Sotomayor: Equal Access to Law Levels Playing Field for Everyone

By Jeff Lyons

Equal justice under law has always meant the process is open to everyone, regardless of their background and regardless of their status in this society. U.S. Supreme Court Associate Justice Sonia Sotomayor told Bar Association members after accepting the Association’s Diversity Award on March 11.

Justice Sotomayor was presented with the award, renamed in her honor, before more than 900 people at the Hyatt at The Bellevue. She answered questions from the audience after receiving the award and even got a good-natured Philadelphia booing, saying her beloved New York Yankees would beat the Phillies in a rematch of the 2009 World Series.

“If you talk to most litigants, I remind everyone, there’s a winner and a loser,” she said, “The loser is inevitably going to feel that justice wasn’t done for them. I try, and I tell people this often, you’re not going to solve society’s problems in a courtroom. Because in a courtroom, you’re taking something away from at least half the parties in that room. You have to have a broader solution that deals with the underlying issue of the losing party and the needs of that party that can’t be answered in the courtroom. It has to be answered in other arenas. For me, it is equal access to the courts and equal process to everyone. Fairness of process, where even if they’re unhappy with the result, they feel the process has been open to them.”

Justice Sotomayor said the year she worked with Justice John Paul Stevens was the greatest gift of her career. “He taught me what to aspire to – an openness of mind and a willingness to learn every day something new and to think about how to do my job and to continue growing in it. I am eternally grateful to him now. The most important lesson my mentors taught me was to admit to myself when I didn’t know how to do something. And to understand that if I asked, people would help me. And it is very, very difficult for people like lawyers to do that sometimes, because...”

continued on page 12

Mayor, Gulf Spill Fund Chief to Speak in April

Philadelphia Mayor Michael Nutter and Kenneth R. Feinberg, President Obama’s compensation czar, will both be the featured speakers at separate Chancellor’s Forums in April.

Mayor Nutter will address Bar members at a Thursday, April 21 event at Bar Association headquarters. He will also engage in a question-and-answer session, as he discusses his proposed 2012 budget and 2012-2016 Five-Year Plan recently presented to City Council. Feinberg, administrator of the federal 9/11 fund which distributed nearly $7 billion to more than 5,000 survivors and families of victims will be the guest speaker at a Thursday, April 28 Chancellor’s Forum presented by the Business Law Section.

Philadelphia Bar Association Chancellor Rudolph Garcia will introduce both speakers.

The Chancellor’s Forum with Feinberg will be held at The Ritz-Carlton, Philadelphia, 10 Avenue of the Arts, at 12 p.m. Tickets for this plated-lunch program are $35 for Business Law Section members, $45 for non-Section members who belong to the Philadelphia Bar Association and $55 for non-members. Visit philadelphiabar.org to purchase tickets.

Feinberg was named by President Obama in June 2010 as the independent administrator of a $20 billion fund set up by BP to compensate victims of the oil spill in the Gulf of Mexico. He was ap...
Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010: Where are the Tax, Succession and Estate Planning Opportunities?

When: Friday, April 29th, 2011. 9:00 AM to 5:00 PM
New Location For This Event: Temple University, Center City Philadelphia.
1515 Market Street, Philadelphia, PA 19102
Guest Speaker: Renzo Cerabino, Esq, CFP®, CLU
CLE: 6 Substantive, 1 Ethics
Cost: $150

Facing the expiration of the Bush-era tax cuts, President Obama signed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (known as the “2010 Tax Relief Act”). This act creates a two-year window of opportunity that tax planning professionals must consider for their business and individual clients. In this seminar, we will review basic tax, succession and estate planning techniques, including outright and leveraged gifts, testamentary transfers, grantor trusts, life insurance trusts and family limited partnerships. We will also examine how the 2010 Tax Relief Act impacts Section 179 expensing, bonus depreciation, health insurance tax credits, and estate, gift and generation-skipping transfer taxes. In addition, our guest speaker will discuss the ethics rules having the greatest impact on estate planners.

Power Tools for the 21st Century Trial Lawyer

When: Saturday, April 30th, 2011. 9:00 AM to 5:00 PM
Where: Temple University, Fort Washington.
401 Commerce Drive. Fort Washington, PA 19034.
Guest Speakers: Judge Mark Bernstein & Larry Bendesky, Esq.
CLE: 7 Substantive
Cost: $150

Stop using 19th-century courtroom techniques in the 21st century! For years, Judge Mark Bernstein and Larry Bendesky, Esq. have taught and entertained trial lawyers on winning in the courtroom. Now, using actual cross examination video and interviews with great courtroom advocates across Pennsylvania, they present “Power Tools for the 21st Century Trial Lawyer,” a new perspective on traditional advocacy!

Learn what to do before walking into the courtroom, how to use modern technology to make your case come alive in the courtroom, and how to captivate the jury.

Judge Bernstein has continuously served as a Judge of the First Judicial District of Pennsylvania since April 1987. His fellow Judges elected him Secretary of the Court of Common Pleas Board of Judges. He presently serves on the Civil Jury Instruction Subcommittee of the Pennsylvania Supreme Court, which annually publishes Standard Jury Instructions for use by judges and lawyers in civil trials. Judge Bernstein serves on the Commerce Court of the First Judicial District. He is the author of “Pennsylvania Rules of Evidence with Comments and Annotations by Honorable Mark I. Bernstein,” published by Gann Law Books. Judge Bernstein has addressed Judges and lawyers nationwide on the law and courtroom procedure.

As a trial lawyer, Mr. Bendesky has been lead or co-counsel in numerous high-profile, highly complex cases. He has handled more than forty cases resulting in verdicts or settlements over $1 million. He served as trial counsel in the Tropicana Casino structural collapse litigation, which settled for $101 million, the largest settlement of a construction accident case in American history.
Bar’s Classified Ad Website Opens April 4

ATTORNEYS looking for jobs and employers looking to fill vacancies will have a new resource available on the Philadelphia Bar Association website.

To help launch the new section of the website (classifieds.philadelphiabar.org), a special introductory price of $39 per advertisement has been announced. The $39 price per ad will be in effect for the first three months that classifieds.philadelphiabar.org is open. The site is scheduled to open April 4.

Advertisements will be listed under four different categories: positions available; positions desired; rent/own space; and vendor services. Bar Association members can purchase ads and place them in any category. The ads will run for 30 days. The “positions available” category is for law firms or companies that have vacancies that need to be filled. “Positions desired” is for attorneys looking for a specific job situation, whether it be full-time work, part-time work, contract work or anything else. “Rent/own space” is the classified section’s real estate listings where you can advertise available office space. “Vendor services” is the location where court reporters, expert witnesses and other non-lawyer professionals can offer their services to Association members.

To post an advertisement, Bar Association members should go to classifieds.philadelphiabar.org. Once there, you will be asked to either log in or create an account. Next, you create the ad by choosing a category and creating a headline for it. Advertisers can then add descriptions, qualifications and contact information. You can then review the posting before paying the introductory $39 fee. Once you confirm the order and submit the listing, the ad will instantly appear on the website. A confirmation will appear and a copy of the receipt will be e-mailed to you.

Attorneys who are not members of the Philadelphia Bar Association will be able to browse the titles of listings, but will not be able to see the entire listing without becoming a member of the Association.

Tell Us What You Think!
The Philadelphia Bar Reporter welcomes letters to the editors for publication. Letters should be typed. There is no word limit, but editors reserve the right to condense for clarity, style and space considerations. Letters must be signed to verify authorship, but names will be withheld upon request. Letters may be mailed, faxed or e-mailed to: Jeff Lyons, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 11th Floor, Philadelphia, PA 19107-9595. Phone: (215) 289-6345. Fax: (215) 289-1319. E-mail: reporter@philabar.org.

Frontline

Lawyers Owe it to Judges, Public to Protect Judiciary from Attacks

By Rudolph Garcia

Our Bill of Rights isn’t worth the paper it’s written on without an independent judiciary to enforce it.

The Soviet Union had a very similar bill of rights, but it was routinely ignored with impunity. The courts weren’t independent, so they didn’t challenge government abuses. As a result, the constitutionally guaranteed rights were illusory. Threats to judicial independence are different here, but potentially just as serious.

