Castille, President Judges at Bench-Bar

By Jeff Lyons

Pennsylvania Supreme Court Chief Justice Ronald D. Castille and president judges from Pennsylvania courts will discuss the state of their courts in the closing program of the 2012 Bench-Bar & Annual Conference on Oct. 6 at Revel in Atlantic City, N.J.

Other panelists for the program are Pennsylvania Superior Court President Judge Correale F. Stevens, Pennsylvania Commonwealth Court President Judge Dan Pellegrini, Philadelphia Common Pleas Court President Judge Pamela Pryor Dembe and Philadelphia Municipal Court President Judge Marsh H. Neifield.

This year’s Bench-Bar & Annual Conference will offer an insider’s view of the

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YLD Serves Up Dinner at Ronald McDonald House

Young Lawyers Division members (top photo, from left) Gustine J. Pelagatti III, Jill P. Jenkins, Jessica Doebley and YLD Chair Melanie J. Taylor (right photo) were among the volunteers preparing and serving dinner for families at the Philadelphia Ronald McDonald House in University City on July 17. Volunteers included (above, from left) Anastasia De Paz, Todd H. Zamostien, Jessica Doebley, Jill P. Jenkins, Melanie J. Taylor and Becky Solarz.

Photos by Jeff Lyons
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Federal Judicial Vacancies Create Hardships for Litigants, Judiciary

Last month, a sixth judicial vacancy was created on the Eastern District of Pennsylvania bench, when Judge Michael M. Bayson assumed senior status. With 22 judgeships in the Eastern District—more than a quarter—approximately 27 percent of the bench is now vacant, not counting our senior judges.

These judicial vacancies create hardships for the judges currently serving, as well as for the lawyers and litigants within our court system. We badly need quality judicial candidates to be nominated by the president and approved promptly by the Senate.

President Obama has nominated excellent candidates nationwide, but has yet to nominate any for the six Eastern District vacancies.

Typically, the president consults his state senators in the nomination process. In May, Sen. Bob Casey said, “Recommending and confirming strong judicial candidates is among the most significant responsibilities of a U.S. senator, which is why I’ve worked in a bipartisan fashion with Sen. Toomey to make sure excellent candidates are nominated and confirmed.”

Sen. Casey makes it clear that we have to deal with this growing vacancy crisis today. Judicial vacancies make it difficult for our courts to deliver timely justice. When our courts cannot hear cases promptly, litigants and businesses suffer.

Moreover, a “ripple effect” can quickly happen. The cost of litigation increases as the litigation drags on. Some small businesses go bankrupt while waiting for their case to be resolved. A person may not be able to get a loan or a mortgage because of the uncertainty caused by ongoing litigation.

The Senate must avoid unnecessary delays and give every nominee an up-or-down vote within a reasonable time after the nomination is reported by the Senate Judiciary Committee.

If present confirmation rates do not speed up, vacancy rates will not be reduced and the federal courts will remain dangerously understaffed and increasingly unable to deliver justice with expediency.

Members of our Association who represent clients in federal court know first hand that longstanding vacancies and protracted delays in the nomination and confirmation process do great harm to the federal judiciary and to public life. Often, persistent vacancies make it difficult for the remaining judges on the court to give each case the time it deserves. Community and business life suffers because short-handed courts have no choice but to delay civil trial dockets.

The harm caused by persistent vacancies on these courts may also reach into the future. The specter of a pressured work environment could easily serve as a catalyst for additional judicial retirements and deter excellent attorneys from seeking positions on the federal bench.

“There remains…an urgent need for the political branches to find a long-term solution to this recurring problem,” said Chief Justice John G. Roberts Jr. in his 2010 Year-End Report on the Federal Judiciary. “We should all be grateful to the judges and court staff throughout the country—and especially those in overburdened districts—for their selfless commitment to public service.”

This report marked the first and only time the Chief Justice has spoken out on the urgent need to fill judicial vacancies. His “mince-no-words” approach to partisanship dominating the process is striking.

Attorneys and their clients who expect continued on page 14
The First Judicial District wants to provide technological resources that are more customized and beneficial to attorneys, the court’s chief technology officer told members of the Rules and Procedure Committee on July 11.

Harold Palmer, Chief Innovation Officer in charge of the Technology Department for the FJD, said the apps that are currently available can be a resource but are overall generic. “We have the court data, we have your cases,” Palmer said. He reminded meeting attendees that the FJD app is available for download on Android and iOS systems. This free app, created by the FJD, gives real-time access to court hearings and dockets from the convenience of a smartphone.

Palmer went on to discuss the resources and apps that the FJD is currently developing. There will soon be a way for counsel to order transcripts and have them electronically delivered without calling court administration or court reporters. If the notes are available and archived, they can be queried, paid for by credit card online and immediately received as an electronic file. Another ongoing development is the creation of an application that attorneys can use to conduct videoconferences with clients and avoid the time and expense of traveling to meet in person.

There are several improvements ahead for criminal cases in the FJD. A criminal e-filing system will be available and offer the same look, feel and capabilities as the Civil and Orphans Court e-filing systems. The FJD and the Philadelphia District Attorney’s Office are coordinating to create an electronic discovery system that sends notifications to parties and attorneys as soon as electronic discovery is filed. Criminal courtrooms will be enhanced with an electronic hearing list that has already been piloted in six courtrooms. The judge and attorneys will be able to see a list of all the cases scheduled for that room, as well as access to all the documents for these cases.

