Gormley on Watergate’s Sat. Night Massacre at First Bench-Bar Session

By Jeff Lyons

Duquesne University School of Law Dean Ken Gormley will discuss the 40th anniversary of the “Saturday Night Massacre” that led to the resignation of President Richard M. Nixon during the Opening Luncheon at the Philadelphia Bar Association’s Bench-Bar & Annual Conference on Friday, Oct. 4 at Revel in Atlantic City, N.J.

When President Nixon fired Watergate Special Prosecutor Archibald Cox, during the infamous “Saturday Night Massacre” on Oct. 20, 1973, it unleashed a firestorm of public protest that led to the collapse of the Nixon presidency. Cox, who had subpoenaed eight key tape recordings that would ultimately prove Nixon’s complicity in the Watergate cover-up, became a national hero for standing up to the president and demonstrating that no person is above the law.

Gormley, dean of Duquesne University School of Law and award-winning author of “Archibald Cox: Conscience of a Nation,” interviewed key players and is the nation’s leading expert on these dramatic events. He will provide film clips and new insight into the “Saturday Night Massacre,” as the nation marks the 40th anniversary of this Constitutional drama, and explain how the integrity displayed by two lawyers in public service – Archibald Cox and Nixon’s Attorney General, Elliot Richardson (who resigned rather than follow Nixon’s order to fire Cox) – indelibly shaped American history.

Gormley will also discuss how the Saturday Night Massacre prompted changes in the law – including the passage of the Independent Counsel Law – that later haunted presidents including Bill Clinton, who became embroiled in scandals and independent counsel investigations that were spawned, for better or worse, by President Nixon’s firing of Cox.

Gormley is also author of The New York Times bestseller “Death of American Virtue: Clinton vs. Starr,” an analysis of the events leading up to the impeachment of President Clinton.

Chancellor’s Diversity Forum Sept. 10

The Philadelphia Bar Association will present the Chancellor’s Forum “The Changing Parameters of Diversity and Inclusion in the Legal Profession” on Tuesday, Sept. 10.

The featured speaker is Sandra S. Yamate, CEO, The Institute for Inclusion in the Legal Profession. She will be joined by Sophia Lee, chief litigation counsel at Sunoco and co-chair of the Philadelphia Diversity Law Group and Philadelphia Bar Association Corporate In-House Counsel Committee and secretary of the Philadelphia Bar Association; Wesley R. Payne IV, partner, White and Williams LLP and co-chair of Philadelphia Diversity Law Group as well as treasurer of the Philadelphia Bar Association; and Brennan J. Torregrossa, in-house counsel, GlaxoSmithKline and co-chair of the Philadelphia Bar Association’s

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PAHA1320
International Friendship Deals Boost Bar Association’s Standing

By Kathleen Wilkinson

Last month, our Bar Association entered into its first-ever Friendship Agreement with the Barcelona Bar Association in Spain, to develop a new relationship “encouraged by a common concern about the future of the legal profession in the world and in our cities.” This new partnership includes the possibility of future opportunities for law students and young lawyers of both associations to become familiar with foreign practice through training or internships in participating law firms in both cities.

We are proud to have a second “sister” bar association in the European Union, adding to our highly successful 15-year twinning relationship with the Lyon Bar Association in France. Under that program, three or four French interns have the opportunity to come to the United States each year for six months to learn about the federal and state legal systems. Over the last two years, my law firm Wilson Elser Moskowitz Edelman & Dicker LLP and I have had the pleasure of hosting two French interns, Thomas Bernard and Anne Gaelle Prost, and we look forward to hosting a third this fall.

This summer, local law students were hosted by French law firms, including Lindsey Wilkinson from Villanova Law School, who just completed an excellent internship with Jean-Michel Raynaud from C & R Advocats.

Our new relationship with the Barcelona Bar would not be possible without the important contacts and strong international network our Association has developed as a result of our participation in the World City Bar Leaders Conference, a periodic gathering of leaders of bar associations of leading cities of the world.

The new Friendship Agreement is a direct result of discussions with then-Barcelona Bar Association President Pedro L. Yufeta at the recent WCBL Conference in Frankfurt. Next year, the Philadelphia Bar Association will proudly host this important gathering and welcome leaders of bar associations from around the world.

The WCBL was formed in 2001 with the recognition that the world’s leading cities often share more in common with each other than they do with smaller cities in their own region.

As globalization has increased during the last decade, this common interest has grown. This is further evidenced locally, through the work of the Global Philadelphia Association – of which the Philadelphia Bar Association is a member. The Global Philadelphia Association assists and encourages greater interaction among more than 100 businesses and organizations that are engaged in some form of international activity within the Greater Philadelphia region. It also promotes international consciousness and works to enhance the region’s global profile.

The Philadelphia region is fortunate to have an extraordinary array of international resources, including our many law firms and lawyers that conduct business internationally and represent the interests of foreign investment locally.

In order for our region to be successful in today’s global economy and to thrive in an increasingly interconnected world, these resources need to be more interconnected themselves. This is another value of membership in the Philadelphia Bar Association, where our members can benefit from these global activities and resources. More and more of our law firms have offices throughout the world and/or have business or matters that have international impact. This is another value of membership in the Philadelphia Bar Association, where our members can benefit from these global activities and resources.

This fall, the Global Philadelphia Association will present GlobalPhilly™ 2013, the region’s first-ever public exposition of its international resources, programs, activities, and assets. The exposition will be held at locations throughout the city and region between Sept. 15 and Oct. 31. It will showcase offerings by a broad and diverse group of international actors in the region – bringing attention to their work.

This includes the Philadelphia Bar Association, which has designated the Oct.

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Panelists: Trust is Key for Mediation Success

By Lauren A. Strebel

Person A and Person B are in a dispute over an orange. Person A wants the orange rind, and Person B wants to make orange juice. If Persons A and B were to take this dispute to court, a judge or jury would determine who gets the entire orange, leaving one person upset and the other with more than they desired. As an alternative, mediation is a venue that provides parties with the opportunity to “split the orange.”

In a lunchtime CLE hosted by the Alternative Dispute Resolution Committee, retired Pennsylvania Superior Court Judge Richard B. Klein and mediator and attorney Judy Shopp led a session about maximizing the benefits of the mediation process. The speakers used various hypotheticals, including vignettes based on an actual “Boston Legal” episode to fuel the discussion.

The process begins with choosing a mediator that both parties can trust. This will set the stage for how productive the mediation sessions will be. A common solution is to let one party develop a list of mediators, and let the other party choose from that list. This can help encourage confidence in the process.

Lawyers need to pay attention and really understand the process of mediation from beginning to end. Each mediator is different and it is critical for lawyers to know how their mediator typically handles cases. More importantly, lawyers should be able to relay to their clients the important facets of mediation, such as confidentiality and the use of caucuses.

One of the benefits of mediation is that clients can make their feelings known. Judge Klein made this notion clear with an example: In family court, two brothers fight over who is entitled to their grandfather’s valuable antique clock. On the outside this is a dispute over a will, but as it turns out the underlying issue is really sibling rivalry. Mediation can help expose relationships so parties can work toward the solutions they really desire.

When should parties consider mediation? Mediation can be ideal for corporate clients who want to avoid lengthy litigation or for parties who will continue to have a relationship after the dispute is resolved. In mediation, parties can create solutions that are not available in the law, meaning parties can maintain amicable relations when the dispute is over.

How can lawyers set their clients up for success in mediation? Judge Klein says do not leave your lawyering skills at the door. First, lawyers need to do their research on the underlying case. Lawyers should be able to expose the weaknesses of their opponent’s story to the mediator. Second, lawyers need to counsel their clients throughout the process. It is important for the client to be willing to compromise. Third, lawyers need to pay attention to the resolution and draft a settlement agreement.

Sometimes lawyers feel that if there is not a full settlement after mediation, then it was a loss. Shopp says that is not true. Partial resolutions can be beneficial, especially since afterward lawyers can use their lawyering skills to come up with the rest of the settlement. Starting with the resolutions that came out of mediation makes it more likely that the parties will agree with the ultimate settlement.

Lauren A. Strebel (lauren.a.strebel@gmail.com) is a third-year student at Earle Mack School of Law at Drexel University.
In order to lead you have to serve, panelists reminded attendees at the June 27 Chancellor’s Leadership Institute program. Three currently serving women affinity bar leaders spoke about their experiences getting involved in the law and leadership positions in their respective organizations. Rachel E. Branson, president of the Barristers’ Association of Philadelphia, was joined by Rachel Gallegos, president of the Hispanic Bar Association of Pennsylvania, and Annette Ferrara, chancellor of the Justinian Society of Philadelphia, on the panel. Each emphasized the importance of getting involved in organizations that are of personal interest. Branson initially got involved with the Barristers for the fellowship opportunity with other African-American attorneys in the city. Gallegos similarly wanted to participate in an active and diverse group of professionals.