Some judges who have made correct but unpopular decisions have been assaulted by well-funded smear campaigns to defeat their retention. Several years ago, a highly respected justice of our Pennsylvania Supreme Court fell victim to such a campaign. Last November, three Iowa Supreme Court Justices were defeated for retention by conservative activists in retaliation for the court’s unanimous decision on same-sex marriage. Activists also tried to defeat retention of justices in Alaska, Colorado, Illinois and Kansas. We can’t allow our judiciary to be ravaged by such campaigns.

Various forms of intimidation are also on the rise, ranging from unfair disparagement of judges to inappropriate threats of impeachment. In Iowa, for example, state legislators have attempted to impeach the remaining justices who were not up for retention last November. In a democratic society, citizens and the media have every right to criticize public officials, including judges. But, as retired Justice Sandra Day O’Connor has said, “Criticism is fine, retaliation and intimidation are not.”

Judges need to be able to decide cases based on the law and the facts before them, not on the whims of whoever happens to be in the majority at the moment, or whoever has the loudest voice.

As lawyers, we need to protect our system of justice, by repelling attacks on judicial independence. We owe that to the judiciary, to ourselves and to the public at large.

So what can you do to help?

• Speak up against unfair criticism.

When your non-lawyer friend or neighbor parrots back misguided media or political criticism of a judicial decision, do you (a) remain silent, (b) agree with the criticism, (c) change the subject, or (d) explain why judges need to follow the law even when they know their decision will be unpopular? If your answer is (a), (b) or (c), try (d) next time instead. I find that usually prompts a far more interesting discussion and a much better understanding of our judicial process.

• Help restore civics education to every school’s curriculum. Since many schools stopped teaching civics, people often think judges are like other elected officials who can do whatever the voters want, instead of applying the applicable law. We need to make sure that our next generation of voters won’t suffer from that same misunderstanding.

At every opportunity, we should explain to our schools and legislators why understanding how our government works is essential to responsible democracy. And until they see the light, we should continue educating students ourselves through the bar’s Advancing Civics Education (ACE) enrichment program.

ACE brings volunteer lawyers and judges into Philadelphia public high schools to engage the students in critical thinking about government, law and dispute resolution. The program is led by Jenimae Almquist and Judge John Younge. If you would like to participate, please contact either co-chair at jalmquist@topemcugh.com or john.younge@courts.phila.gov.

• Help us educate the voters.

Judges should be elected or retained based on their qualifications, not based on political

continued on page 19
Panel Mulls CLE Options, Future

By Gabriel A. Hindin

Have you ever found yourself sitting in a CLE program and thinking, why do I have to be here? Why can’t I simply do this online? Why can’t I get CLE credit for pro bono work?

These were some of the highly debated issues addressed in an “Open Forum on CLE” hosted by the Professional

Responsibility Committee on March 14. Panelists included Abraham C. Reich, past Chancellor of the Philadelphia Bar Association, co-chair and partner of Fox Rothschild LLP; and current chair of the Pennsylvania Continuing Legal Education Board; Dan Levering, administrator of the Pennsylvania Continuing Legal Education Board; and Sara Woods, executive director of Philadelphia VIP. The Professional Responsibility Committee co-chairs are Philadelphia Court of Common Pleas Judge Denis P. Cohen, Barbara S. Rosenberg and Hope A. Cominsky.

The panel explained why CLE credits are mandatory in Pennsylvania. According to the panel, apart from the obvious educational component, mandatory continued on page 11

April CLE Calendar

These CLE programs will be held at The CLE Conference Center, Wanamaker Building, 10th Floor, Suite 1010, Juniper Street entrance unless otherwise noted.

4/1
• 5th Annual Intellectual Property Law Institute
4/4
• Franchising
• Ethics Potpourri - Strategic Approaches for Stress, Substance Abuse & Depression
• Challenges, Strategies & Pitfalls When Litigating Against the Pro Se Litigants
4/5
• Understanding the Basics of Elder Law
• PLI - Pension Plan Investments 2011: Current Perspectives
• Litigating the Failed Real Estate Deal
• How to Handle a Child Abuse Case
• Trial Strategy with Mongeluzzi, Stern & Tanner
4/7
• 15th Annual Insurance Institute
4/8
• Enhancing Your People Skills for Attorneys
• Ethics Potpourri - An Attorney’s Work & Taras's Wanderings
• Advanced Piercing the Corporate Veil
• Unemployment Compensation
• Ethics Potpourri - PBA Professionalism Committee Update
• How to Prepare & Try a Significant Case in the Commerce Case Management Program
• CLE With the Sixers 2011, at Wachovia Center
4/12
• Internet Law Update 2011
• Fraud: Most Used & Least Understood Action
• Nuts & Bolts of Criminal Practice in Philadelphia Municipal Court
4/13
• Family Law Institute 2011
4/14
• Estate Planning & Administration with Firearms
• Motorcycle Law
• Ethics Potpourri:
  - PBA Legal Ethics & Professional Responsibility Committee Update
  - Lawyer Marketing & Advertising Ethics Review
  - Social Marketing for Lawyers: Darned if You Do, Darned if You Don’t?
  - How to Be a Lawyer 102
  - Law Firm Responsibilities & Recovery
4/15
• Presenting Mr. Frederick Douglas: His Life & Times
• Pennsylvania’s New Adoption Amendments
• Compulsory Arbitration Seminar
• PBA Probate & Trust Law Section Oct 2011 Section Quarterly Meeting
• Opening Statements: The Lawyer as Storyteller
• Ethics Potpourri - An Attorney’s Work & Taras’s Wanderings
• Ethics Potpourri - Strategic Approaches for Stress, Substance Abuse & Depression
• PLI - Asset Based Financing in Today's Economy
• Ethics Potpourri - PBA Professional Committee Update
• INTEGRITY - Good People, Bad Choices & Life Lessons from the White House
• The Business Lawyer’s “Refreshers” Series: Agency Law & Practice for Business Lawyers
• Dining Out: Legal Issues for Restaurants & Their Customers
• 17th Annual Auto Law Update
• Legal Issues in Advertising
• Ethics Potpourri - Bob Dylan & the Art of Speaking for Lawyers & the Art of Taking Legal Ethics Seriously
• Trial Tactics Tips & Techniques
• 17th Annual Employment Law Institute, at The Pennsylvania Convention Center
• Speaking to Win: The Art of Effective Speaking for Lawyers
• 12th Annual Legal Issues in an Age of Aging
• How Your Computer Can Get You in Trouble
• 14th Annual Federal Securities Law Forum
• Solving Drivers Licensing
• Realty Transfer Tax

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Now Available, Legal Directory 2011 Delivers

The brand-new LEGAL DIRECTORY 2011 arrives this week, filled with updated information essential for Philadelphia-area legal professionals.

No other resource brings together so much useful data in one place, from more than 18,000 lawyer and law firm entries to contact information for hundreds of judges and government attorneys; from profiles of law-related organizations to ADR resources; from attorneys organized by area of concentration (and by jurisdiction) to county court fees and schedules.

Once again for 2011, the Philadelphia Bar Association’s official Legal Directory is accessible three ways: on your mobile device, on your desktop and in print – all for one price.

Mobile access is a must for busy attorneys. The streamlined interface is fully interactive and tailored for smaller screens – search for a lawyer or law firm, click on a number or e-mail, and you’ll be connected in moments.

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At thelegaldirectory.org or in the print directory, you’ll find a wealth of must-have information beyond the lawyer and law firm listings:
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• Bar Association bylaws, contacts and committees;
• Attorneys listed alphabetically and indexed by area of concentration by county;
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For questions, please e-mail legaldirectory@mediatwo.com or call 443-909-7840.
Judge: Number of Med-Mal Cases Down in Phila.

By Thomas L. Bryan

Court of Common Pleas Supervising Judge William J. Manfredi lauded the First Judicial District’s Civil Division as dynamic and productive while arguing that Philadelphia is not the opportunistic venue for medical malpractice cases it was once perceived to be.

There has been a dramatic decrease in medical malpractice cases during the past decade, Judge Manfredi told members of the Medical-Legal Committee. He pointed out that medical malpractice cases now represent less than 10 percent of all cases in the Civil Division, down from nearly 30 percent in 2002. Moreover, the overall number of medical malpractice filings declined to less than 400 in 2010—down from approximately 1,300 in 2002. These statistics are even more dramatic when considering that the number of major civil filings has remained relatively constant during the same time period. Judge Manfredi believes that this reduction in volume has been accompanied by a “tremendous diminution” in the number and size of jury verdicts for plaintiffs.