Holli Clifford, assistant to Court Administrator David Wasson, discussed her research of apps for attorneys and courts and recommended four that she discovered from a Texas Bar Association program “60 Apps in 60 Minutes.”

- “Exhibit View” organizes and controls all exhibits to be used in a case.
- “Transcript Pad” allows users to work with long transcripts by flagging important sections of text, sending them to others, and bookmarking them for future reference.
- “Docket In Your Pocket” has created great controversy as Clifford explained, “it is basically a background check in your pocket.”
- Fastcase.com is an efficient tool for searches of legal documents, from statutes to unpublished opinions.

Charles A. Mapp Sr., chief deputy court administrator, said that the FJD wants to find a way to electronically file case documents separate from public view on the dockets. Documents such as case management paperwork, settlement and pre-trial memoranda and important correspondence would be available for only assigned judges and attorneys of record.

The discussion was opened to the attendees to voice which areas they wanted and how they desired the members to share knowledge and feedback. Facebook and Twitter were mentioned as ways of sharing ideas. Facebook pages allow members to share ideas and feedback with their respective Facebook friends. M. Burr Keim Company                        4

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Social Media Changes Outreach for Nonprofits

By Mary-Kate Breslin

Nonprofit organizations can embrace social media at relatively little, if any, cost, self-professed geek Janelle McCoy told members of the Delivery of Legal Services Committee’s Management Subcommittee on July 11.

McCoy, executive director of the Mendelssohn Club of Philadelphia, joked, “I have a love for technology, and numbers and data, and all the things people usually run away from.”

The Mendelssohn Club of Philadelphia is one of the country’s oldest choruses, and it is known for its cutting-edge use of technology, particularly with regard to the age of its constituents. McCoy began addressing the group with an important generalization — technology has changed the way people interact with organizations.

It can be difficult to define social media. Traditional media involved actions such as placing advertisements. Social media is different from traditional media in that it can start a conversation with constituents. And it can go viral, which means constituents begin sharing information with their contacts, and within their networks. In terms of content, social media can be anything from a Twitter feed that is 140 characters, or a status update on a Facebook page, or a video post. “Photo sharing sites are huge now,” McCoy said, and any type of social media used has the potential to cause a ripple effect throughout an organization. She shared the Mendelssohn Club’s Facebook fan page to provide an example to the group of ways to leverage social media. McCoy makes certain that all of the nearly 200 members of her chorus have Facebook pages. That way, when she posts something on the organization’s fan page, the members can share that information with their respective Facebook friends.

“Facebook has changed the market,” McCoy said. So why should social media be important to businesspeople of today? It is no longer possible to control a conversation with an audience the way it was 10 years ago. Today, people want to react and participate in the messages they receive. McCoy advised attendees to listen to their audiences’ feedback, and try to improve and evolve to meet the demands continued on page 14

Shannon Bonnardt Cunningham (cunningham.scarlett@gmail.com) is a clerk to Philadelphia Court of Common Pleas Judge Albert J. Snite Jr.
GLOBAL INITIATIVE ON RULE OF LAW COMING TO PHILA.

By Michael E. Scullin

There is a new initiative in Philadelphia to promote professional and public education about the International Criminal Court and the global embrace, in many different forms, of a culture of the Rule of Law.

The International Law Committee of the Philadelphia Bar Association, the Temple University Beasley School of Law and the United Nations Association of Greater Philadelphia have developed a program of activities to educate and raise awareness of the International Criminal Court (ICC) and its implications in the many aspects of legal practice. This ad hoc working group has styled its effort as the Philadelphia Global Initiative on the Rule of Law.

Under the slogan “Celebrate, Reflect, Promote,” this Global Initiative kicks off with its first event on Monday, Sept. 10 to commemorate the 10th anniversary of the ICC in conjunction with the 225th anniversary of the signing of the U.S. Constitution in Philadelphia. Many distinguished guests will participate (see www.una-gp.org/global.initiative/ for more details). Members of the Philadelphia Bar Association, (promotional partner) the Pennsylvania Bar Association and others are invited to attend this event at the Free Library on the Parkway.

The Global Initiative acknowledges the efforts of Enid H. Adler, longtime Philadelphia Bar Association member and representative to the NGO Coalition for the International Criminal Court (CICC), to have the national celebration of the 10th anniversary of the International Criminal Court take place in Philadelphia. In conjunction with the 225th anniversary of the signing of the Constitution, such a celebration recognizes the special place that Philadelphia holds as the birthplace of modern democracy and the rule of law.

Moreover, the Global Initiative is also inspired by the American Bar Association’s (ABA) call for urgent professional education about the International Criminal Court and the implications of the ICC for professional practices worldwide. Members of the Global Initiative are working with experts to prepare thought-provoking, specialized lectures and presentations. Stay tuned for further details on both seminars.

Beyond these seminars, the Global Initiative is working with the leadership of the six area law schools in the region to convene a special Deans’ Forum on “Globalizing the Law School Curriculum.” This initiative should be understood as a contemporary reflection by institutions of higher learning on the impact of globalization on the human experience and how to prepare the next generation of lawyers to work effectively in the global marketplace.

In close relation to these professional educational activities, the Global Initiative also intends to organize a special Model United Nations Conference on the Rule of Law for students in our high schools and colleges. That Model United Nations Conference is tentatively scheduled for early March 2013.