All panelists stressed the importance for young lawyers to find the time to get involved. Although many young lawyers may think it is too hard to leave the office and the “grind,” Ferrara reminded that organizations are cognizant that people have less and less free time, and make events approximately an hour long with meaningful topics. Similarly, Gallegos noted that none of the organizations have demanding participation requirements, so one can pick and choose events that suit their interests as well as schedule. Branson also stressed the importance of starting networking as early as possible, as both a way to build relationships and make a path toward leadership.

Not only can getting involved with an organization be a great way to network and interact with people with similar backgrounds, but it is also an excellent way to work on speaking to an audience separately from addressing a courtroom. Public speaking, and not solely advocating in the court, helps build confidence and develops a skill set as an attorney.

Each woman mentioned how being involved in their respective organizations has undoubtedly enhanced her career. Participation not only can build relationships with attorneys you may interact with on a regular basis, but can also show what other options there are in different types of practices. Gallegos noted that watching how others have navigated careers over the years has been insightful, as well as learning the inner-workings of different legal agencies and organizations. Female mentoring through the organizations also helps toward a path to leadership.

While historically it has been men with highly public leadership positions, the women discussed their respective female leadership styles. Ferrara described her style as more collaborative than a traditional leadership style; for instance, she prefers to bring all types of issues before the board, and talk through issues that have occurred in the past. Gallegos agreed, in that she also strives for a collaborative style, as getting her group’s opinion is important to lead successfully and make sure everyone is satisfied. Additionally, collaboration gets more people involved, and more members can take ownership of programs or events and fulfill their own goals.

Lastly, the three women discussed their views on whether leaders are born or made. All agreed that they were born with some personality traits, such as an innate outgoingness, but leading takes much practice to be effective and gain confidence. Being able to receive comments and criticisms to guide them has helped them learn what works, as well as building trust and relationships with other members. The key thing to leading an organization effectively is wholeheartedly believing in the mission of the organization, and not asking more of others than you would do yourself.

Annie M. Kelley (anniemkelley@gmail.com), a judicial clerk to Philadelphia Court of Common Pleas Judge Albert J. Snite Jr., is an associate editor of the Philadelphia Bar Reporter.

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Lifetime Achievement Recognition

Vice Chancellor Albert S. Dandridge III (above) is presented with The Legal Intelligence’s Lifetime Achievement Award at a June 27 event celebrating the newspaper’s 170th anniversary at the Crystal Tea Room. The honors were presented by Associate Publisher and Editor-in-Chief Hank Grezlak and Group Publisher Hal Cohen of The Legal Intelligence. Former Chancellor Lawrence J. Beaser (right) was also honored with a Lifetime Achievement Award at the event, along with former Chancellors Arlin M. Adams, Robert C. Heim and Deborah R. Willig.

Focus on Data, Not Location in eDiscovery

By Benjamin F. Johns

Electronic discovery should be approached by thinking about what needs to be collected instead of focusing on where it may be located. This was among the pointers offered by Shawn Huston, CEO of Legal Support Partners, at the July 9 meeting of the Solo and Small Firm Committee.

Huston’s presentation was centered on leveling the playing field for smaller law firms, which are increasingly being faced with disproportionately large costs as the volume of electronic discovery continues to grow.

Huston explained that it is far less important to focus on where data might be because electronic information often “lives” in more than one place. For example, most emails are run through one or more servers, which means that records of them will still exist even if they are locally deleted from Outlook on a computer. This also means that lawyers should be diligent about making sure to search for emails on both the computer and on the server side.

Huston noted that cost is often the biggest concern raised by lawyers seeking to hire a vendor to conduct these types of searches. He said to “run away as fast as you can” from any electronic discovery vendor or consultant that does not acknowledge the reality that e-discovery can become extremely expensive.

As of right now, there is no single “easy button” solution to this problem. One technique that is becoming increasingly popular in sifting through massive amounts of data is predictive coding, where documents are reviewed by a computer based on a set of parameters. Huston described this as more of an initial filtering tool as opposed to a way to completely replace manual document review. He also noted that there are a variety of eDiscovery tools available as alternatives to expensive enterprise software solutions, which often require an expert to come on-site and set up customized software. These alternatives include local software tools (such as a document expert to come on-site and set up customized software).

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Nonprofits Urged to Be SMART with Social Media

By Mary-Kate Breslin

There are three types of people in the world of nonprofits: Doers, door openers and donors. Evan Polin, president of The Training Resource Group, presented “Cost-Effective Social Media Strategies for Nonprofits” at the Young Lawyers Division’s most recent “Live, Lunch, and Learn” program on June 17.

Polin guided his audience through his tried and true methods of effectively using and integrating social media to further nonprofit organization goals. He addressed special issues facing nonprofit board members, and outlined ways to improve board performance and productivity.

Social media can be an excellent tool for the business development of nonprofit organizations so long as it is used wisely.

Setting Goals: Polin advised that board members set “SMART” goals: S for Specific (Ex. number of website visitors), M for Measurable (Ex. number of “likes” on Facebook), A for Attainable (Ex. reasonable goals), R for Realistic, and T for Time Table (Ex. set a deadline for when you want to achieve a specific goal).

Nonprofit organizations are not always clear about what is expected of their boards. For board members, first determine what it is you intend to accomplish. Are you trying to drive attendance to an upcoming event? Do you want to raise awareness of a particular issue? Are you fundraising? Or reaching out to a local community? Next, determine your target audience and what action you want them to take. Lastly, be sure that the messages communicated by board members mirror the messages and mission on the organization’s website and in its marketing materials. It is imperative that the board’s messages are consistent with those of the organization.

LinkedIn should be used for business-related purposes. Nonprofits can use it to build contact lists, research connections and groups, and join groups. Avoid using the site solely for solicitation because contacts will become disenchanted. Provide useful information and links to articles on a regular basis. Even if your contacts do not read what you send to them, it is still “good branding.” “It makes you come off like a three-dimensional person, not just some lawyer,” commented Polin.

Facebook is a more appropriate site for pictures and videos. This is a site where you can give life to your nonprofit. For both LinkedIn and Facebook, be sure to drive viewers back to the organization’s website. Twitter is a great website on which to post links. For instance, if you are trying to drive attendance to an event, you can encourage people to tweet about the event before and after. Twitter enables you to engage people. Regarding events, be sure to give as much notice as possible leading up to an event.

Polin advised, “You can get more done if you have a clear vision.”

Mary-Kate Breslin (marykatebreslin39@gmail.com) an assistant city solicitor with the Philadelphia Law Department, is an associate editor of the Philadelphia Bar Reporter.

Large Firms Host Citywide Summer Associate Reception

Large Firm Management Committee Co-Chairs Ben Barnett (left photo, from left) and Vincent R. McGuinness Jr. join Pennsylvania Supreme Court Chief Justice Ronald D. Castille and Chancellor Kathleen D. Wilkinson at the Committee’s reception for summer associates on July 9. More than 100 summer associates attended including (above, from left) Lynne Kolodinsky, Selby Brown, Laura Sullivan and Kevin Silk.
FAMILY LAW SECTION

Support Obligations Enforced Through Seizures

By Julia Swain

Child support enforcement is increasingly more effective through the use of the financial institution data match program (FIDUM), which identifies obligors’ financial accounts that can be frozen and seized to pay support arrears. Joan Esmonde, chief of the District Attorney’s Office Child Support Enforcement Unit, discussed the mechanics of FIDUM at the Family Law Section’s July 1 meeting.

FIDUM is a method of electronic enforcement. First, the court identifies cases where the obligor has not made a payment for one month, at which time all arrears, including retroactive arrears, become due. Next, the Tactical Enforcement Unit of the Family Court uses the data match system to locate financial accounts of the obligor. The accounts include checking, savings, credit union, money market and investment; but not IRA, 401k or other forms of retirement accounts. The accounts do not have to be titled solely in the name of the obligor. Once an account is identified, an ex-parte freeze order is sent by fax to the financial institution.

The obligor is then notified that his or her bank account has been frozen and funds will be seized. The obligor can either agree to surrender funds in the account or try to defend against the freeze by meeting with Tactical Enforcement. Valid defenses are limited and include mistaken identity and failure of another state to provide proof of payoff of arrears.

In many cases, the account is titled in the names of the obligor and a third party such as the obligor’s parent or significant other. These types of third-party cases and other cases where valid defenses are not presented are not decided by Tactical Enforcement. At this stage the obligor must file a simple FIDUM petition requesting that the court lift the freeze order. The obligor has 30 days to file the form petition. If the petition is not timely filed then the funds are seized.