In 2010, there were 34 medical malpractice jury trials. Of those, 26 resulted in defense verdicts. This statistic represents a seismic shift, as about 60 percent of juries that went to verdict found for plaintiffs as recently as 2004. Judge Howland W. Abramson said this shift reflects a change in the attitude of jurors spurred by the economic downturn.

Judge Manfredi speculated that the reduction in medical malpractice cases in Philadelphia is most likely the result of the statutory and rules changes regarding medical malpractice cases promulgated by the Pennsylvania Legislature and Supreme Court in and around 2002. A major change at that time was the rule that the court could be cited as precedent while, in its present form, only permits medical malpractice cases to be filed in the county in which the alleged harm occurred. One of the more hotly discussed topics at the committee meeting was a newly proposed change to the court rules that would, if accepted, reverse the current venue rule. A reversal would likely undo the recent reduction in volume of medical malpractice cases brought in Philadelphia as the current venue rule is one of the largest hurdles to such cases.

The meeting concluded with a brief discussion of House Bill 495, otherwise known as the “Apology Rule,” that proposes a change to the Pennsylvania Rules of Evidence precluding any evidence of “benevolent gesture or admission by health care provider or assisted living residence or personal care home.” Judge Manfredi believes the intentions of the bill were noble and that it was likely intended to elicit emotionally cathartic moments between plaintiffs’ families and doctors prior to trial. Judge Abramson added that literature on medical malpractice cases points out that the cathartic effect of pre-trial mediation may increase the likelihood of pre-trial settlement, and thus a purpose of the bill might also have been to encourage settlement. He cautioned that though well intended, the bills definition of “benevolent gesture” includes “any explanation” making the bill overly broad.

Thomas L. Bryan is an associate editor of the Philadelphia Bar Reporter.

Cameras, E-Filing Could Be Coming to Superior Court

By Angie Halim

Pennsylvania Superior Court is committed to staying on “the cutting edge of technology” and there is a realistic expectation that the Commonwealth is moving toward cameras in the courtroom, Superior Court President Judge Correale F. Stevens told members of the Appellate Courts Committee on March 8.

The court is diligently working on making electronic filing available and lawyers can expect e-filing capabilities within the next two years, Judge Stevens added during the state of the court session.

For the first time in its history, the en banc panel will be hearing arguments in a high school at MMI Prepatory School in Freeland, Luzerne County, on April 5. The court is making an effort to hold more community sessions such as those previously held at Temple’s and Dickinson’s law schools.

There has been some discussion in the past regarding whether memorandums issued by the court should be made available online as an additional legal resource for lawyers. A majority of the court decided in September 2010 not to make memoranda available online. Consistent with past practice, opinions are published and can be cited as precedent while memoranda are unpublished and should not be cited as precedent. Judge Stevens reminded lawyers that they can always ask for publication. “Never be afraid to ask,” Stevens said, because 75 percent of requests for publication are granted. Stevens also reminded lawyers that the panels for any given oral argument are listed in advance and available online at the court’s website, www.superior.court.state.pa.us.

Offering statistical insight, Stevens said that decisions of the trial courts are affirmed by the Superior Court 78 percent of the time whereas the Superior Court’s decisions are reversed by the Pennsylvania Supreme Court more than 50 percent of the time. Even though only 7 percent of re-argument petitions are granted, Stevens encouraged lawyers to file the request. He reiterated his earlier point that it never hurts to ask.

The Superior Court handles an impressive caseload of 8,000 cases per year. That being said, the court has not—and does not intend to—cut back on the number of oral arguments it awards.

Given the heavy caseload, the court is paying close attention to the impending budget hearings. Stevens said that the court is capable of handling the current caseload, but that it is critical to maintain its five senior judges.

For lawyers arguing before the Superior Court, Stevens advised that questions posed by the panel are not intended to be hostile. “Sometimes we just want targeted information,” Stevens said. Relating to the issue of questions posed by the panel, it is important to answer the questions, he said. In fact, it is “very important” to listen to the judges and to answer their questions. It is also important to “get to the point,” to “read the panel” and to “read the signals” given by the panel.

Angie Halim (ahalim@aandzlaw.com), an associate with Ahmad & Zaffarese, LLC, is an associate editor of the Philadelphia Bar Reporter.
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• corporate counsel section

• product and service resources
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email legaldirectory@mediatwo.com
or call 443-909-7843 to have an order form sent to you.

The Legal Directory | c/o Media Two | 1014 West 36th Street | Baltimore, MD 21211
By Carolyn M. Chopko

Law Week to Celebrate John Adams’ Legacy

Each year, the President of the United States declares May 1 as Law Day. It is the celebration of the rights and benefits bestowed upon all citizens through the United States Constitution and a call to all Americans to acknowledge the importance of our nation’s legal and judicial systems. In Philadelphia, we extend that celebration through an entire week.

Under the direction of Philadelphia Bar Association Chancellor-Elect John E. Savoth, the Young Lawyers Division coordinates the annual Law Week events on behalf of the Philadelphia Bar Association and the community at large. This year, we will celebrate Law Week from Monday, May 2 through Friday, May 6, with the theme: “The Legacy of John Adams: From Boston to Guantanamo.”

Law Week 2011 will kick off with an ABA award-winning program, Legal Advice Live!, a free, ask-a-lawyer event, spanning across Philadelphia. Attorneys will provide confidential, in-person answers to legal questions and referral information on a wide variety of topics. This year’s first Law Week event will take place on May 2 from 12 to 2 p.m. at select branches of the Philadelphia Library, including the Central Branch.

Also on May 2, the winner of the Edward F. Chacker Essay Contest, named for past Chancellor Edward F. Chacker, will read his or her essay at a naturalization ceremony welcoming dozens of new United States citizens at the U.S. Courthouse. The winner is also provided with a $1,000 college scholarship. The contest is open to high school seniors, attending public, parochial, charter or private schools in Philadelphia.

On May 4, the YLD will be organizing LegalLine in conjunction with this year’s Law Week activities. Through LegalLine, volunteer attorneys provide confidential, free legal advice over the telephone and make referrals to attorneys who participate in the Bar Association’s Lawyer Referral and Information Service. LegalLine will be held at Bar Association headquarters, 1101 Market St., on the 11th Floor, from 5 to 8 p.m. Another focus of the YLD’s efforts during Law Week is reaching out to local school students, in an effort to help them better understand law and the legal profession. Throughout the week, we’ll coordinate the Lawyer in the Classroom program, where volunteer attorneys will visit Philadelphia-area schools to address students’ concerns about the law and the legal issues that affect them as they enter adulthood. The volunteers will also explain their experiences as attorneys, and what led them to their present careers.

On May 6, the Lawyer for a Day program pairs volunteer attorneys with Philadelphia-area high school students to allow the students to see what it is like to be a lawyer by observing courtroom proceedings and speaking with Philadelphia judges. The students are able to learn first-hand about the process of the judicial system, as well as the roles lawyers, judges and juries play in our community. All are invited to a lunch program with Philadelphia District Attorney R. Seth Williams.

Also on May 6, the YLD will partner with several Philadelphia Court of Common Pleas judges and their staff to provide volunteer attorneys to present cases where the facts of the well-known fairytales — “Goldilocks and the Three Bears” and the “Three Little Pigs” — are used as the basis for mock criminal trials during the “Trials of Goldilocks” and the “Big Bad Wolf.” During this popular Law Week program, volunteers act as prosecutors, defense attorneys and witnesses in the criminal trials, which include opening statements, examinations and cross-examinations of witnesses, closing arguments, and instructions of the jury throughout several different courtrooms in City Hall. At the conclusion of each trial, the students act as the jury and determine whether Goldilocks or the Big Bad Wolf is guilty of a crime.

These Law Week programs can only be a success with your help. The YLD needs several hundred volunteer attorneys, law students and paralegals to help make these programs come to fruition for the Philadelphia community. We encourage attorneys of any age, in all areas of law and practice settings to volunteer and participate in this year’s Law Week activities. If you are serving as a mentor to a student or know of a student who may be interested in participating in any of the Law Week activities, please consider bringing them to an event.