Michael E. Scullin (mcsullin@mdmc-law.com), counsel to McBryde, Drachul, Malasey & Carpenter, LLP, is co-chair of the Philadelphia Bar Association’s International Law Committee.

SMALLER COMPANIES FEEL PINCH FROM U.K. BRIBERY ACT

By J. Michael Considine Jr.

The effect of the new United Kingdom Bribery Act is disproportionately felt by smaller companies and is extra-territorial, potentially affecting any company that does any business in the U.K. members of the International Business Initiative Committee were recently told.

Robert J. Ridge of Thorp Reed and Armstrong, LLP, a former counsel in the Anti-Fraud Unit of the Department of Justice, and Dennis E. Boyle of Boyle, Autry and Murphy, a former Special Assistant U.S. Attorney and U.S. Navy Judge Advocate led a discussion on bribes in international business.

The Act is setting the new international standard and may eclipse the U.S. Foreign Corrupt Practices Act (FCPA) as to any business done in the U.K. Commercial bribery includes payment or receipt of bribes as well as failure to have proper compliance procedures. Bribes were once a tax deduction in Germany, Russia and China have bribery statutes and arrests were made in the Rip Tanto case in China, where enforcement is more internal than international. Countries such as Nigeria and Ukraine can levy prison sentences for violations even though bribery is common. Bribery is illegal virtually everywhere. The slow trend is more enforcement and less corruption and bribery around the world. But it is still common and is fairly institutionalized in the Middle East and Latin America. For many government officials their salary is so low bribes are a part of their “pay.”

There are several ways companies can limit their exposure. They can use agents in different countries who are required to sign an acknowledgement that they have been warned of the FCPA and the U.K. Act and certifying they will not violate these laws. They should reserve the right to and check and audit expenses. Before hiring an agent, they should contact continued on page 7

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Bribes
continued from page 5

the U.S. embassy in the country involved to find out as much as they can about the individual or his firm. Trace International can also be used for this purpose. An agent’s act may implicate a company. Be cautious working in countries such as the Ukraine and U.A.E. where local law may require a local equity partner. Look for red flags, such as where the agency contract requires payment proportionate to the size of the contract. The Justice Department website has a layman’s guide to the FCPA that indicates red flags to watch out for. Be careful of situations in which the agent is related to the Minister of Defense or some important government official and has no real duties.

Sometimes the foreign country is entitled to in gratia payments where the company is a beneficiary to fines in a FCTP settlement. They are viewed as restitution.

Sometimes it is not easy to distinguish a bribe from a proper payment. The Books and Records Provision of the FCPA states it is a violation if the bribe is hidden in records. Expenditures must be to advance the sale of a product. An example of a bribe is a side trip, which is a gift. Payments authorized by statute or facilitating payments are not bribes under the FCPA, but the latter are bribes under the U.K. Act. A de minimus payment for a nondiscretionary act is a facilitating payment. Counsel must look at the overall circumstances to determine what is a facilitating payment. A $20 payment to release containers may be borderline and the Justice Department may not agree that this is legal. Fees paid for routine government action such as permits, licenses, fees to load or unload cargo or make inspections or to get a copy of a document are usually not bribes. Paying a fee above any standard published fee schedule to obtain these is likely illegal.

Facilitation payments are a dangerous area. Governments may raise prices and turn bribes into legitimate payments. Who is a foreign official under the FCPA is difficult to define. Employees of government-owned enterprises are included. The Justice Department has promised guidelines on this later in 2012.

The Corruption Index lists countries by a factor of corruption. The highest risk countries are China, Russia, Iran, Belarus, North Korea and Somalia. Be cautious in Kazakhstan, which has no criminal code.

When a client comes to counsel and suspects bribes have been paid, an internal investigation with an independent law firm should be undertaken with a report made to a subset of the board of directors. A decision must be made whether to disclose. If disclosure is to be made, counsel should call the Justice Department’s fraud section and negotiate. If disclosure is made early and in full this can benefit a company, however a recent study indicated this was not the case.

The implicated employee should retain independent counsel usually paid for by the company that usually has a duty to indemnify up to the indictment stage. American law provides for a maximum prison sentence of 15 years for violations. Remedial measures may be required. An amnesty program is being considered to grant amnesty to the first person who discloses if they had no prior knowledge. Eighty five percent of the cases under the FCPA are voluntary disclosures.

J. Michael Considine Jr. is chair of the International Business Initiative Committee.

Gayet Anselme Landry Kuyo, senior legal ad
visor and editor for the Villenette Ivory Coast, meets with International Law Committee Co-Chair Michael E. Scullin at the Committee’s June 22 meeting. Kuyo is participating in a prestigious U.S. Department of State program, Mentoring Partnership for Young African Leaders, and spoke to the committee.

J. Michael Considine Jr. is chair of the International Business Initiative Committee.

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Philadelphia judges are seeking to host law school graduates as judicial fellows to provide the graduates with substantive legal experience while benefitting the court system with additional legal talent, as part of the First Judicial District’s Judicial Fellowship Program.

The program was created in 2011 to address the difficult hiring climate for lawyers that many recent law graduates are facing. Participating law schools include the Earle Mack School of Law at Drexel University, the University of Pennsylvania Law School, Temple University Beasley School of Law, Rutgers University Law School, Villanova University School of Law, Penn State University Dickinson School of Law and Widener University School of Law but the judges welcome applicants from any accredited law school.