Once the petition is filed, a hearing is scheduled before a judge. In Philadelphia, FIDUM cases are heard one day per month. An ADA is present to represent the obligees. FIDUM cases present two very common scenarios.

An obligor will allege that a wage attachment is in place so the freeze order must be a mistake. However, the court can still pursue all forms of enforcement. While a wage attachment will not necessarily preclude seizure of funds, the judge considers the payments made by wage attachment particularly if, for example, funds contained in a frozen account are homeowners insurance proceeds necessary for roof repairs. In these types of circumstances, where some consideration to the obligee may be appropriate, the court attempts to have the parties reach a settlement because the obligee is receiving regular support payments and the obligor requires the frozen funds for a legitimate purpose.

The other scenario is the third-party account situation. Sometimes, the obligee acknowledges that the funds belong to the third party, such as an aging parent, and agrees for the freeze order to be withdrawn. Other times, the obligee has not received payment for a considerable time, so no agreement is reached. There is no case law in Pennsylvania addressing how these third-party account holder cases should be handled. As such, the court has much discretion to apply equitable principles. Esmonde recommended that the obligor in such circumstance bring the third party to court, if possible, and bring proof that the funds in the account belong to the third party.

Julia Swain (jswain@foxrothschild.com), a partner with Fox Rothschild LLP, is an associate editor of the Philadelphia Bar Reporter.

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As fall is rapidly approaching (and after the heat wave we’ve experienced this summer, I’m sure many folks are saying it’s not a minute too soon) it is about time for children of Philadelphia to return to their classrooms.

Thomas Jefferson said that the objects of primary education are “to give to every citizen the information he needs for the transaction of his own business; to enable him to calculate for himself, and to express and preserve his ideas, his contracts and accounts, in writing; to improve by reading, his morals and faculties; to understand his duties to his neighbors and country; and to discharge with competence the functions confided to him by either; to know his rights; to exercise with order and justice those he retains; to choose with discretion the course of actions he is to pursue; to observe with intelligence and faithfulness all the social relations under which he shall be placed.”

As a Bar Association we should all do our part to make sure each student is afforded the level of education to enable an informed populace.

To that end, the Young Lawyers Division commends the work of the Advancing Civics Education Committee for its civics programs directed at young students who were hosted at branches of the Free Library of Philadelphia, the Criminal Justice Center and the National Liberty Museum. Each spring the YLD, along with the Temple University Beasley School of Law, helps coordinate and run the John S. Bradway High School Mock Trial Competition. Local area public, private and parochial high school teams take part in a mock trial competition and receive exposure on litigation. The program is a terrific way for local high school students to see the legal world beyond TV. But the stars of spring are born out of the training that will start in October. The YLD is looking for lawyers to help out with either the actual mock trial competition (as volunteer coaches) or for the one-day Mock Trial Law Camp, which takes place in the fall, where attorneys help advise, critique and provide feedback to students in openings, closings, direct examination, evidence objections and so forth.

Of course, learning is impossible for students without the supplies to do so. The Young Lawyers Division is partnering with the Pennsylvania Bar Association Minority Bar Community Outreach Committee in a school supply drive in order to collect donations for students in economically challenged areas of the city. We need your help! We will be collecting donations during our Networking Happy Hour on Wednesday, Aug. 14 at Chima, 1901 John F. Kennedy Blvd. We are looking for donations of backpacks, notebook paper, pens/pencils/highlighters, notebooks, composition books, rulers, dictionaries, folders, binders, pencil cases and anything else you think might be useful. Several law firms have been kind enough to act as donation sites leading up to the event, so please check the YLD Facebook page for details.

Jerry Seinfeld once said “[t]o me, a lawyer is basically the person that knows the rules of the game. We’re all throwing the dice, playing the game, moving our pieces around the board, but if there is a problem the lawyer is the only person who has read the inside of the top of the box.” Let’s do our part to pitch in on civics education so our students have read the rulebooks and are not playing blind.

By Aneesh A. Mehta

An associate with Volpe and Koenig, P.C., is chair of the Young Lawyers Division.

YLD Update

Pitch In for Civics Education This School Year

August CLE Calendar

These CLE programs, co-sponsored by the Philadelphia Bar Association will be held at The CLE Conference Center, 3131 Chestnut Street, Philadelphia.

Live & Simulcast Seminars

Aug. 1 • Evidentiary Challenges in Family Law
Aug. 2 • How to Handle a Workers’ Comp Mediation
Aug. 3 • Violence in the Workplace
Aug. 6 • Buying a Vacation Home
Aug. 7 • Tips & Strategies for Settling Your Auto Accident Case
Aug. 8 • Using Social Media in Your Law Practice
Aug. 9 • Making Your Case with a Better Memory
Aug. 10 • Death & Taxes
Aug. 12 • Common Estate Planning Blunders
Aug. 15 • What Pennsylvania Lawyers Need to Know about New Jersey Personal Injury Practice
Aug. 14 • Drafting Employee Handbooks
Aug. 17 • The Anatomy of Pennsylvania’s New PI Infrastructure Act: Opportunities, Source Selection and Project Finance Solutions
Aug. 15 • Coordinating Medicare Benefits
Aug. 19 • Advanced Issues in Civil Practice and Procedure
Aug. 20 • Trials of the Century
Aug. 21 • UA/UWM
Aug. 22 • Anatomy for Lawyers: A Primer
Aug. 24 • Family and Medical Leave Act Update
Aug. 25 • Estate Planning for Retirement Assets
Aug. 26 • PA’s Custody Statute: Over Two Years Later & Still Evolving
Aug. 27 • Tackling the Tiger of E-Discovery: Real-World Perspectives from the Bench, Bar and Consultant/Vendor World
Aug. 28 • Ethics Potpourri
Aug. 29 • PBA Unauthorized Practice of Law Committee Update
Aug. 30 • Law Marketing & Advertising Ethics
Aug. 31 • Free Practices, Pointers & Traps of Fee Agreements
Aug. 32 • Bringing Third Parties into Attorney-Client Interviews
Aug. 33 • Assisting a Colleague in Distress
Aug. 34 • Irresolvable Trusts: Drafting with the Right Ingredients
Aug. 35 • Lights, Camera, Evidence!
Aug. 36 • Understanding the Basics of the ADA
Aug. 37 • The Over-Zealous Advocate
Aug. 38 • Document Thievery Couting, Managing & Negotiating
Aug. 39 • Fire At-Will in Pennsylvania
Aug. 40 • The Open/Zealous Advocate

Simulcasts from PLI

Aug. 1 • Securities Arbitration 2013
Aug. 2 • Abe Lincoln, Sydney Carton & the Art of Aspiration
Aug. 3 • Fire At-Will in Pennsylvania
Aug. 4 • Abe Lincoln, Sydney Carton & the Art of Aspiration
Aug. 5 • Common Estate Planning Blunders
Aug. 6 • Fee Practices, Pointers & Traps of Fee Agreements
Aug. 7 • Premarital Agreements
Aug. 8 • Environmental Impacts of Hydraulic Fracturing: Dispelling the Myths
Aug. 9 • Joint and Several Liability a Year Later
Aug. 10 • 16th Annual Federal Securities Law Forum
Aug. 11 • Assisting a Colleague in Distress
Aug. 12 • A Self-Regulating Profession
Aug. 13 • What to Do When You Receive the “OMCG” Letter
Aug. 14 • Nuts & Bolts of Criminal Practice in Philadelphia Municipal Court
Aug. 15 • Unemployment Compensation
Aug. 16 • Abe Lincoln, Sydney Carton & the Art of Aspiration
Aug. 17 • Who’s on First?: Lien Priority in Pennsylvania
Aug. 18 • What Pennsylvania Lawyers Need to Know about New Jersey Personal Injury Practice
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Aug. 23 • Buy a Vacation Home
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Aug. 29 • The Anatomy of Pennsylvania’s New PI Infrastructure Act: Opportunities, Source Selection and Project Finance Solutions
Aug. 30 • Coordinating Medicare Benefits
Aug. 31 • Advanced Issues in Civil Practice and Procedure
Aug. 32 • Trials of the Century
Aug. 33 • UA/UWM
Aug. 34 • Anatomy for Lawyers: A Primer
Aug. 35 • Family and Medical Leave Act Update
Aug. 36 • Estate Planning for Retirement Assets
Aug. 37 • PA’s Custody Statute: Over Two Years Later & Still Evolving
Aug. 38 • Tackling the Tiger of E-Discovery: Real-World Perspectives from the Bench, Bar and Consultant/Vendor World
Aug. 39 • Ethics Potpourri
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Aug. 41 • Law Marketing & Advertising Ethics
Aug. 42 • Free Practices, Pointers & Traps of Fee Agreements
Aug. 43 • Bringing Third Parties into Attorney-Client Interviews
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Aug. 45 • Irresolvable Trusts: Drafting with the Right Ingredients
Aug. 46 • Lights, Camera, Evidence!
Aug. 47 • Understanding the Basics of the ADA
Aug. 48 • The Over-Zealous Advocate
Aug. 49 • Document Thievery Couting, Managing & Negotiating
Aug. 50 • Fire At-Will in Pennsylvania
Aug. 51 • The Open/Zealous Advocate