If you are interested in volunteering or finding out more information about Law Week, please contact the 2011 Law Week Co-Chairs, Matthew Laver at: mmlaver@wglaw.com; or Roxane Crowley at: rcrowley@clsphila.org.

Carolyn M. Chopko (ccbephkos@feldmanrothlg.com), an associate with Feldman Shepherd Wohlgelernter Tanner Weinstock & Dodig LLP, is chair of the Young Lawyers Division.

Barkann is YLD Keynote Speaker April 14

By Michael Petitti

A dedicated advocate for the transgender community, the founder of a program that offers marathon training to help improve the lives of Philadelphia’s youth, and a general practice law firm with a long history of supporting the legal issues that affect them as they enter adulthood. She planned the Conference’s first-ever CLE program and walk-in legal clinic. Hrubos serves on the Legal Advisory Board for the Legal Services Department at the Mazzoni Center, the only agency in Philadelphia that provides direct legal services to low-income LGBT individuals facing legal obstacles related to sexual orientation and/or gender identity.

McDanel founded and serves as the director of Students Run Philly Style, the only program in Philadelphia offering marathon training to help young people succeed in life that is operated out of the National Nursing Centers Consortium (NNCC). The organization has served more than 2,500 students from all over the city. In addition to ongoing mentoring through running, Students Run Philly Style includes extensive leadership, academic and civic engagement opportunities. Under McDanel’s leadership, Students Run Philly Style was named by the Surgeon General as the Local Best Practice in addressing childhood obesity, recognized by Philadelphia District Attorney R. Seth Williams as a “valuable investment in our youth,” and selected...
Medicare Liens – Are You Ready? New Requirements Begin Jan. 1

By Kari Samuels

The new Medicare requirements are designed to enable the Centers for Medicare and Medicaid Services (CMS) to determine who should pay for medical services as between a primary and secondary payer. While repayment provisions have been in place since 1980, historically, CMS did not start enforcing them until 2001, and then in only workers’ compensation cases. The new requirements now also place the burden on insurers, litigants and their attorneys if Medicare is not reimbursed for eligible medical expenses paid on behalf of a plaintiff in all manner of civil litigation settlements discussions.

The current thinking runs the gamut from a “CYA” mentality to “no regs, no liability” in civil litigation. Specialized and secondary payer. While repayment provisions have been in place since 1980, historically, CMS did not start enforcing them until 2001, and then in only workers’ compensation cases. The new requirements now also place the burden on insurers, litigants and their attorneys if Medicare is not reimbursed for eligible medical expenses paid on behalf of a plaintiff in all manner of civil litigation settlements discussions.

The first central theme of the discussion was “be afraid...be very afraid,” as Medicare is permitted double damages plus interest if the primary payer knew or should have known of Medicare’s interest but paid the claimant. In addition, a penalty of $1.00 per day may be assessed for noncompliance for each individual for whom information should have been submitted.

In view of the severity of potential penalties, the second recurring theme focused on “having control while cooperating,” staying engaged, and obtaining Medicare information early in the litigation, regardless of who you represent. In addition to early and continual follow up regarding potential Medicare exposure, it is also important to analyze various release options and different ways that settlement money may be held as between counsel, the insurer and the plaintiff so that all parties are appropriately protected from CMS’s wrath.

The third main topic of discussion was Medicare Set-Aside Trusts (MSAs), which are required in workers’ compensation cases to reimburse for future medical expenses paid by Medicare. By contrast, there are no regulations requiring or otherwise even mentioning MSAs for future medical expenses in liability and no-fault cases, and there is considerable debate about whether the civil bar should anticipate setting aside settlement funds in civil litigation settlements discussions. The current thinking runs the gamut from a “CYA” mentality to “no regs, no requirement.”

What should practitioners take away from this, given the uncertainty of the requirements and potential severity of noncompliance? (1) Be informed. Learn the new reporting requirements well in advance of the launch date in 2012 - as in now. Hire a consultant if needed. (2) Start collecting Medicare information on your clients and adversary’s clients now, as any case that settles after Oct. 1, 2011, is fair game. (3) Stay informed. Follow developing case law as the implementation and enforcement of these rules takes shape in our courts.

The power point presentations from the panelists will be made available on the State Civil Section webpage at http://www.philadelphiabar.org/page/StateCivil LitigationSection?appNum=4.

Kari Samuels (ksamuels@mccarter.com) is an associate with McCarter & English, LLP and secretary of the State Civil Litigation Section.
VIP’s 30th Anniversary

‘TMM’ a Networking Necessity

By Mary-Kate Breslin

When someone asks what you do for a living “don’t say that you are a lawyer, it is a conversation stopper,” warned Kimberly Alford Rice, a principal of KLA Marketing Associates, as she recently presented networking essentials for women to the Women in the Profession Committee. Rice has been offering strategic marketing and business development services for lawyers for nearly 20 years.

TMM is an acronym for Rice’s “Tell Me More” ice-breaker statement, which she urges anyone serious about networking to develop. Rice instructed the women in her group to think of something that each one of them could say upon meeting a person for the first time that would jump start a conversation. While the classic 30-second elevator pitch is useful, your TMM should be both mentor and mentee. Rice stressed the importance of learning more about the people with whom you network, finding out what troubles them, and then distinguishing yourself by developing solutions. She encouraged the group to “live in the mindset of a helpful spirit.”

Consider existing contacts, whether you know them from the dry cleaners, fitness club, trade organizations, children’s school, religious affiliations, or alumni associations. Recognize that all of those people are a part of your existing network, and practice cultivating those relationships to your advantage.

When it comes to exchanging business cards, it is critical to not passively hand out business cards and expect people to contact you when they need legal advice. Instead, ask for their business cards in return so that you may incorporate them into your marketing plan. When you are handed a business card, take a moment to look at it; there may be something on the card that can be used immediately as a conversation piece. Then, before you put it away, write something on the card about the person whom you just met that will help you remember the encounter at a later date.

Additional networking tips include effectuating seven to ten “touches” per year to your entire network as part of an effective marketing plan; when in conversation, listen more than you talk and ask lots of questions; and be both mentor and mentee. Rice stressed the importance of learning more about the people with whom you network, finding out what troubles them, and then distinguishing yourself by developing solutions. She encouraged the group to “live in the mindset of a helpful spirit.”

Mary-Kate Breslin (marykatemkebrin39@gmail.com) is a third-year law student at Drexel University Earle Mack School of Law.

Mediation Diverting Custody Cases

By Meredith Brennan

A custody mediation initiative is diverting approximately 100 cases a year from Philadelphia Family Court, Cheryl Cutrona, executive director of Good Shepherd Mediation Program, told the Family Law Section at a March 7 program.

Cutrona focused her presentation on the Family Passages Initiative, which provides mediation for families that are in transition. As part of the Family Passages Initiative, Good Shepherd provides free custody mediation three days a week in the Custody Masters Unit in Family Court. The mediators announce their presence to the litigants awaiting Masters hearings, and the litigants can opt to try mediation before their custody hearing. Of those who do elect to try mediation, approximately 95 percent are unrepresented. Each year, Good Shepherd mediates about 125 custody cases in Family Court, and approximately 85 percent of those cases result in a mediated agreement.

The mediators are staff members and volunteers who have completed the eligibility requirements as set forth in Pa. R.C.P. 1940.4 for custody mediators. The requirements include at least 40 hours of approved divorce and custody mediation training. The mediators attempt to help parties reach agreements regarding the physical custody schedule, holidays and vacations, transportation arrangements, guidelines for telephone and intent access, and any other issues the parties wish to mediate. The mediators do not provide any legal advice to either party.

Prior to each custody mediation, the parties are interviewed separately to determine if mediation is appropriate. Good Shepherd will not mediate a case if there has been a protection from abuse action within the last 24 months, if DHS has been involved with the family, or if a criminal check determines that one of the parties has a history of offenses that would preclude the party from having custody of a child. A case may also be deemed inappropriate for mediation if a party reports abuse or threats, if a party seems afraid to express concerns openly, or if the parties cannot speak with each other.