The Judicial Fellowship Program provides high-caliber law graduates professional development opportunities. At the same time, the judicial fellows help the busy court carry out key functions and maintain its superior quality of service to the Philadelphia community. Judicial fellows work in the civil, criminal, family and orphans divisions of the Philadelphia Court of Common Pleas and Municipal Courts, carrying out the same duties as paid judicial clerks. The fellowships help recent graduates gain valuable experience and strengthen their marketability for obtaining a paid position in law. Judges select judicial fellows through an application process administered by the court. Each judge and fellow team designs a flexible schedule (minimum of 20 hours per week) that ensures reliable service to the judge but permits the fellow to seek a paid position elsewhere and to leave the fellowship with two weeks’ notice upon obtaining paid employment.

Philadelphia Court of Common Pleas Judge Lisa M. Rau developed the program with help from Professor Chapin Cimino of the Earle Mack School of Law at Drexel University as well as faculty and administrators from career services offices at the University of Pennsylvania’s Law School and Temple’s Beasley School of Law. The Philadelphia Bar Association is a supporter of the Judicial Fellowship Program.

During the first year of the program’s existence, 88 percent of the 30 judicial fellows left their fellowships having successfully secured paid positions.

For additional information and fellowship application forms, please visit courts.phila.gov/jfp.

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Board of Governors Chair Brandi Brice addresses 86 new American citizens at a July 2 naturalization ceremony at the U.S. Courthouse. U.S. District Court Judge Eduardo C. Robreno presided over the ceremony, which was sponsored by the Philadelphia Bar Association.
GlaxoSmithKline, Lincoln Financial Group, Cigna, PEP Boys, Exelon, Independence Blue Cross, Comcast, AmerisourceBergen Corporation. The list reads like a roster from the Philadelphia Chamber of Commerce, but what it represents is just a few of our area’s corporate legal departments that are committed to providing pro bono legal services.

One of our trustees, Brennan Torregrossa, assistant general counsel at GlaxoSmithKline, has been urging the Bar Foundation to think more about corporate counsel and their involvement in legal philanthropy and pro bono service. Marsha Cohen, executive director of the Homeless Advocacy Project, pressed home that message to me at a recent site visit in which she extolled the work in-house counsel has done on behalf of HAP’s clients. She told me that several local corporate legal departments participate in HAP’s “Adopt-a-Shelter” project in which they agree to staff a HAP monthly or bimonthly legal clinic. The in-house lawyers often urge their outside counsel to come along as well. Together they help people with a variety of civil legal services including child custody, credit and landlord-tenant issues and public benefits.

This increased level of activity by in-house counsel makes perfect sense given that, over the past 20 years, corporate legal departments have expanded tremendously. Brennan’s message to our board has been that, as they have grown, corporate legal departments and their in-house counsel are playing a bigger role in the communities in which their companies do business. “These corporate law departments are the size of law firms and have their own missions that correspond to their corporate missions. These missions are often in line with the work that many pro bono organizations support – assisting the needy; allowing people to live healthier and happier lives; providing products that make people’s lives easier.”

To help facilitate in-house counsel’s involvement in pro bono activities, the Philadelphia Bar Foundation has partnered with DELVACCA (Delaware Valley Association of Corporate Counsel) on their initiative to sponsor a Diversity Corporate Summer Internship Program aimed at increasing ethnic and racial diversity in corporate legal departments. The Bar Foundation administers the funds raised by DELVACCA to support this program. This summer the program sponsors six second- or third-year law students who are working in local corporate legal departments. In developing the program, the Bar Foundation and DELVACCA insisted that, as an integral part of their internship, the students participate in Philadelphia VIP’s Summer Pro Bono Program, joining more than 100 law students at a conference designed to educate future lawyers on the importance of pro bono services.

The Foundation’s grantees are also working hard to engage in-house counsel in providing pro bono legal services. Support Center for Child Advocates has volunteer attorneys from more than 30 corporate legal departments. Three of these departments have created practice groups to recruit, train and support the pro bono work of their attorneys and those from law firms who have taken on child advocacy cases. Child Advocates was the first in the nation to create this model of volunteer support. Jodie Schatz, Director of Intake and Pro Bono Services at Support Center for Child Advocates, describes it this way: “Within law firms and corporations, Child Advocates volunteers are often in different departments and diverse regional offices and thus do not know each other or of their common work in child advocacy. The continued on page 17
The day before my college graduation ceremony, a close friend committed suicide. During the week after classes had ended, my friend—I will call him Alan (not his real name, of course)—visited me frequently. We took long walks through the empty, sprawling campus and talked earnestly, as only early 20-somethings can, about life, death, family and relationships. I was completely happy. I had good company, and I was looking forward to the next stage of my life.

The night before graduation, Alan and I went out to several parties. We drank and laughed. As the night ended and we cut through the tree-lined common that led back to my dorm, he confided in me that he intended to commit suicide. He showed me a bag of pills and said that he had succeeded in killing himself. His twin sister called me and told me that a runner had found Alan’s body the morning of my graduation.

My experience with Alan was my first encounter with major depression. Thinking back, I remember noticing during our conversations that he seemed preoccupied with death and the notion of reincarnation. He was moody, and his grooming habits had deteriorated from those of the previously high-maintenance pretty boy that I knew. I recognized that Alan was suffering internally, but I had no idea that he was depressed to the point of being suicidal.