Video Seminars

Aug. 1 • Evidentiary Challenges in Family Law
Aug. 2 • How to Handle a Workers’ Comp Mediation
Aug. 3 • Violence in the Workplace
Aug. 4 • Buying a Vacation Home
Aug. 5 • A Day on Real Estate - East
Aug. 6 • Tips & Strategies for Settling Your Auto Accident Case
Aug. 7 • Using Social Media in Your Law Practice
Aug. 8 • Making Your Case with a Better Memory
Aug. 9 • Death & Taxes
Aug. 10 • Common Estate Planning Blunders
Aug. 11 • What Pennsylvania Lawyers Need to Know about New Jersey Personal Injury Practice
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Aug. 35 • The Open/Zealous Advocate

For information or donations during our Community Outreach Month, please contact the Pennsylvania Bar Association

August 2013 Philadelphia Bar Reporter 9
Bench-Bar & Annual Conference
2013
REVEL | ATLANTIC CITY
OCTOBER 4-5, 2013 | PHILABENCHBAR.COM

EARLY-BIRD RATE ENDS SEPT. 13
I am thrilled that Dean Gormley has agreed to speak to us about the Saturday Night Massacre, which was the most dramatic moment in the Watergate scandal and created an unparalleled Constitutional crisis at that time,” said Chancellor Kathleen D. Wilkinson.

Gormley joined the Duquesne Law faculty in 1994, after teaching at the University of Pittsburgh School of Law and working in private practice. He is a graduate of the University of Pittsburgh and Harvard Law School. Gormley has testified in the United States Senate three times. He also served as President of the Allegheny County Bar Association, the first academic to hold that position in the organization’s 137-year history. From 1998-2001, Gormley served as mayor of Forest Hills, Pa.

The Bench-Bar & Annual Conference provides attendees with the opportunity to earn continuing legal education credits while networking with colleagues and members of the bench. Hundreds of attorneys and judges are expected to attend. A new addition to this year’s conference will be a Law Practice Management track among the 22 CLE seminars that will be offered.

Prices for the 2013 Bench-Bar & Annual Conference are being kept at 2012 levels. Full-conference tuition for Bar Association members who register by Sept. 13 is $369. For members of the Young Lawyers Division, public interest attorneys and government attorneys, full-conference tuition is $219. For non-members, tuition for the full conference is $519.

In addition to the Law Practice Management track, CLE seminars will be offered by the Business Litigation Committee, Civil Gideon and Access to Justice Task Force, Criminal Justice Section, Diversity in the Profession Committee, Family Law Section, Insurance Programs Committees, Professional Responsibility Committee, Public Interest Section, State Civil Litigation Section, Women in the Profession Committee, Workers’ Compensation Section and Young Lawyers Division.

The conference will close with a State of the Profession Committee, Workers’ Compensation Committees, Professional Responsibility Committee, Family Law Section, Public Interest Section, State Civil Litigation Section, Women in the Profession Committee, Workers’ Compensation Section and Young Lawyers Division.

We are pleased to offer a special REVEL hotel room group rate to our Bench-Bar attendees. A rate of $179 plus tax is available Friday, Oct. 4 and a limited number of rooms are available at $149 plus tax for Thursday, Oct. 3. You must be a registered attendee of the Bench-Bar & Annual Conference in order to reserve a room at the group rate. Once you are registered for the conference you will receive instructions on how to make your room reservation.

Sponsorships for the 2013 Bench-Bar & Annual Conference are still available through Sept. 13. For sponsorship information, contact Tracey McCloskey at 215-238-6360 or tmccloskey@philabar.org.

Philadelphia Bar Association 2013 Bench-Bar & Annual Conference
October 4 - 5, REVEL, Atlantic City - Registration Form

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Bench-Bar & Annual Conference Cancellation and Refund Policy

All cancellation requests must be submitted in writing to Tracey McCloskey at tmccloskey@philabar.org. The amount charged for cancellation is dependent upon the date that the cancellation request is received.

On or before September 13, a nonrefundable processing fee of $50 will be deducted for all cancellations.

Starting September 14 - October 1, 2013, 50% of the total registration fee will be deducted for all cancellations.

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Philadelphia, PA, 19107-2955

or Fax to:
215-238-1159

Register Online at PHILABENCHBAR.COM
Stand Your Ground Laws Differ by State

By Angie Halim

More than half of states with “stand your ground” laws do not impose a duty to retreat so long as an individual is in a place where he is legally permitted to be, a panel told members of the Criminal Justice Section at a recent CLE program. “Stand your ground” laws and the “castle doctrine” have received increased attention and scrutiny in the wake of the George Zimmerman trial. Panelists Jules Epstein, Jila A. Frucher and Joshu Harris discussed various states’ laws regarding self-defense. Regardless of the varying terminology used in different states, the crux of these laws address the use of deadly force in self-defense in differing factual scenarios.

The primary feature of stand your ground laws in states that permit the use of deadly force for self-defense is that there is no duty to retreat before using deadly force if faced with the threat of serious bodily injury or death. Slightly more than half the states have stand your ground laws in place and do not impose a duty to retreat so long as an individual is in a place he is legally permitted to be. Approximately 25 percent of states have modified versions of stand your ground laws and impose a duty to retreat everywhere except the home. The remainder of states fall “somewhere along a spectrum” with respect to the duty to retreat depending upon various factual situations, said Harris.

As an overview of the historical evolution of self-defense laws, the general duty to retreat when faced with force dates back to common law during a time when the use of deadly force was discouraged. Over time, most of the states and the United States, however, attitude toward the duty to retreat began to change. When more individuals possessed firearms there was pushback against the duty to retreat even in areas outside the home. For more than 100 years now, the stand your ground doctrine has been a “well-established legal trend,” according to Harris.

Of all states, only Vermont imposes a duty to retreat within the home. Other states extend the purview to the curtilage, vehicles, the workplace and certain other public areas. Epstein explained that the laws are not just about the duty to retreat; procedural expansions were built into stand your ground legislation as well. He described the expansion that allows for a presumption of reasonableness as “fairly new and fairly radical.” For example, several statutes permit application of a presumption of reasonableness if an intruder enters an individual’s home. Epstein pointed out that a number of situations could occur where there exists no real threat of death; however, given the presumption, a person may be entitled to use deadly force nonetheless. Likewise, some states allow use of deadly force in situations such as sexual assault even where there may not be a threat of death. As another example of procedural expansion, some states have ground legislation grants civil immunity for causing a death, even if that individual acted recklessly or negligent.

Pennsylvania has enacted stand your ground legislation that falls somewhat on the spectrum below Florida’s expanded self-defense laws. Despite a veto by then-Gov. Ed Rendell in 2010 and “strong opposition” from law enforcement and District Attorney’s offices, legislation was enacted once Gov. Tom Corbett came into office. If a person reasonably believes that the use of deadly force is immediately necessary, he or she may use deadly force. Pennsylvania has what the panel described as a “spectrum of protection,” protections are broadest in the home and at the most narrow in public spaces. Areas such as vehicles — including nonmotorized “vehicles” such as a bicycle — and the workplace fall somewhere along the spectrum between a residence and the general public. A residence is defined to include an invited guest and there exists no duty to retreat. In public, on the other hand, before the use of deadly force will be justified, there must be an apparent display of a deadly weapon.

By Joshu Harris

Stand Your Ground Laws, including Pennsylvania’s, have “empowered criminals,” by setting a lower standard for use of deadly force by citizens than for trained law enforcement officers, Pennsylvania state Rep. W. Curtis Thomas recently told a regional hearing of the American Bar Association National Task Force on Stand Your Ground Laws.

The Task Force, composed of various ABA stakeholder entities, is studying the impact of self-defense laws that expand legal protections for use of deadly force. Dozens of such laws have been passed over the last decade, including Pennsylvania’s 2011 law, but they received little attention until the shooting death of Trayvon Martin last year.

Former Gov. Ed Rendell led off the hearing held at the Philadelphia Bar Association in early June, recounting his veto of the legislature’s first attempt at expanding Pennsylvania’s Castle Doctrine, in 2010. Reading from his veto message, Governor Rendell testified that, although he supported the state’s previously existing Castle Doctrine, he believed the law would “threaten, not enhance, the safety of Pennsylvania citizens.”