The mediator’s role is to encourage communication, clarify issues, help the parties generate creative options, serve as a neutral sounding board, assist the parties with refining possible solutions, and when an agreement is reached, memorialize it. The benefits of mediation are numerous, including that it allows participants more control over the outcome, it is less stressful than a court proceeding, and a cooperative process can lead to a “win/win” agreement for both sides. Parties are generally more satisfied with, and more likely to honor, agreements that they negotiate personally, as opposed to custody schedules that are court ordered. In fact, 94 percent of participants report being “very satisfied” with the mediation process at Family Court, and the majority of participants report that they would “definitely” use mediation if another custody dispute arose.

Meredith Brennan (mibernan@msmjansandreer.com), a partner with Mt. Sinai Anderer LLC, is secretary of the Family Law Section.

Cheryl Cutrona, executive director of Good Shepherd Mediation Program, is shown addressing the Family Law Section at the March 7 program.

Former Gov. Edward G. Rendell is joined by Chancellor Rudolph Garcia at Philadelphia VIP’s 30th Anniversary Gala on March 19 at The Westin Philadelphia. Rendell was presented with VIP’s Pinnacle Award for his outstanding commitment to access to justice for all. More than 500 people attended.
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CLE
continued from page 4

CLEs help instill confidence in the public that lawyers have the skills to competently represent their clients. Although these are the stated purposes, is there any way to determine whether mandatory CLEs really improve professional competence? This was the question posed by Rosenberg, the panel moderator. Indeed, as the panel acknowledged, there is no such data available. However, they appropriately pointed out that because law is a dynamic and complex profession, lawyers must continually develop their professional skills, otherwise they will not be properly equipped to serve the public.

Why can’t more CLE credits be offered online? This was a question the audience put to the panel. With distance learning lawyers can take CLE classes online and earn credits from the comfort of their home. Currently, lawyers can only apply four distance-learning credits per compliance year. Many audience members favored increasing the amount of distance learning credits lawyers can earn as a means to cut back on the costs and other burdens of attending a live class. The panel indicated an increase might be possible.

Earning CLE credits in exchange for completing pro bono work was another much-discussed topic led by Woods. The panel introduced a new proposal under consideration whereby lawyers would earn three CLE credits in exchange for 15 hours of pro bono representation and whatever necessary training is required by the pro bono provider. Joseph A. Sullivan Jr. indicated the reasoning behind awarding CLE credits for pro bono work: first, it encourages lawyers to render pro bono legal services and second it provides the opportunity to learn through practice. Richard McCray, executive director of the Pennsylvania Bar Institute, acknowledged the value of learning through practice but questioned whether it was contemplated by the CLE rules. He further questioned whether there was a distinction between the learning that takes place in a lawyer’s everyday practice compared to the learning during pro bono representation.

So, where does the future of CLE lie? in the comfort of one’s home, in the excitement of a courtroom, or in the intellectual stimulation of a classroom? Stay tuned.

Gabriel Hindin (Gabriel.Hindin@courts.phila.gov) is clerk to Philadelphia Court of Common Pleas Judge Denis P. Cohen.

Forums
continued from page 1

pointed by the Secretary of the Treasury in 2009 to serve as the Special Master for TARP Executive Compensation. Feinberg was the fund administrator responsible for the design, implementation and administration of the claims process for the Hokie Spirit Memorial Fund following the tragic shootings at Virginia Tech University in April 2007. He was also retained by Liberty Mutual Insurance Company and Zurich Insurance Company to design, implement and administer an Alternative Dispute Resolution Program for resolving insurance claims arising out of Hurricane Katrina and other hurricanes in the Gulf region.

Feinberg is an attorney and one of the nation’s leading experts in mediation and alternative dispute resolution. He is the managing partner of Feinberg Rozen, LLP. Feinberg received his B.A. cum laude from the University of Massachusetts in 1967 and his J.D. from New York University School of Law in 1970, where he was Articles Editor of the Law Review. He was a Law Clerk for Chief Judge Stanley H. Fuld, New York State Court of Appeals from 1970 to 1972; Assistant United States Attorney, Southern District of New York from 1972 to 1975; Special Counsel, United States Senate Committee on the Judiciary from 1975 to 1980; Administrative Assistant to Sen. Edward M. Kennedy from 1977 to 1979; Partner at Kaye, Scholer, Fierman, Hays & Handler from 1980 to 1993; and founded The Feinberg Group, LLP in 1993. Feinberg has also been a Court-appointed Special Settlement Master, mediator and arbitrator in thousands of disputes. He was also one of three arbitrators selected to determine the market value of the original Zapruder film of the Kennedy assassination and was one of two arbitrators selected to determine the allocation of legal fees in the Holocaust slave labor litigation.

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To purchase tickets to the Chancellor’s Forums scheduled for April, visit philadelphiabar.org.

Chancellor Rudolph Garcia and Beverly H. Rampaul, chair of the Pennsylvania Bar Association Minority Bar Committee, offered welcoming remarks at the 23rd Annual Pennsylvania Bar Association Minority Attorney Conference on March 17-18 at the Doubletree Hotel Philadelphia. The theme of the conference was "Continuing an Agenda for Change."
we're taught to be confident and brash and up front. And clients come to us looking for answers and we feel we have to have the answers at our fingertips. But the reality is there's very little in life that's so black and white. Very few people are born lawyers. You have to learn to be a lawyer. You have to learn to be just about anything in life. For my mentors, I am eternally grateful that every time I said 'please help' they opened their hands to me and gave me that help. So that's what I try to give back when I have people in my life now," she said.

On the topic of diversity, Justice Sotomayor said education remains the key. "I have said repeatedly that until we solve the structural problems that make an equal education available in public and private institutions that we will not be able to reach diversity of society. To me, that is and remains our most pressing problem."

She called her confirmation process "horrible," yet it provided her with a different way to look at the issues. "As tiring and as draining as meeting 92 senators was, I thanked them during the process. It was sort of a window into America, listening to them talk about issues they were passionate about. Who gets to stand next to the president and vice president in front of the world? All of those moments are very, very precious. But the process is grueling. What I fear is that I'm not sure of how to improve it in a way that would ever really satisfy the public. Because what I learned in my process with the senators is what they're looking for is something that any judicial applicant should never do — which is to tell people how they will vote in a case that is not before them. So if you can't satisfy that need, there has to be another purpose to that process. And the only one that I can think of is for the public, for perhaps the only time, to hear or meet a new justice. And to take stock of them as a person and their character, their integrity and their commitment to the rule of law. If the public, however, remains interested in knowing how we will vote, they're always going to be unhappy. Because frankly, I don't know how I'm going to vote until I've heard the case and studied it. The expectations can never be met."

Justice Sotomayor said all of the "firsts" she's experienced in her life have been both a blessing and a burden. "I never anticipated the public's reaction to my appointment to the Supreme Court. When you're living your life, you just live it. And I don't know that I ever looked beyond what my own living was to see how other people might perceive it. I understand that in my career as a justice, I'm going to disappoint a lot. There's no way I could do all of them. So yes, it is a blessing and a burden sometimes."

It's up to everyone, not just attorneys and judges, to encourage investment in education, local government and the value of individual citizens. Justice Sotomayor said: "I think every citizen in this society has to be much, much more proactive on every level of the need. It means parents have to become more involved in their schools. They have to work at taking leadership positions in their schools to promote the better education of their children. It means lawyers going out and helping community groups who are trying to do this but it also means lawyers taking a role that you can do and judges can't in lobbying for changes. It means taking personal time to do some of the things I'm trying to do, which is to go visit schools."

There's a lot of Sonia Sotomayors out there with hopes and dreams and they often need a guiding hand to give those dreams a platform to work from," she said.

"I don't have the answers to those kinds of questions but I know one answer. It doesn't happen without passion and engagement. I wish I had a magic wand. I don't. But I do say to everyone in this room, it should be a priority — how we educate our kids and bettering their education. This is just not an issue for diversity but for the survival of the country," she said.
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As we mark the Public Interest Section’s 20th anniversary, this is the first in a series of articles about the experiences of attorneys providing pro bono assistance. These articles are the words of the volunteer attorneys. We hope their experiences will encourage others to volunteer.