In the years since college, I have become all too acquainted with depression. Sometimes, I feel as though I have seen every flavor of the illness—friends, distraught over relationships, grades or work, who have tried to self-medicate with alcohol or reckless behavior. Some simply lost interest in the things for which they used to care deeply. These are red flags for which they can be a serious, but treatable, condition.

According to the Mayo Clinic website (mayoclinic.com), suffering from five or more of the following symptoms for more than two weeks may be a sign of major depression: “depressed mood most of the day, nearly every day; loss of interest or pleasure in most activities; significant weight loss or gain; sleeping too much or not being able to sleep nearly every day; slowed thinking or movement that others can see; fatigue or low energy nearly every day; and mood disorders are not unnatural, but they can and should be a cause for concern if they disrupt your life or your work.” Talk to a doctor. The Pennsylvania nonprofit Lawyers Concerned for Lawyers is also a resource for attorneys struggling with depression and other personal issues.

Don’t Ignore Early Warning Signs of Depression

By Melanie J. Taylor

The website also said depression can also manifest itself through feelings of anxiety or intense anger. As young lawyers, the demands of our jobs can cause us to become stressed out, tired and self-depreciative. It is important to recognize, however, that sometimes these feelings go beyond simple dissatisfaction at work. If you feel that you may be suffering from depression, or know someone else who is, do not be afraid or ashamed to seek help. Depression and mood disorders are not unnatural, but they can and should be a cause for concern if they disrupt your life or your work. Talk to a doctor. The Pennsylvania nonprofit Lawyers Concerned for Lawyers is also a resource for attorneys struggling with depression and other personal issues.

Melanie J. Taylor

To contact Lawyers Concerned for Lawyers, visit lclpa.org or call 1-888-999-1941.

WebCheck

YLD Night at the Phillies

More than 80 people attended YLD Night at the Phillies on July 20. The evening started with a tailgate reception at XFINITY Live! before moving across the street to Citizens Bank Park for the game. Pictured from left at the tailgate, sponsored by Kaplan Leaman & Wolfe Court Reporting & Litigation Support, are Richard L. Vanderslice, Mindy Stasio, Gregg Wolfe, YLD Chair Melanie J. Taylor and Charles Eppolito III.

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YLD Chair Melanie J. Taylor and Charles Eppolito III.
2012 presidential election, as we welcome ABC News White House Correspondent Ann Compton as our Opening Plenary speaker on Friday, Oct. 5. Additionally, at our Saturday breakfast, we’ll hear from The Philadelphia Inquirer’s national political columnist Dick Polman, offering his own special brand of election insights.

The Bench-Bar & Annual Conference, featuring 21 CLE seminars, provides attendees with the opportunity to earn CLE credit while networking with colleagues and members of the bench. Hundreds of attorneys and judges are expected to attend. A total of 6 CLE credits are available.

CLE seminars are being presented by the Advancing Civics Education Committee, Appellate Courts Committee, Business Litigation Committee, Criminal Justice Section, Diversity in the Profession Committee, Family Law Section, Professional Responsibility Committee, Public Interest Section, Real Property Section, Social Security Disability Benefits Committee, State Civil Litigation Section, Workers’ Compensation Section and Young Lawyers Division. The conference will close with a State of the Courts presentation featuring representative judges of the state and city courts.

Members who attend the full Bench-Bar & Annual Conference and register by the early-bird deadline of Friday, Sept. 14 will save $80 on their registration. The early-bird price for members is $369 and includes all CLE programming and all sponsored meals and events on Friday and Saturday, including the Friday evening reception. Public interest, government and young lawyers will pay $219 for the full conference if registered by Sept. 14.

The Bar Association is offering a special group rate to our Bench-Bar attendees. A rate of $179 plus tax is available Friday, Oct. 5 and a limited number of rooms are available at $149 plus tax for Thursday, Oct. 4. 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.

Revel, with 1,800 guest rooms filling 47 floors and more than 6 million square feet of space, opened on Memorial Day Weekend. The $2.4 billion glass Revel is located on 20 beachfront acres on the Boardwalk between South New Jersey and South Connecticut avenues.

Revel features 14 restaurants featuring world-class chefs including Jose Garces, Marc Forgione, Robert Wiedmaier, Alain Allegretti and Michel Richard. The Row, Revel’s shopping area, has 55,000 square feet of retail shops. There is also a 35,000-square-foot spa at Revel.


For sponsorship information, please contact Tracey McCloskey at 215-238-6360 or via email at tmccloskey@philabar.org.

phillybenchbar.com
Still Sorting Out Affordable Care Rulings

By Brian McLaughlin

It’s unconstitutional! Oh wait, it’s constitutional! If anyone else was watching CNN when the Affordable Care Act decision was announced, it was not completely clear what the U.S. Supreme Court decided. Even days and weeks later we are still trying to decide the true ramifications of the decisions.

We now know that the individual mandate has been upheld as a tax. This garnered most of the attention in the initial days after the decision but the second major part of the decision may have as much if not more impact on how the Affordable Care Act is implemented. The Supreme Court striking down part of the Medicaid Expansion Provision changed the way the federal government could coerce states into abiding by the newly expanded rules for Medicaid. As of mid-July, four states have announced they will not be abiding by the expansion of Medicaid. Whether this is posturing or reality will not be seen for months to come. Let’s delve into this part of the decision a little further.