The bill was passed again and signed into law in 2011 by Gov. Tom Corbett, however, and the hearing featured testimony from numerous witnesses. At the hearing, noted, however, that Pennsylvania’s law is more moderate than Florida’s which was the first and most expansive of its kind.

Dauphin County District Attorney Ed Marsico, the former president of the Pennsylvania District Attorneys Association, said the group opposed the law initially. He gave credit to the leadership of the House Judiciary Committee, for finding middle ground legislatively by assembling stakeholders including the NRA, CeasefirePA and law enforcement groups. The PDAA looked at “horror stories” from states including Florida and Texas in crafting a compromise, including a provision that requires that a person see a deadly weapon in an aggressor’s possession before standing her ground and using deadly force.

Thomas (D-Philadelphia) voted against the law both times. Jerry Ratcliffe, chair of Temple University’s Criminal Justice Department, testified that plainclothes police officers might be vulnerable to pretextual gun violence by calculating criminals. However, both Marsico and Philadelphia District Attorney Seth Williams testified that, despite their reservations about the law, their primary concerns were addressed by the successful amendments to the law, and that they have encountered no horror stories in the two years since the law’s passage in 2011.

Keir Bradford-Grey, Chief Public Defender of Montgomery County, despite expressing concern over possible negative consequences, said the law will help some defendants who were prosecuted and convicted because the traditional duty to retreat was interpreted too stringently by judges and juries.

Other speakers included Shira Goodman, executive director of CeasefirePA; Liz Avore, of Second Chance on Shoot First; David Green, of Firearm Owners Against Crime; Joshua Prince, a solo practitioner specializing in firearms law; Dorothy Johnson Speight, founder and executive director of Mothers in Charge; Swarthmore Mayor Rick Lowe, a member of Mayors Against Illegal Guns; and Troy Crichton, of the Barristers’ Association of Philadelphia and the Defender Association of Philadelphia. Chancellor Kathleen D. Wilkerson opened the hearing.

Joshu Harris (joshu.harris@phila.gov) is an assistant district attorney in Philadelphia.

ABA Hearing Focuses on Self Defense

As a whole, impeding the success of middle class. Their lack of disposable income means they purchase fewer goods never joining the city’s already shrinking coffers, an increased burden on city services, we know our efforts are helping improve lives. We are proud to be the Bar Foundation’s partner in creating positive change.”

**Bar Foundation**

**Shared Prosperity Raises the Bar on Legal Community’s Responsibilities**

Recently, Mayor Nutter announced “Shared Prosperity Philadelphia (sharedprosperityphiladelphia.org/plan),” a comprehensive strategy to address poverty in our city. Twenty-eight out of every 100 Philadelphians live in poverty, and 11 of those people are children. Philadelphia, unfortunately, has the highest poverty rate among our country’s largest 10 cities. This is not something of which we should be proud. Poverty affects all of us, not only those falling within the technical guidelines of $23,550 in income for a family of four. Moreover, poverty disproportionately affects certain groups in Philadelphia, children, Latinos, African Americans, single mothers and those with disabilities. As noted in the Shared Prosperity Plan, “the effects of poverty ripple out beyond those affected directly to nearly everyone who lives or works in the city. Poverty means lower tax revenues in city everyone who lives or works in the city. We lawyers in Philadelphia have a “double duty” to ourselves and to our fellow Philadelphians to protect individual rights and liberties and give back, through providing pro bono services and/or providing moneys to legal services organizations. Funding of legal aid can make a permanent difference to individuals and communities. As U.S. Attorney General Eric Holder recently remarked, “...[C]ivil legal aid doesn’t just open doors to our justice system—it provides critical reinvestment in the community. It saves precious taxpayer dollars by protecting patients’ health, increasing access to public benefits, keeping families together, reducing domestic violence and offering indigent citizens a way out of poverty.” Despite these facts, legal service providers are struggling to survive the “civil justice crisis” and are barely able to meet the legal needs of 20 percent of their clients. Unfortunately, many philanthropic foundations do not champion legal aid—perhaps because it is not perceived to be as sympathetic a cause, does not offer an easy or obvious cure, or is believed to be the responsibility of government. Fortunately, new and innovative approaches continue to be developed to redress the justice gap, including from cross-cooperation among private and public sectors, which is reshaping the environment to potentially help more people. One example is the recently created Philadelphia Landlord/Tenant Legal Help Center, housed in Municipal Court, to provide legal advice and limited representation to low-income Philadelphians facing eviction and other housing crises. Coordinated by SeniorLAW Center, this is a collaborative effort of legal services organizations, pro bono volunteers, private bar leaders and court leadership that was envisioned and developed by the Housing Working Group of the Philadelphia Bar Association’s Civil Gideon Task Force. The project was launched with seed funding contributed by the Foundation of the American College of Trial Lawyers and individual fellows of the College, including notably Gerald A. McHugh Jr., who initiated the campaign on behalf of the Legal Help Center. Another example is the initiative being co-organized by Pennsylvania state Sen. Stewart Greenleaf, chair of the Senate Judiciary Committee, and the recently formed statewide Civil Legal Justice Coalition. Hearings are being held across the commonwealth to elicit and document information about how the unmet need for civil legal assistance is profoundly impacting vulnerable Pennsylvanians and costing taxpayers millions of dollars by increasing homelessness, failing to prevent domestic violence, and increasing poverty and how the substantial number of unrepresented civil litigant adversely affects the quality of justice for all parties in Pennsylvania courts, increases the amount of litigation, and ultimately undermines the rule of law. Your financial support is crucial and impactful. By supporting the Philadelphia Bar Foundation, we can assure the future stability and security of the legal service organizations and offset the vagaries of changing governmental policies and the economic environment. The Raising the Bar Campaign, established seven years ago to institutionalize giving by law firms, committing a threshold pledge of $300 per attorney, is a critical part of this. Please make sure your law firm makes this commitment. I thank those of you who have traditionally participated and I urge those of you who have not in the past committed, to do so this year. Funding is in a state of crisis and your help is needed. Deborah R. Gross (deb@bernardngross.com) of the Law Offices of Bernard M. Gross, P.C. is president of the Philadelphia Bar Foundation.

**Foundation Seeks Nominees**

The Philadelphia Bar Foundation is accepting nominations for its annual awards—the Philadelphia Bar Foundation Award and the Pro Bono Award. The Philadelphia Bar Foundation Award, originally established by the Apotheker family in honor of Louis D. Apotheker, recognizes a public interest attorney who is dedicating his or her life to promoting equal access to justice for all by working in the non-profit legal services community. A $2,500 stipend is presented in recognition of excellence in providing direct legal services to the poor and the underprivileged in Philadelphia. The Pro Bono Award is presented annually to a Philadelphia law firm or corporate legal department that demonstrates outstanding volunteer efforts in providing legal services to those in need.

| Michael J. Trudgeon, CEO, The Reliable Companies |

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Guidelines and nomination forms can be found www.philabarfoundation.org/awards—programs.

The deadline to submit nominations is 5 p.m. on Friday, Sept. 27, 2013.

By Deborah R. Gross | The Philadelphia Bar Foundation 50th Anniversary

**August 2013 Philadelphia Bar Reporter**
Making a Difference in the Lives of Children

**By Susan Bahme Blumenfeld**

The Support Center for Child Advocates (Child Advocates) is Philadelphia’s pro bono agency providing legal and social service advocacy on behalf of abused and neglected children. As a volunteer attorney for more than 25 years, I am rewarded to play a part in making children’s lives better. I have had the privilege of seeing my clients evolve from traumatized victims to thriving young people living in a safe and nurturing environment. I have also enjoyed meeting many like-minded attorneys. Meet Catherine Chan.

Cathy specializes in complex commercial litigation. A volunteer attorney since 2009, Cathy’s work with Child Advocates merges her commitment to pro bono work and her interest in protecting children at risk.

Cathy first heard about Child Advocates as a law student participating in Villanova’s “Lawyering Together” program which pairs law students with practicing attorneys to gain experience working on pro bono matters. Cathy’s partner was a Child Advocates volunteer. “After practicing law for a couple of years,” Cathy said, “I wanted to become involved in a pro bono matter and I remembered that the attorney who mentored me found his work representing these children to be very rewarding.”

In her tenure with Child Advocates, Cathy has handled diverse cases, including that of “Julio.” Escaping violence against his family, Julio arrived in the United States from South America alone and without official paperwork. His father was murdered, and Julio’s own life was threatened. His mother could not provide for him or protect him. Cathy advocated for dependency adjudication so he would have a safe place to live and be eligible for Special Immigrant Juvenile Status. Julio was placed with a foster family and attended high school. As a result of Cathy’s efforts, Julio now lives safely and legally in the United States.