Gabriel L.J. Bevilacqua, past Chancellor, Philadelphia Bar Association; partner, Saul Ewing LLP:

I enjoy crossing the line. The line that separates our work lives from our private lives; from the tedium and drudgery of the common place to the humbling serenity found in serving others. The “others” are for me the clients that contact SeniorLAW Center and its Pennsylvania HelpLine because they are confused, upset and need legal advice. They were in a car accident and their insurance carrier has found every word in their policy to minimize payment. For a senior who has meticulously maintained her car, being told that the vehicle will be “totaled” is a shocking realization that there is nothing at all fair or just about losing the financial ability to replace their car and thereby to remain independent. Don’t deal only with your company’s appraiser – consider getting several other estimates. A small claims court complaint against the at-fault striking driver may be a quick and much more equitable resolution.

Common sense, of course. But for the senior who was in distress, anxious and fretting over where to turn for advice, the consultation, which lasted about an hour, is deeply appreciated. When they invariably express their heartfelt thanks at the end of the call the psychic reward is incalculable.

Join me. Cross the line. You will never regret doing so.

Braden Borger, associate, Saul Ewing LLP and Board member, SeniorLAW Center:

“I feel so much better… Thank you so much for your help and listening to me.” I almost always hear those or similar words at the close of my monthly SeniorLAW Center Helpline calls. What a great thing to hear.

Most of the callers are scared and confused. Sometimes there is a real dispute, like the swindling plumber who sued an elderly widow for a $400 estimate to replace her hot water heater! But often they have a simple legal question or two and just want someone to listen. I’ve heard about disputes with the neighbor; letters from creditors regarding a deceased spouse; why a landlord is trying to keep a security deposit; why a widow was convinced she needed to file for bankruptcy to save her house; and a plan to deed a house over to a son even though he just filed for bankruptcy, to name a few. These are often simple legal issues, but very emotional for elderly clients, many of whom have lost faith in people and in a system that hasn’t been responsive to their needs…until now. They are always grateful and I think leave the call a little more empowered.

Eric Henry, senior associate, DLA Piper:

Having attended the training session conducted by SeniorLAW Center prior to the Life Planning Clinic, I felt technically prepared to assist our senior clients with creating empowering decision-making documents including health care and general powers of attorney and living wills. But training and serving real clients to implement that training are two different experiences. Fortunately I was paired with a very capable CIGNA attorney who had prior experience with these types of documents and services. As we sat down at our clinic station, we met our first client. I was struck by how much time she had spent considering various late life stage decisions before meeting with us. Both of our clients during the clinic had more than one adult child and each had to make the difficult decision of choosing an agent, which child was most responsible, lived close by, was best in tune with the parent’s medical needs, etc. I also noted how difficult it was to turn away an adult child who wished to sit with his or her mother as we went through the life-planning documents. While the child wished to support and assist the parent in the process, we had only one client, and that was the parent. This was an extremely rewarding pro bono experience.

VIP Honors Nancy Wasser

This month Philadelphia VIP recognizes Nancy Wasser for her outstanding volunteer assistance to VIP clients. Wasser took her first case with VIP in 1990. Since then she has used her extensive litigation and negotiation skills to achieve favorable results for our clients. Although Wasser concentrates her practice in landlord/tenant and personal injury law, her volunteer work with VIP has covered a variety of practice areas, including torts, collections and family law. In her most recent case, Wasser represented a mother with three children, one of whom is severely disabled, in a public housing eviction. The client was served with an expedited eviction complaint that requested a hearing be held within 15 days of the filing date. Despite the tight time frame, Wasser agreed to represent the client at the hearing. After she presented the client’s case, Wasser was able to secure an agreement with the Philadelphia Housing Authority and prevent the client’s eviction. Thanks to Wasser’s hard work and skill, the client and her children were able to remain in their home.

For her commitment and dedication to VIP’s clients, Philadelphia VIP offers its heartfelt appreciation to Nancy Wasser, Philadelphia VIP Volunteer of the Month.
recommends that the youngest son create a DAPT and transfer his family stock into the trust prior to the marriage. If the Delaware statutory requirements are fulfilled, the stock transferred should be protected from claims by the spouse in the event the marriage fails.

This proves that given the hurdles associated with enforcement of prenuptial agreements in many jurisdictions, a Delaware Asset Protection Trust may be a prudent addition to overall prenuptial planning. There are certain planning techniques that can be implemented to grow, preserve and protect wealth. Each circumstance is uniquely different. We recommend that individuals should consider consulting with counsel to address their particular situations and identify opportunities.
Across our nation, our state and our city, belt-tightening and budget cuts are the leitmotifs of the moment. While there is no question that a reduction in funding hurts across the board, its effects are felt most deeply by the most vulnerable in our society. Those are the people who are the focus of the work of the grantees of the Philadelphia Bar Foundation. To be blunt, any decrease in the budgets of our legal services organizations translates into fewer people in need getting the legal help they require.

Our legal services organizations have been hit hard in the last few years by a precipitous decrease in revenue from the IOLTA, or Interest on Lawyers’ Trust Accounts, Fund. IOLTA is “a unique and innovative way to increase access to justice for individuals and families living in poverty and to improve our justice system. Without taxing the public, and at no cost to lawyers or their clients, interest from lawyer trust accounts is pooled to provide civil legal aid to the poor and support improvements to the justice system.” But the amount of income to IOLTA depends on interest rates paid on accounts. When interest rates drop, as they have done, so do available funds.

While some of our region’s legal services organizations have been able to temporarily avoid major disruptions in services by securing federal stimulus fund contracts over the past two years, those funds dry up this year and there are no obvious new sources of funding to make up the shortfall. Amid this bleak news there are some bright spots. There was huge concern that Pennsyl- vania’s budget crunch would threaten all “discretionary funding” in the state including the $3 million or so in general state appropriations that in the past has gone to legal services organizations. For now that remains in Gov. Tom Corbett’s proposed budget.

There was also concern that funding from the federal Legal Services Corp. (LSC), the premier funder of legal services nationally, and a critical source of funding for Philadelphia Legal Assistance, a Foundation grantee, would decline. But that also, at least for now, appears to be safe — the budget that President Obama sent to the Congress includes an increase not a decrease in LSC funding.

Obviously, both the federal and the state budget are not finalized and, until they are, no one can be sure that the funding proposed for legal services will remain. Even if it does, however, the picture remains bleak. As Sara Woods of Philadelphia VIP says: “While we are glad that the governor’s budget did not include a drastic decrease in legal services funding, the picture for our clients is still grim. They are already suffering with increases to basic commodities, the dismal job market, and the elimination of certain assistance programs. The likelihood of further cuts means the real possibility of a decrease in legal services when our clients are most in need.”

In addition, many of our legal services organizations receive state funds from streams of funding not related to “legal services.” For example, SeniorLAW Center receives some very important state funding through discretionary funds. As Karen S. Buck, SeniorLAW Center’s executive director said, “These funds support our SeniorLAW HelpLine which provides critical access to legal advice and information to more than 1,400 seniors each year. We are extremely concerned about these sources of funding being cut or diminished, and I hope people understand the critical importance of the funding for these services to the lives of elders in all parts of Pennsylvania.”

So why am I telling you this? Because there are some things you can do to help. The obvious one is to fulfill your firm’s pro bono commitments to these public interest organizations and their clients.

Something else you can do is to attend the Foundation’s upcoming fundraising events.

The first event on the calendar is the Young Lawyer’s Division Casino Night and Annual Fundraiser on Saturday, May 14. We are so very grateful to the YLD for their yearly effort to raise money for the Bar Foundation. For some years now they have hosted an event for the Foundation but this year, they are betting on something new. According to Carey Chopko, chair of the YLD, “from 2006 through 2010, this event was a Comedy Night and Silent Auction. In 2011, the YLD is taking the fundraiser to a whole new level and presenting the first-ever Casino Night as our annual fundraiser for the Bar Foundation.” The brand-new Casino Night and Annual Fundraiser will feature seven blackjack tables, three poker tables, two craps tables and a double roulette table, all for your gaming pleasure.

Justice Ginsburg Legal Writing Contest Entries Due May 9

Entries are now being accepted for the Philadelphia Bar Association’s 2011 Justice Ruth Bader Ginsburg Pursuit of Justice Legal Writing Competition.

The co-chairs of the competition are Bar Association Vice Chancellor Kathleen D. Wilkinson, partner at Wilson Elser Moskowitz Edelman & Dicker LLP, and Diane Pennys Edelman, Assistant Dean for International Programs, Associate Professor of Legal Writing, Villanova University School of Law.