The ACA’s Medicaid expansion provisions require states to expand their Medicaid programs by 2014 to cover all individuals under the age of 65 with incomes below 133 percent of the federal poverty level (roughly $31,000 for a family of four). The challenge to the ACA was that it unconstitutionally coerced states to expand Medicaid by threatening to withhold all federal Medicaid grants for non-compliance. Instead of just refusing to grant new funds to states that did not comply with the new conditions, it would withhold those states’ existing Medicaid funds. The Supreme Court held that, while states could be required to comply with certain conditions in order to receive funds, they could not be penalized if they chose not to participate in the new program by taking away their existing Medicaid funding. The end result is that states may decide to opt out of the Medicaid expansion.

For employers with more than 50 lives, this could mean additional penalties under the ACA. If a state doesn’t expand Medicaid coverage, employers with more than 50 lives may be subject to more plan affordability penalties than they would have been under the expanded conditions will now likely find coverage under an exchange and be eligible for federal subsidies. This could increase an employer’s exposure to shared responsibility under the employer mandate.

Employers with less than 50 lives and not subject to the employer mandate will also be affected. States that choose to expand Medicaid will force more people to be dependent upon their employers or an exchange for health insurance. Coverage under the exchange will be challenging to navigate at the onset, will vary state by state, and may or may not be a viable option for many employees, effectively forcing the employer to step in. When employees cannot afford their insurance, it tends to leave employers in a sticky situation.

No matter what the size of an employer, allowing states to opt out of the Medicaid expansion provisions will likely result in more people (who typically were not insured in the past) seeking coverage on an exchange. This certainly does not bode well for the overall experience of the exchange-based plans, ultimately affecting rates and affordability for employees. As a result of the Supreme Court’s decision, the majority of the ACA will remain in full force and effect. As mentioned above, employers must continue to

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In December 2010, Homeless Advocacy Project volunteer Ross E. Bruch, an attorney at Saul Ewing LLP, met a homeless veteran at HAP’s bi-monthly legal clinic at the Perimeter, a drop-in center for homeless veterans located in Old City.

The veteran suffered from post traumatic stress disorder (PTSD), but the Department of Veterans Affairs had repeatedly denied compensation to the client based on his alleged failure to prove the stressful incidents that occurred while aboard the USS Guam during the U.S. invasion of Grenada in 1983. During 2011, Bruch tirelessly researched the vet’s description of what happened and found corroborating evidence of the ship’s participation in the invasion and, more specifically, of the vet’s involvement. He then submitted the evidence to the VA, which sat on the evidence until Bruch proceeded to work his way up the VA chain of command to demand a decision. In January 2012, the VA responded by granting the veteran 100 percent disability, at $2,769 per month. It also awarded the vet more than $53,000 in back benefits. This is obviously a life-changing development for this homeless veteran, and HAP is convinced that Ross Bruch’s involvement not only led to the VA’s reversal of the denial, but that it also shortened the waiting time by a year or more.

Bruch reports that the veteran is ecstatic. He was extremely grateful, and plans to be very careful with the money. In fact, he has already arranged to meet with a financial advisor at his bank. He is also considering creating a will, and will let HAP and Saul Ewing know if he would like help in this regard.

Overall this is a great win for the veteran, Bruch and Saul’s pro bono commitment to homeless veterans in partnership with HAP.
implement the ACA's requirements. Employers should also prepare for changes that will take effect in the near future. As employers think about their next renewal, they need to consider the following challenges:

- Meeting the new Summary of Benefits and Coverage and W-2 reporting requirements;
- Assessing the impact of the reduced health FSA limits ($2,500) on their plan offerings;
- Dealing with the continuing uncertainty of how the nondiscrimination rules for insured plans will apply once guidance is issued;
- Understanding the options for dealing with potential rebates from insurers under the Medical Loss ratio rules;

In the longer term, employers will need to consider the full rollout of reform in 2014 and its impact including what constitutes “essential benefits,” a key concept under Health Care Reform that affects some of the immediate reforms as well as the expansion of Medicaid and the possible offerings under the exchanges.

Brian McLaughlin is vice president of USI Affinity Benefit Solutions Group.

For more than 75 years, the divisions of USI Affinity have developed, marketed and administered insurance and financial programs that offer affinity clients and their members unique advantages in coverage, price and service. Our programs offer clients, associations to financial institutions, the edge they need to both retain existing and attract new members and customers. As the endorsed provider of affinity groups representing over 25 million members, USI Affinity has the experience and know-how to navigate the marketplace and offer the most comprehensive and innovative insurance packages available.

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timely resolution of their disputes should be deeply concerned that the present vacancies may inevitably reduce the quality of our justice system and erode public confidence in the independence and impartiality of our federal courts.

We as a nation believe that if you have a dispute, you go to court and within a reasonable period of time, you get a decision. Erosion of public confidence in our justice system introduces the dangerous proposition that people could lose faith in the rule of law. This is a result we can ill-afford. All three branches must be robust and strong to advance the important work of government.

Social Media continued from page 4

being expressed. Social media is a new way to have a conversation, and it is not a “passive conversation.” Consider how to respond to constituents. Otherwise you might wind up losing your audience.