Cathy also represented two sisters who were physically abused. She argued for the girls to be adjudicated dependent and placed together in a supportive, caring foster home. As Cathy explains, this case presented a classic example of the difficulty balancing the desire to reunify the family with the concern that the children might return to an unsafe situation. Although their mother initially attended parenting classes and met her obligations for reunification, she ultimately did not sustain her involvement in her children’s lives. Cathy successfully advocated for a change in course, arguing for termination of parental rights so that the girls could be adopted by their devoted foster family.

Cathy finds her Child Advocates cases to be especially rewarding. “I feel that I’m truly making a difference in the lives of the children I represent by working to get them into a safe, secure and loving environment – something every child deserves to have.”

As a Child Advocates volunteer attorney, I agree with Cathy: advocating for children is among the most rewarding work attorneys can do. We change the story of children’s lives. To learn more, contact Jodi Schatz, director of intake and pro bono services, at jschatz@advokid.org or (267)546-9228.

Susan Bahme Blumenfeld is a partner with Willig, Williams & Davidson.

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**Naturalization Speakers**

U.S. District Court Judge Timothy J. Savage (top photo, from left), joins Philadelphia Bar Foundation President Deborah R. Gross and U.S. District Court Judge Eduardo C. Robreno prior to a July 18 naturalization ceremony sponsored by the Philadelphia Bar Association. Judge Robreno and Gross both addressed the new citizens. Chancellor Kathleen D. Wilkinson (below) was the featured speaker at a July 1 naturalization ceremony presided over by U.S. District Court Senior Judge Norma L. Shapiro.

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Administration Delays Employer Penalty to 2015

By Brian McLaughlin

The Treasury Department announced in early July that the large employer penalty provisions (employer shared responsibility assessments) and two reporting requirements, originally scheduled to take effect in 2014, will be delayed until 2015. While further guidance is expected, this delay provides welcome relief to many large employers struggling with the complexities of the employer mandate and the lack of guidance on key issues.

In a blog announcement, Treasury states that it will provide an additional year before mandatory employer and insurer reporting requirements begin. These are the reporting requirements under Code Sections 6055 and 6056 that require information reporting to the IRS with respect to health coverage that the employer/insurer provides and, for large employers, additional reporting with respect to health coverage offered to full-time employees. Rules regarding this reporting obligation are expected to be issued this summer and voluntary compliance with the information reporting for 2014 will be encouraged.

Treasury acknowledges that this delay in the reporting requirements will make it impractical to determine which employers owe shared responsibility payments for 2014. Therefore, these assessments will not apply for 2014. During this transition period, the Department strongly encourages employers to maintain or expand health coverage. Any employer shared responsibility payments will not apply until 2015.

This delay only affects large employer penalty assessments and applicable reporting requirements. It does not affect the employees’ access to the premium tax credits available in the Health Insurance Marketplaces (nor any other provision of the PPACA). Employers and insurers will still need to comply with upcoming 2014 plan design changes and other applicable fees and taxes including the PCOR fee, Transitional Reinsurance Fee and the Health Insurance Sector Tax (absent other delays). Health insurance marketplaces and the individual mandate are also expected to take effect as scheduled, unless further delays are announced.

It is very important for groups who do not have a Jan. 1 plan year to see what happens with the transition rules as we move closer to 2015. If the employer mandate had been implemented on time there were transition rules to help employers who had renewals later in the year. The transition rules as they read now only address 2014. There is some debate as to whether the administration will extend the transition rules or will expect compliance in January 2015.

This decision also opened up the door to wide spread speculation as to if there would be delays on other parts of the legislation. In the following week the administration acknowledged that systems would not be ready for income verification during the subsidy process for federally run exchanges. The subsidies will be processed on the honor system. It is believed that there will be a verification process when participants file taxes but this is a clear indication the IT project building the federal exchanges is at least a year behind. Removing the income verification process should clear the way for the federal government to meet the October 2013 deadline for the open enrollment.

At the state level, New York released filed rates for plans in the New York State Exchange and appear to be 50 percent less expensive than comparable plans offered in 2013. We do not yet have the details on the plans. This is probably not a leading indicator for other states but is certainly getting a lot of positive press.

Over the next few weeks there will be a flurry of activity focused on the individual and small group market leading toward the open enrollment beginning in October. USI Affinity and the Philadelphia Bar Association are working together closely to make sure we can provide you the most accurately and timely information.

For more information about insurance and benefit options for Philadelphia Bar members, visit http://www.mybarinsurance.com/philadelphiabar/

Don’t Miss Bar Classifieds Flash - the eBlast of new jobs for Bar members.

Positions Available: For law firms or companies with vacancies that need to be filled.

Positions Desired: For attorneys looking for a specific job situation, whether full-time, part-time, contract or any other type of work.

Rent/Own Space: Real estate listings where you can advertise available office space.

Vendor Services: Where court reporters, expert witnesses and other non-lawyer professionals can offer their services to Philadelphia Bar Association members.
Editor’s note: The following is a letter sent by Chancellor Kathleen D. Wilkinson to Turkish Prime Minister Recep Tayyip Erdoğan.

Your Excellency:

I write on behalf of the Philadelphia Bar Association (the Association), an independent, non-governmental organization composed of more than 12,000 lawyers, judges, professors of law and other legal advocates. The Association is the oldest metropolitan bar association in the United States.

Since its inception in 1802, the Association has served as a champion of access to justice and the rule of law, and the principle that a strong judicial system, in which lawyers and judges act independently, is the best guarantor of these fundamental principles. Indeed, the phrase “Philadelphia Lawyer” traces back to a time in the early 1700s, when Philadelphia lawyer Andrew Hamilton came to his defense and won. Since then, the term has become a symbol of the need for independent lawyers and courts that can safeguard against potential abuse of power and uphold principles of human rights and rule of law fundamental to all jurisdictions across the world.

The Association’s International Law Committee closely monitors human rights across the world, including the United States. Committee members and other representatives of the Association have traveled to many regions of the globe to learn from, and work with, colleagues seeking to uphold the rule of law and the independence of judges and lawyers. The Committee has been concerned about developments in the last several weeks in Turkey, and in particular, the apparent targeting, arrests and detention of lawyers in the wake of recent events. It is our understanding that on June 11, 2013, a group of lawyers gathered at Caglayan Courthouse to speak with the attorney general about alleged police interference with freedom of the press. The lawyers were denied an opportunity to meet with the attorney general, and protested peacefully by clapping their hands. We understand that, in response, private security guards approached the group and took two lawyers to another room. Later, after the peaceful protest continued, the entire group was then attacked, dragged on the ground, beaten and kicked. Many were handcuffed and unlawfully detained for more than 11 hours. We also understand that when the President of the Turkish Bar Association met with the acting attorney general about the attack and unlawful detention, he admitted that he had ordered the arrests.

We understand that this incident comes in the wake of others in which excessive force has been used against lawyers, and a number of lawyers and judges have been detained without charge. There have been reports that police and security officials have targeted human rights activists and members of the Progressive Lawyers Association in an attempt to intimidate them. We are alarmed at this recent conduct that stands in sharp contrast to the Turkish government’s strong tradition of support for, and adherence to, the rule of law.

More recently, we understand that, on July 8, after Gezi Park in Istanbul was re-opened to the public, police closed it just three hours later to prevent protests by those opposed to the redevelopment plan for Taksim Square and the adjacent Gezi Park. There have been reports that tear gas and a water cannon were used and 30 people were rounded up. The Istanbul Medical Association reported that several people were injured. The media rights group, Reporters Without Borders, reported that at least 12 journalists were attacked by police during a protest two days earlier, on July 6, and at least two were in police custody.

The Association notes the concerns expressed by the European Parliament in a June 13 resolution focusing on Turkey’s obligations as a democratic society, and the Parliament’s grave concerns regarding “the disproportionate and excessive use of force” in response to “peaceful and legitimate protests,” and further warns that “the police crackdown undermines the credibility of Turkey’s regional role as a champion of democratic change.”

In the same vein, the UN Human Rights Council in a recent report cites the increase in the number of cases “of arrests, detention and prosecution” of lawyers in Turkey, particularly in the Special Heavy Penal Courts. These actions violate principles 18 and 20 of the Basic Principles on the Role of Lawyers, which provide that lawyers “shall enjoy civil and criminal immunity for relevant statements made in good faith” and other court-related conduct, and that breaches of these principles “regrettably seem to be increasingly the case in Turkey.”