The Bar Association recognizes the importance of excellence in legal analysis and writing skills, and seeks to award a student enrolled in an American Bar Association-approved or provisionally approved Philadelphia-area law school for authoring a top-quality competition submission.

This competition is open to full- and part-time law students who are in their second or third year of study during the 2010-11 academic year at one of the following six institutions: Drexel University Earle Mack School of Law, University of Pennsylvania Law School, Rutgers University School of Law – Camden, Temple University Beasley School of Law, Villanova University School of Law and Widener University School of Law (Delaware Campus). Part-time law students in their third or later year of study are also eligible. Students must be in good standing at their institutions. The submission may not have been published previously, although it may have been prepared in connection with a law school course or for a law journal. The submission also may not have been submitted for any other competition during the time when it is under consideration for this competition, until after the time when awards are announced. The submission must be the work of one author alone (joint submissions will not be considered), and the author must certify that the submission has been prepared without substantial editing from others.

“This year we have a wonderful panel to review the essays that must focus on rights, privileges and responsibilities under federal law,” said Wilkinson. “We are very excited our panel includes Judges Gene E.K. Pratter and Juan R. Sanchez from the United States Court for the Eastern District of Pennsylvania.”

Other judges are Brandi J. Brice, City of Philadelphia Law Department; Leonore F. Carpenter, assistant professor of Law, Temple University Beasley School of Law; Iva Johnson Ferrell, Legal Writing Professor, Widener Law School; Deborah S. Gordon, Visiting Assistant Professor of Law, Drexel University Earle Mack School of Law; Mitchell Nathanson, Sarah E. Ricks, Clinical Professor & Co-Director, Pro Bono Research Project, Rutgers School of Law – Camden; Melanie Taylor, Philadelphia District Attorney’s Office; Sandra A. Jeske, Duane Morris LLP; and Anne Kringel, Legal Writing Director and Senior Lecturer, University of Pennsylvania Law School.

Candidates may submit a law review quality submission on any topic relating to rights, privileges and responsibilities under federal law. Entries must be received by Monday, May 9 at 4 p.m.

The author of the winning submission will receive a cash award of $2,500, the publication of the winning submission in The Philadelphia Lawyer, on the Bar Association’s website and in an appropriate Bar Association publication. The winner will be invited to a Quarterly Meeting of the Bar Association, at which time the award will be presented.
Making the In-House Leap, Not Looking Back

I recently made the transition from a law firm to a position working in-house for a company after spending numerous years practicing litigation and subrogation. I struggled with the decision before I ultimately made the jump. What if I didn’t like being in-house? Would I be able to go back once I made the change if I did not like it? The idea of such a significant change was certainly daunting to me, but after weighing the pros and cons of both, and the fact that I just was not happy doing litigation, I decided that it was worth it for me to take the leap. And so I did and luckily for me, it was.

While the transition has certainly been extremely positive for me thus far, it has also been a very significant change. The most substantial difference that I found was not having to capture my time in those pesky six-minute increments. After years of having to bill my time every day, it was not having to capture my time in the minutes and hours into an eight-plus hour day. So the lack of a billing requirement definitely takes some getting used to, but is certainly a change that was welcome and liberating for me.

The other major change is the pace of my workday. Litigation is obviously more stressful for me than other types of corporate travel, such as running with the stress caused by the unpredictability of litigation. I also do not miss the perils of corporate jobs, it is of a different kind than the type of environment that I discovered I thrive within. And while I still have to deal with stress, as one does in most corporate jobs, it is of a different kind than the stress caused by the unpredictability of litigation. I also do not miss the perks of corporate travel, such as running with bags and briefcase in hand to make that last-minute flight, killing endless hours in an airport or in a train or in a car, hotel rooms (especially since that bedbug outbreak!) and eating fast food on the fly in between.

So for any of you who are possibly finding yourself on the verge of a similar decision, the moral of the story is that so far I am more than enjoying my new position and it has been surprisingly mostly smooth, albeit gradual, transition to make. I am happy with the difficult decision that I made to make the change and thankfully I am optimistic that this will continue to remain true in the future, but I will be sure to keep you posted.

Asima Panigrahi (apanigrahi@allegientsystems.com), an attorney with Allegient Systems, Inc., is editor in chief of the Philadelphia Bar Reporter.

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Now the pace of my day is much more even-keeled.
Kids’ Dash at Bar’s 5K Not Just Another Race

By H. Marc Tepper

For many years, the attorneys of Buchanan Ingersoll & Rooney PC have supported the Philadelphia Bar Association’s Annual 5K Run/Walk. If you are reading this, you probably already know that all the proceeds from the Annual 5K Run/Walk go to the Support Center for Child Advocates. Since 1978, Buchanan attorneys have worked with the Philadelphia Bar Association and Child Advocates to provide free legal services that just last year helped more than 800 abused and neglected children. We created the Kids’ Dash to provide a new way to bring our families together to benefit Child Advocates.

In 2009, I ran the 5K with my then 10-year-old son, Drew. He enjoyed the race and the following year our Committee discussed the notion of creating a dash just for young children. Myself, along with Aliza Karetnick, of Duane Morris LLP, organized the Kids’ Dash on Race day. My other son Matthew helps with the Buchanan Ingersoll & Rooney race day giveaways following the run. Through the Kids’ Dash we are honoring Child Advocates’ mission while including our children in a worthy cause and teaching them important life skills.

Teaching our children about charity and giving back to the community is one of the most important missions we have as adults. Children who are raised understanding the concept of giving back selflessly to others learn compassion and empathy, both important traits to a happy, healthy community. Bringing your children to the Kids’ Dash is a great way to introduce them to volunteerism in a fun, relaxed environment.

Teaching our children about exercise and safe competition is also important. More and more, our children are engaged in sedentary pastimes. Participation in organized sports activities provides an opportunity for young people to increase their physical activity and develop physical and social skills. Children who are engaged in organized sports activities are more likely to feel comfortable in leadership roles as adults. The Kids’ Dash offers an introduction into the sport of running, and also the experience of competing in a low-stress 200-yard dash.

The Kids’ Dash is for children 5 through 10 and is held in a carnival atmosphere. Participation in the event is free. In addition to the main event, the Kids’ Dash offers face painting, animal balloons, slushies, and music from B101. All participating children receive race giveaways. The Dash begins immediately after the 2011 Philadelphia Bar Association 5K Run/Walk on Sunday, May 15.
hot-button issues.

We are in the midst of a very busy judicial election season. In the May 17 primary, Philadelphians will be voting for 10 Common Pleas Court judges and one Municipal Court judge. In the November general election, they will also vote on whether to retain 21 Common Pleas Court judges and nine Municipal Court judges.

Our Commission on Judicial Selection and Retention will complete more than 40 evaluations of candidates for the 11 open seats on Common Pleas Court and Municipal Court. That is an enormous undertaking involving 120 investigators, many hundreds of interviews and careful review, consideration and deliberation by the Commission’s 30 members.

The Commission is ably chaired this year by Richard S. Seidel. The other members are a broadly representative group, comprised of attorneys, non-lawyer community leaders, officials including the district attorney, chief public defender, city solicitor, and the president judges of Common Pleas Court and Municipal Court, and representatives of minority bar associations and various sections of the Bar.

A team of five investigators is assigned to each candidate seeking a new position. The team reviews information that the candidate provides in response to an extensive questionnaire, review writing samples, and interviews both the candidate and at least 15 other people, including at least five who were independently identified. They then prepare a report and recommendation to the Commission. The team leader also appears before the Commission, as does the candidate.

For the additional 30 retention-election judges, the Association commissions a non-binding poll of all lawyers in the city. This poll makes you part of the process. It gauges your detailed assessment of every judge standing for retention. If warranted by the poll results, an additional investigation is performed.

Ultimately, each candidate is rated “recommended” or “not recommended” based solely on specified criteria, such as legal ability, experience, integrity, temperament, community involvement and judgment, without regard to politics, the number of open seats or any other extraneous factor.

Once the ratings are issued, the bar’s Campaign for Qualified Judges will advertise the commission’s ratings, so the public can make informed choices at the polls.

Without these ratings, voters would have no objective guidance at all.

You can help us with this process in several ways.

• Consider serving as an investigator.