Thinking aloud about the strategy behind using social media to an organization’s advantage, McCoy suggested setting out parameters by answering the following questions: Who is the audience? What is important to them? What are they being asked to do? What are they reading? What are they downloading? With what/whom else are they interacting? How can we develop live content to fit into something relevant in their lives?

Another important tip to remember is, do not post something online just to post something. It is imperative that online posts remain relevant. Otherwise, the audience will quickly tune out the message. One member of the audience pointed out that a company must always be mindful of who is posting messages through social media. Be careful about a potential rogue employee, particularly when the target audience closely associates that employee with the organization. Protect password access, and attempt to maintain a distinction between an individual’s feed and a company’s feed.

The Philadelphia Bar Association supports the selection as federal judges of men and women of diverse backgrounds and experiences, whose professional competence, integrity and judicial temperament – including commitment to equal justice under law – fully qualify them to serve in the federal judiciary.

Our judicial system is based on the principle that each case deserves to be evaluated on its merits, and that justice will be dispensed even-handedly.

Justice delayed is justice denied.

Mary-Kate Bredin (marykatebredin39@gmail.com) is judicial law clerk to Philadelphia Court of Common Pleas Judge Albert J. Slomi.

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The Effectiveness of Fiscal Austerity Measures

By Jackie B. Lessman

PNC Wealth Management senior vice president. For more information, visit pnc.com/wealthmanagement

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In this month’s interview, we talk with James P. Dunigan, managing executive of investments, who is responsible for investment strategy, equity research, municipal investment, investment services and due diligence as well as the development and execution of investment policies, strategies and tactics.

Jackie Lessman: Throughout the Eurozone and in the U.S., “fiscal austerity” has become a frequently used term to describe steps that governments are taking to combat economic woes. How is it best defined?

Jim Dunigan: Well, “fiscal austerity” has been reluctantly added to our global lexicon of late. As a recurring theme in Europe and elsewhere, including the U.S., these measures are enacted to try to reduce the government deficit and subsequently improve the fiscal and economic picture. This can be accomplished through reduced government spending, which can lead to a reduction in public benefits and services provided. Moreover, it may be combined with an increase in taxes to demonstrate commitment to addressing problems.

With several countries considering these measures, how do their differing circumstances affect their fiscal choices?

Let’s look at the key differences between Greece and the U.S. in early June, Federal Reserve Chairman Ben Bernanke responded to questions from Congress regarding whether the U.S. was in a similar state as Greece. He cited important structural differences between the two countries, including size of the economy, depth of financial markets, borrowing and monetary policy. Of key importance was the strength of the U.S. credit market versus Greece, which is reflected in the fact that the U.S. has extremely low borrowing rates, while Greece is having difficulty borrowing any funds. Given the huge quantity of its sovereign debt versus its overall economy, we believe Greece had no alternative other than to consider fiscal austerity to try to cut its deficit.

However, not all fiscal or economic crises experienced by Eurozone countries were a result of overpending by the governments. For example, Spain didn’t have a huge government debt problem but suffered from the specter of fear that the government time to maneuver. This is a critical time period given that expiring payroll tax cuts and mandatory sequestration from the Budget Control Act will go into effect in January 2013 unless tax cuts are extended and Congress does not enact the sequestration. We believe this would lead to a very abrupt change that would likely negatively affect the slowly recovering economy.

What is your short-term outlook for economic stability in the U.S.?

While we watch what unfolds in Europe, we do need to be aware of the challenges and roles of action, and inaction, in the U.S. The current U.S. fiscal situation is unsustainable and the level of government debt will become a weight on long-term economic growth if nothing is done. The government must figure out how to implement a fiscal strategy that can succeed in the long-term. The U.S. needs to focus on maintaining fiscal support for the economy in the short-term by continuing current tax and spending levels while pursuing a fiscal policy that is viable in the longer run through some degree of austerity.

Jackie Byrne Lessman, CFP® (jacqueline.lessman@pnc.com, 215-585-5831) is PNC Wealth Management senior vice president. For more information, visit pnc.com/wealthmanagement.

The material presented in this video 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. The information was obtained from sources deemed reliable. Such information is not guaranteed as to its accuracy. The opinions of PNC professionals expressed herein are subject to change without notice. The opinions expressed by persons who are not PNC professionals are their own opinions and not the opinions of PNC. You should seek the advice of an investment professional to tailor a financial plan to your particular needs.
Don’t Forget About Appetizers at Russet

**By Skinny D’Beckol**

Russet can initially be described as the Rousseau’s ideal culinary concoction of a Center City restaurant. I allude to Jean-Jacques’ 18th century “noble savage” with timid, peaceful and mellow aura; and Henri’s 19th century “Dream” of innocence, naïveté and verdant charm.

Chef Andrew and his wife Pastry Chef Kristin Wood purvey meals that mirror the flavor of the philosopher’s and artist’s respective repertoires. To do so, they have managed to acquire and provide local seasonal produce originating with strong friendships and ties to noted Lancaster County farmers. Andrew had been the acclaimed sous-chef to Feury at Fork, and Kristin had posted her pastries at James. After months of torturous tribulations waiting for the proper place to refurbish as their own, the Woods found a former mansion’s double-windowed first floor space (formerly Ernesto’s Café), which is now, because of these two brainstorming, barnstorming chefs’ peaceful, mellow, verdant menus, the finest “Farm to Table” BYOB in the city.