The expanding arrests, detention and prosecution of lawyers reported by the UN and others also violates the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a state party, and provisions of the Turkish Constitution, under which Turkey is obligated to allow peaceful assembly, freedom of association and the right to a fair trial. Indeed, Part VIII, Article 26 of the Constitution protects “the right to express and disseminate [one’s] thoughts and opinion” and Part XIII, Article 38 provides that “no one shall be punished for any act which does not constitute a criminal offence” at the time the act is performed. Clearly, the escalation in the arrests and prosecution of lawyers for peaceful protests and for statements made in the course of their professional activities violate these protections and endangers the rule of law.

It is noteworthy that the European Parliament observed in its June 13 Resolution “that, in itself, the organization of peaceful and legitimate protests testifies to the vibrancy of Turkish civil society [and] reminds Turkey of the importance of continuing efforts to further improve its democratic institution, the rule of law and the observance of fundamental freedoms.”

The Association respectfully requests that, as Prime Minister, you immediately investigate and respond to these incidents of blatant targeting of lawyers and judges. We urge you to adhere to the fundamental rights and principles set forth in the Turkish Constitution, the ICCPR and the UN Human Rights Council’s report by bringing an end to the unlawful harassment, arrest and prosecution of lawyers who are sworn to uphold the law and basic freedoms.

Very truly yours,
Kathleen D. Wilkinson

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eDiscovery

continued from page 6

viewing tool) and cloud-based tools (like Dropbox).

Huston also offered some words of caution related to how eDiscovery is reviewed after it is gathered. Printing large volumes of paper discovery can obviously be costly and inefficient. On the other hand, individually opening the files on a computer can potentially change the content or metadata of the files. Metadata can be important in cases where there is a question about when a document was created, or whether it is fraudulent. Huston said that it is, therefore, critical to keep a separate and secure set of materials with the original metadata intact.

While 10 years ago there would hardly ever be electronic discovery in a divorce or white-collar criminal case, it is becoming much more pervasive in these and other cases. The authentication of text messages has recently emerged as an issue in family law cases. Huston noted that there are apps that will allow you to capture a screen shot of text messages. While stressing that this is an issue that will vary by jurisdiction, he said the best way to capture all of the necessary information related to a text is by taking a full image of the cell phone. He noted that doing this on certain smart phones can be problematic because there are frequently new operating systems being released.

Benjamin P. Johns (BPJ@chimicles.com), an associate with Chimicles & Tikellis LLP, is an associate editor of the Philadelphia Bar Reporter.
### CALENDAR OF EVENTS

**Thursday, Aug. 1**

**Law School Outreach Committee:** meeting, 12 p.m., 11th floor Conference Center.

**Philadelphia Bar Reporter Editorial Board:** meeting, 12:30 p.m. 10th floor Cabinet Room.

**Monday, Aug. 5**

**Family Law Section:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Tuesday, Aug. 6**

**Committee on the Legal Rights of Persons with Disabilities:** meeting, 9 a.m., 11th floor Committee Room South.

**Women’s Rights Committee:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Thursday, Aug. 15**

**Family Law Section Executive Committee:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Friday, Aug. 9**

**The Philadelphia Lawyer magazine Editorial Board:** meeting, 12:30 p.m., 10th floor Board Room.

**Tuesday, Aug. 13**

**Criminal Justice Section Executive Committee:** meeting, 12 p.m., 11th floor Conference Room South.

**Wednesday, Aug. 14**

**Immigration Law Committee/Solo and Small Firm Committee:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Thursday, Aug. 15**

**Law School Outreach Committee:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Monday, Aug. 19**

**Public Interest Section Executive Committee:** meeting, 12 p.m., 10th floor Board Room.

**Tuesday, Aug. 20**

**Board Room.**

**Civil Rights Committee:** CLE program, 12 p.m., 11th floor Conference Room South. Lunch: $8.

**Employee Benefits Committee:** meeting, 12 p.m., 11th floor Conference Room South. Lunch: $8.

**Wednesday, Aug. 21**

**Business Law Section Executive Committee:** meeting, 12 p.m., 11th floor Conference Center.

**Young Lawyers Division Cabinet:** meeting, 12 p.m., 10th floor Board Room.

**Federal Courts Committee:** meeting, 12:30 p.m., 11th floor Conference Center. Lunch: $8.

**LegalLine:** 5 p.m., 11th floor LRIS offices.

**Tuesday, Aug. 27**

**Criminal Justice Section:** meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

**Women in the Profession Committee:** meeting, 12 p.m., 10th floor Board Room. Lunch: $8.

**Wednesday, Aug. 28**

**LGBT Rights Committee:** meeting, 12 p.m., 11th floor Committee Room South.

**Medical Legal Committee:** meeting, 12 p.m., 10th floor Board Room. Lunch: $8.

**Thursday, Aug. 29**

**Alternative Dispute Resolution Committee:** CLE program, 12:30 p.m., 11th floor Conference Center. Lunch: $8.

**Board of Governors:** meeting, 4 p.m., 10th floor Board Room.

### Frontline

*continued from page 3*

17 Naturalization Ceremony welcoming new U.S. citizens as our official event for the GlobalPhilly™ 2013 exposition.

The ceremony is sponsored by the Bar Association and presented by the U.S. District Court for the Eastern District of Pennsylvania. The presiding judge will be U.S. District Court Judge Joel Harvey Slomsky, and I will offer remarks on behalf of our Association. The National Society of The Colonial Dames of America in the Commonwealth of Pennsylvania will present a parade of flags representing the first colonies of our nation.

As a member of the Strategic Planning Committee for GlobalPhilly™ 2013, I have observed first-hand how growing such awareness is critical to the ultimate success of the region, whether measured in terms of attracting business and investment, bringing international visitors, conventions, and foreign students into the region, displaying and building upon our cultural resources, celebrating our diverse ethnic backgrounds and the national origin associations that support them, or enhancing Philadelphia’s impact around the world.

The Philadelphia Bar Association will continue to do its part to make our international assets more visible and draw others into a relationship with our global resources, while helping the region develop ways to improve its international brand.

Our Bar Association’s international work is also historically rooted in advocacy and preservation of the rule of law. Our International Law Committee closely monitors human rights across the world, including the United States.

Committee members and other representatives of the Association have traveled to many regions of the globe to learn from, and work with, colleagues seeking to uphold the rule of law and the independence of judges and lawyers.

Most recently, the Committee has been concerned about developments in the last several weeks in Turkey, and in particular, the apparent targeting, arrests and detention of lawyers in the wake of recent events.

I have sent a letter to Prime Minister Recep Tayyip Erdogan of Turkey with a copy to Secretary of State John Kerry, (which appears on Page 16 of the Bar Reporter), requesting an immediate investigation and response to these incidents of blatant targeting of lawyers and judges, and urging an end to the unlawful harassment, arrest and prosecution of lawyers in Turkey who are sworn to uphold the law and basic freedoms.

In matters of international concern and development, the Philadelphia Bar Association sets our sights high because the stakes are high.

I encourage you to add your voice to these global projects, to contact me directly, and to join our International Law Committee. For more information, contact International Law Committee Co-Chair Jeremy D. Heep at 215-981-4972 or heepj@pepperlaw.com; Co-Chair J. Michael Considine Jr. at 610-431-3288 or adventure7@gmail.com; or Vice Chair Danielle Jouenne at 215-665-4016 or danielle.jouenne@bipc.com.

Kathleen D. Wilkenson (Kathleen.Wilkenson@wilsonelser.com), a partner with Wilson Elser Moskowitz Edelman & Dicker, is Chancellor of the Philadelphia Bar Association.

Register online for most events at philadelphiabar.org. Unless otherwise specified, all checks for lunches and programs should be made payable to the Philadelphia Bar Association and mailed to Bar Headquarters, 1101 Market St., Philadelphia, PA 19107-2955. Send Bar Association-related calendar items 30 days in advance to Jeff Lyons, Senior Managing Editor, philadelphiabar.org.

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Note: While the following listings have been verified prior to press time, any scheduled event may be subject to change by the committee or section chairs. Lunches are $8 for members and $12 for non-members, unless otherwise indicated.

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Philadelphia Bar Association leaders meet with leaders of the Barcelona Bar Association via video conference prior to signing the Friendship Agreement on July 11 at the offices of Blank Rome LLP.
The impact of market turmoil on retirement assets over the past several years coupled with the demographic reality that more of the population is moving toward retirement and living longer have caused income and cash flow strategies to rise to the top of many individuals’ retirement planning priority lists. In this month’s interview, I sat down with Risa Stolker, CFP®, senior wealth planner at PNC Wealth Management, to discuss the changes she believes are occurring in retirement income planning since the start of the financial crisis in 2008.