If you would like to volunteer, please contact Charlie Klinkisch, our director of public and legal services, at cklinkisch@philabar.org.

• When you receive the questionnaire regarding judges who are up for retention, please respond.

• When we begin raising funds for our Campaign for Qualified Judges, please consider contributing. The funds will be used for the group of recommended candidates as a whole, not for any particular candidate.

• If you live in Philadelphia, please be sure to vote in the primary and general elections for whichever candidates you prefer among those found “recommend-ed” by the Commission.

• Tell everyone you can to check our website and bring the Commission’s list of recommended candidates to the polls. The importance of our judiciary cannot be overstated. It is crucial not just to lawyers and litigants, but to our basic rights as citizens and our entire system of government. Please help us preserve both its quality and its independence.

Rudolph Garcia (chancellor@philabar.org), a partner with Buchanan Ingersoll & Rooney PC, is Chancellor of the Philadelphia Bar Association.

Justinians Honor Garcia

Justinians Society Chancellor Gino J. Benedetti (at podium) introduces Bar Association Chancellor Rudolph Garcia at a Feb. 23 luncheon in Garcia’s honor at The Union League of Philadelphia.

Andrew Hamilton Benefit. This year we will enjoy the “Art of Giving” at the Pennsylvania Academy of the Fine Arts on Saturday, Nov. 19 starting at 7 pm. Now in its 33rd year, this event is really the crown jewel of the Bar Foundation events. One of the most important charitable and social events in the city, the Hamilton Benefit is being co-chaired this year by the enthusiastic and upbeat team of John Summers and John Savoth, Bar Association Chancellor-Elect. Summers assures me that “this year’s Andrew Hamilton Benefit promises to be a great event – terrific food, fun dancing, and an eye-popping silent auction.”

Although it may seem frivolous to come to an event in the midst of all this hardship, these fundraisers are an important way to improve the quality and its independence.

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“Bibou” is the French nomenclature for a man whose alcoholic imbibing has limited his bumbling ability to speak, except to whine for a baby-bottle-nipple so that he may continue drinking directly from his wine bottle into “infantasy.”

This petite dining room is one in which to rendezvous with daringly authentic bistro cuisine. The French Foreign Legion ambiance is enhanced by verdant green paneling, Provence sunshine-yellow walls and pink cushions wrapped around tous les chaises. Tablecloths (doubled) are treated to candlelit tiny baskets near which have been placed faux-hammered silver utensils, so that Gallic shadows shine and sparkle on everyone.

The Calmels, Pierre and Charlotte, who own the shebangerie, scramble their immense talents to make each meal as provincial and as exuberant as Madame Bovary. Pierre, former executive chef at Le Bec Fin for half a decade, provides a pensive plait to his creations; and Charlotte is enchanting and exquisitely business-savvy when it comes to making sure patrons are pleased.

Edith Piaf sings in the background as escargots ($13) and fois gras ($16) are served as appetizers. Let me speak of the latter first. Imagine a hypertrophic mahogany cloud seared by a setting sun to crust in a sky almost crimson. Now confirm by blinking that that formation is plated in front of you. One’s knife and fork seem like astronomer’s tools as they graze the universe, cutting the infinite into morsels. Piaf sounds pious as you place one of the pieces upon your tongue. Your lips quiver as the fois gras vanishes mindlessly and effortlessly into another dimension. The silken aftertaste creates dimples to appear, indenting your cheeks. Date chutney and red wine duck jus seem to coat your medulla, making you voluptuous with indolence.

The escargots swirl in a snail ragout, made earthen by emerald green fava beans and chanterelle mushrooms, served in a porcelain white concentric-circled planter. Darkly hypnotic in appearance, the tastes are thick and similar to soup de tortue. This is not your usual Parisian buttery snail concoction laced and burbling with parsley and garlic for dipping bread. What is provided instead, is a rooming-house concoction from Rouen envisioned by someone who’s just re-read Flaubert’s Père Goriot.

You may also wish to venture toward a pastry-caged cupcake of gravlax ($11), chopped bits of smoked arctic char topped with creme fraiche, orange caviar eggs and see-through thin chips of cucumber and radish. There was nothing finer served at Versailles. Or more toward bourgeoise, have a try at muddling through a thick layer of floating cheeses, toward steaming caramelized onion soup. Sliced loaves usually supplant soup-spoons, and are to be dunked to sogginess with abandon.

The entrée offerings may include “pied de porc” ($25), braised pig foot, or “boeuf” ($30), usually a sautéed New York strip steak, or even “moules” ($24), steamed Blue Bay mussels studded with duck confit and, inter alia, cured black olives until you’re “bleu” in the face. Many swear by all of the above with grand gestures of palatable pleasure. I studied the looks of all of them as if I were Madame DeFarge taking notes while knitting.

continued on page 21

Feasts to Famine

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The Monthly Newspaper of the Philadelphia Bar Association

The Philadelphia Bar Reporter

The Philadelphia Bar Association
Feasts to Famine
continued from page 20

through the menu. I hastened to order “espador” ($26), a grilled swordfish, whose filet is presented in the shape of Hamani’s hat, pompously reveling above white lentils, preserved lemon, scraped string beans, and surrounded surreptitiously with dried apricots in brown but-
Ronon Stevens & Young, LLP, has been re-elected as vice chair of the Board of Directors of the Southeastern Pennsylvania Transportation Authority.

Ellen C. Brotman, a partner with Montgomery, McCracken, Walker & Rhoads, LLP, was a speaker at the 2011 Midyear Meeting of the Association of Professional Responsibility Lawyers in Atlanta on Feb. 10-12.

Margaret Gallagher Thompson, a member of Cozen O’Connor, was recently appointed chair of the Orphans’ Court Procedural Rules Committee for the Pennsylvania Supreme Court by Chief Justice Ronald D. Castille.

Michael C. Gross, a partner with Manko, Gold, Katcher & Fox, LLP, was recently appointed to serve a four-year term on the Lower Merion Township Environmental Advisory Council.

Michael Bonner, a partner with Stradley Ronon Stevens & Young, LLP, was recently appointed to the board of directors of the Philadelphia chapter of the Commercial Finance Association.

Royce Smith of Feldman Shepherd Wohlgelernter Tanner Weinstock & Dodig delivered the keynote address at the Martin Luther King Day Luncheon hosted by the Salem Baptist Church of Jenkintown, Pa., on Jan. 15. He accepted an award on his grandfather’s behalf from Abington Memorial Hospital and spoke at the hospital’s annual Rev. Dr. Martin Luther King Jr. program on Feb. 22. His grandfather was the first African-American trustee to serve on Abington Memorial Hospital’s Board of Directors.

Salvatore M. DeBunda, co-managing partner of Archer & Greiner, P.C., has been elected to a three-year term as president of the Pennsylvania Thoroughbred Horsemen’s Association.

Peter J. Tucci, a partner with Fox Rothschild LLP, has been elected to the Board of Directors of the Dikembe Mutombo Foundation, Inc. The foundation was created by Mutombo, a former Philadelphia 76ers player, to improve the health, education and quality of life for the people of the Democratic Republic of the Congo.

James C. Schwartzman, a shareholder with Stevens & Lee P.C., has been re-elected to the Board of The Gershman Y, a center for Jewish arts and culture in Center City.

Albert S. Dandridge III, a partner with Schnader Segal & Lewis LLP, will receive the John Stephen Baerst Award for Excellence in Teaching at Boston University’s 2011 commencement ceremonies.

Sarah E. Ricks, clinical professor and co-director of the Pro Bono Research Project at Rutgers School of Law – Camden, is the author of Current Issues in Constitutional Litigation (Carolina Academic Press 2011).

Rhonda Hill Wilson, principal in the Law Offices of Rhonda Hill Wilson, P.C., addressed Widener University School of Law students as a speaker in the school’s Local Leader Series on Jan. 19.


Heather T. Fritts, an associate with Stradley Ronon Stevens & Young, LLP, was a presenter at the National Business Institute seminar “The Mechanics of Pennsylvania Civil Procedure” on Feb. 25.

“People” highlights news of members’ awards, honors or appointments of a community or civic nature. Information may be sent to Jeff Lyons, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 11th fl., Philadelphia, PA 19107-2955. Fax: (215) 238-1159. E-mail: reporter@philabar.org. Color photos are also welcome.
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