial Preparation

Yes, send me one copy of Birnbaum, Grasso, and Belen's *New York Trial Notebook* and its CD with an invoice for \$119 plus shipping. If not satisfied, I may return the book within 30 days. Send the annual supplements on the same 30-day review basis. I may cancel the update service at any time.

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Includes 2,900 cases with parenthetical explanations and pinpoint citations, 79 forms, dozens of practice tips and cautions, and a full-text and forms CD. \$119

This practical new trial manual guides you from the last few months of preparation to verdict.

Written by Edward L. Birnbaum, Carl T. Grasso, and Justice Ariel E. Belen, this big answer book walks you step-by-step and issue-by-issue through:

- Effective case management
- Persuasive pretrial motions
- Building trial notebooks
- Admissibility of expert testimony
- Winning jury selection
- Cross-examining experts
- Evidentiary objections
- Motions during trial
- Jury instructions

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