What changes have you found regarding individual retirement planning over the last five years?

Prior to the financial crisis, we noticed that many individuals were less focused on saving, and were not as concerned about the specifics of funding retirement. It seemed as though people generally assumed their assets would continue to increase in value and that the equity they had built up in their homes would help to fund retirement. Today we think many of that has changed. Now many individuals – from young workers to retirees, from the ultra-high net worth to those of relatively modest means – seem to be struggling to find yield in the market and seem to be concerned about the uncertainty surrounding the future of Social Security and healthcare costs. As a result, we think individuals are becoming more conservative about investing and more interested in increasing their savings and holding on to what they have accumulated.

Does this general trend toward more conservative investing affect how wealth planners assist their clients?

This shift in priorities has resulted in an increased focus on assisting individuals with cash flow projections – determining how much will be needed to meet retirement income targets and managing assets to help build an adequate income stream throughout retirement.

What should individuals consider in projecting how much income they might need in retirement?

When conducting cash-flow analyses, we believe individuals should consider all potential sources of income and anticipated expenses, and compare various asset allocations to determine the best scenario for their specific situation. Generally, we advise clients to maintain conservative (lower) assumptions with regard to investment returns and to factor in the negative effects of inflation on regular household expenses as well as bigger-ticket items, such as healthcare premiums. This approach can help individuals to develop “what if” scenarios that address some of the unknowns in the planning process and help them to prepare accordingly.

Once armed with some planning foresight, what steps can individuals take to help address gaps in their retirement income strategies?

We believe that some people may resolve simply to invest more for retirement, while others may determine that retiring a few years later than originally planned may help to extend retirement assets and enhance Social Security benefits. We think still others may opt to spend less by paring back on luxuries. As a distant fourth strategy, we believe that some individuals may opt to pursue higher returns on investments.

Why is pursuing higher returns on their investments considered a distant fourth strategy?

In our opinion, until recently, taking on more investment risk would have been viewed as an easy first step by many long-term investors looking to catch up on their retirement accumulation goals. Now we think that the paradigm has shifted, and investors are much more risk averse. We have found that even those who are well positioned to meet their retirement income goals seem to be shying away from investment risk and opting for more conservative asset retention strategies.

Are stocks still a viable option for retirement income planning?

Despite the trend toward risk-averse investing for retirement, stocks should probably still be considered for retirement income planning. History shows that stocks are the one asset class that has the best chance of outpacing inflation over time – a necessity for retirement portfolios.* For example, including high-quality dividend-paying stocks as part of an individual’s overall asset allocation may be a way to maintain exposure to stocks while also creating a source of income.

For those striving to make planning easier, should they consider consolidating their retirement assets?

Asset consolidation may make sense for retirement-focused investors regardless of conditions in the economy or investment markets. By bringing various investment accounts together under one management umbrella, individuals may gain a “big picture” view of their investment makeup. This typically helps to simplify account management, adjust for over- or under-diversification of assets and potentially reduce investment management fees.

Jackie Byrne Lessman, CFP® (jacqueline.lessman@pnc.com; 215-589-5834), PNC Wealth Management Senior Vice President.

PNC Wealth Management is the marketing name for PNC Wealth Management, a division of Hawthorn, a PNC subsidiary. PNC Wealth Management provides investment management, fiduciary services, and other financial products and services, including insurance coverage, through its affiliates: PNC Investment Management Corp., Hawthorn, PNC Family Wealth®, and PNC Wealth Management®. In addition, PNC Wealth Management is a division of Hawthorn, which is a member of the FDIC and a subsidiary of the PNC Bank, National Association, which is a Member FDIC. Further information is available at philadelphiaabar.org.

*Past performance is not a guarantee of future results. The material presented in this article is of a general nature and does not constitute the provision by PNC of investment, legal, tax or accounting advice to any person, or a recommendation to buy or sell any security or adopt any investment strategy. Opinions expressed herein are subject to change without notice. The information was obtained from sources deemed reliable. Such information is not guaranteed as to its accuracy. You should seek the advice of an investment professional to tailor a financial plan to your particular needs. For more information, please contact PNC at 1-888-762-6250.
PBI Holds Board Elections

The Pennsylvania Bar Institute has elected officers and members to its Board of Directors. The votes came at the Pennsylvania Bar Institute’s Annual Meeting.

Penina Kessler Lieber was elected president of the Pennsylvania Bar Institute’s Board of Directors. She is a partner with Dinsmore & Shohl LLP.

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Matthew L. Wilson, a partner with Martin, LLC, has been named chair-elect of the Workers’ Compensation Section of the Pennsylvania Bar Association.

Neil A. Morris, a partner with Archer & Greiner P.C., has been appointed special labor counsel for the Pocono Mountain Regional Police Department.

Alfred J. Carlson, a partner with Martin, LLC, presented the continuing legal education program “How to Handle a Workers’ Comp Mediation” on Aug. 1.

Michael Shafter, a partner with Shafter & Gaier, was recently appointed to the Board of Trustees for the Bala House Montessori School in Bala Cynwyd, Pa.

Brian R. Steiner, a partner with Steiner, Segal, Muller and Donan, has been elected chair of the Workers’ Compensation Section of the Pennsylvania Bar Association.

James A. Matthews III, a senior partner with Fox Rothschild LLP, recently authored the first-ever integrated and comprehensive guide to Pennsylvania labor and employment law, which has been published by American Lawyer Media.

Salvatore M. DeBunda, co-managing partner of the Philadelphia office of Archer & Greiner P.C., has been elected chair of the Board of Directors of Encore Series Inc., the nonprofit organization that presents the Philly Pops orchestra.

Keith B. Joseph, an associate with Ballard Spahr LLP, has been appointed to the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness by the Pennsylvania Supreme Court.

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People

Gaetan J. Alfano, a partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, was recently appointed to a three-year term with the Pennsylvania Board of Law Examiners.

Judges Genece E. Brinkley and Paula A. Patrick of the Philadelphia Court of Common Pleas and Debra D. Rainey, a sole practitioner, were co-presenters at the Pennsylvania Bar Institute’s 30th Annual Criminal Law Symposium at the Harrisburg Hilton Hotel where they discussed “Navigating the Reasonable Suspicion Minefield.”

Jon C. Sirlin, managing attorney and president of Sirlin, Lesser & Bentzon, P.C., has been named to the Board of Directors of Friends of Laurel Hill Cemetery. A nonprofit organization committed to maintaining the founding purpose of the cemetery as a site for the living as well as the dead.

Michael H. Gaier, a partner with Shafter & Gaier, recently presented “Don’t Lose Your Shirt At Your Home: What Professionals Must Know About The ‘Tricky Area Of Foreclosure Defense’” for the Burlington County Bar Association in Mt. Holly, N.J.

Eric H. Weitz of Messa & Associates, P.C., and vice chair of the Board of Governors of the Philadelphia Bar Association, has been appointed to serve on the Board of Directors for the Pennsylvania Patient Safety Authority.

Norman J. Weinstein, of counsel to Gallaudet Berger, LLP, facilitated a panel discussion on the topic of cancer and legal issues at the summer quarterly meeting of the American Cancer Society Asian-American Advisory Committee on June 14.

Katayun I. Jaffari, a partner with Ballard Spahr LLP, has been elected to the Board of Directors of Maternity Care Coalition.

Nevena Simidijiska, an associate with Fox Rothschild LLP, was recently re-appointed to the Steering Committee of the American Bar Association’s Export Controls and Economic Sanctions Committee.


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Philadelphia’s Employment Lawyers

FOR MORE THAN 30 YEARS, Sidney L. Gold & Associates, P.C. has dedicated its practice to the field of employment law and civil rights litigation. The firm's attorneys take great pride in serving both aggressive and compassionate advocates for victims of unlawful discrimination and harassment. As a result, the Martindale-Hubbell® Bar Register has certified Sidney L. Gold & Associates as a pre-eminent law firm in the field of labor and employment law. More than 4,500 lawyers throughout Pennsylvania and New Jersey look to Sidney L. Gold & Associates to refer their clients.

With a team approach, the firm’s attorneys represent clients in all aspects of employment law litigation, including all forms of workplace discrimination, sexual harassment, wrongful termination, retaliation, whistleblower, employment contract, wage and hour, and Family and Medical Leave Act claims.

A boutique practice with a small-firm atmosphere, Sidney L. Gold & Associates provides personal attention to its clients, who, at the same time, benefit from the experience and expertise of the entire team.

Sidney L. Gold & Associates is proud of its skilled attorneys and is honored by the recognition Super Lawyers® has bestowed upon this year’s recipients.

SIDNEY L. GOLD & ASSOCIATES, P.C.
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Philadelphia, PA 19103
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