Maroon and white high walls enclose wood-grained tables on your left, barren but for plates, silverware and a tiny glass candle, and, on your right, intricately clothed banquettes. All chairs have cushioned seats, the same color maroon as on the walls. Pleasant little pictures and photographs hang around, and plants in vases abound, as do little pictures and photographs hang. A chandelier culminates at the far end of the area.

Within minutes, sesame-seed crusted rolls and butter arrive in a basket with a wait-person anxious to open your bottles of wine. A first taste of the creamy butter on the warm wheat bran bread portends a brilliantly farm-fresh flash.

Appetizers are not to be missed. Begin with warm pigs’ head terrine ($8); salami toscano ($10); carrot sformato ($9); or beet ravioli ($11). Many order from the appetizers’ side of the small brown menu, for all courses.

The “pig’s head” is truly a softly blended pâté within the parameter of pork parts about which you’re afraid to define precisely. The terrine is topped by way of a glowing sunny-side-up egg, mean-dering pickled ramps, bríoche and a swirl of rhubarb mostardo. The underlying pig’s portion is meant only to act as scrapple for its coverlet companions. The bríoche’s flaky dough flattens all other ingredients. The ramps are so much more earthy-extravagant than a gherkin, and 10 times more tantalizingly garlicky. Sweet swallows of jelled rhubarb congeal in your mouth with the shebang of its companions. Your mouth mumurs for you to put on overalls and till the north-40. Salami toscano is eaten as if it were served at a grape pickers’ picnic in Tuscany, where chili oil is used with abandon. Cabernet Sauvignon tastes like Muscatel after burning up your tongue in a pyre of sweltering salami. Too hot for me, and I was graciously asked if it could be replaced with carrot sformato.

A brick of golden rustic carrot orange crash of fresh farm-fresh flax. The noise at Russet makes for thankless attempts at conversation. Best to go in twos and sit close to each other. You’ll be exclaiming about the quality of your repast.

Second on the menu are entrées found in twos and sit close to each other. You’ll be exclaiming about the quality of your repast.

The best of all is beet ravioli. Imagine a ravioli skin infused with just-squeezed vegetable flan. The best of all is beet ravioli. Imagine a ravioli skin infused with just-squeezed vegetable flan. If you don’t order this, you’ve missed the movie-star-white fillets of fish that pounce on all its rectangular sides, so that when a forkful touches your lips, you pucker your head as if it were smoked sable. Each layer is thick and moist, melting in your larynx.

An Eight-pointed Star to expose the hiding halibut. The fish spurts butter as you pierce it. It flakes upon the slightest motion of your knife; if it were smoked sable. Each layer is thick and moist, melting in anxiety in mid-air before you can garner its flesh. Your eyes glaze over and your head spins as you press tongue to cheek, attempting to stop a premature swallow. Just try anything served with ramps, rhubarb, finn potatoes, zucchini, garlic mustards, baby broccoli, garden radishes, baby chard and asparagus. All are parlayed on your platter from Pennsylvania farmers on the date of delivery.

The Best of all is beet ravioli. Imagine a ravioli skin infused with just-squeezed real ruddy beet juice, and then packed with hazelnuts and ricotta to be sprinkled with parmigiano-reggiano cheeses. The reddened ravioli are silken, glistering, deeply flavorful mixtures of fresh farm ingredients. I’ve not devoured better in Provençal, Nice or Rome. Groans will travel abroad from your appreciative larynx.

Second on the menu are entrées including Lancaster bison rib chop ($37). I did not order it because I had seen its huge formation on another diner’s plate, and it resembled a hunch of boldly-sauced carcass. “It takes like venison,” said our waitperson, seeing me eye it. I thought it best not to shuffle off to Buffalo, but I could be wrong.

Alaskan halibut ($29) is served “en cartaccio” — baked and served in a bag. If you don’t order this, you’ve missed the boat. I cannot describe the movie-star-white fillets of fish that pounce from the bag they ride in on. All I can say is that the bag itself has been cut into an eight-pointed star and peeled away to expose the hiding halibut. The fish is lying on wet green spinach, slightly emerald scallions, a powdery Japanese maitake mushroom and brazen evergreen fir shoots.

This halibut spurs butter as you pierce it. It flakes upon the slightest motion of your knife; if it were smoked sable. Each layer is thick and moist, melting in anxiety in mid-air before you can garner its flesh. Your eyes glaze over and your head spins as you press tongue to cheek, attempting to stop a premature swallow.

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Skinny D. Bockol (rbockol@msn.com), a solo practitioner, is an advisory editor of the Philadelphia Bar Reporter. Read his reviews online at bockol.com.
VIP Honors Debra Falk

Philadelphia VIP recognizes Debra S. Falk for her outstanding assistance to VIP clients.

“It is great to work with VIP clients. They are responsive, proactive and appreciative of the work done on their behalf,” said Falk, a fifth-year associate at Schnader Harrison Segal & Lewis LLP, who focuses her practice on trusts and estates.

“Debra is incredibly thorough in representing her clients and very responsive to them. She has tackled some of our most complex multi-faceted quiet title matters, including fraudulent conveyances, and is one of our stalwart volunteers whom we know we can turn to for help with cases that can be harder to place,” said Kelly Gastley, VIP’s supervising attorney.

Falk has been a volunteer with VIP for four years, taking on real property and probate cases in addition to estate and tax cases. In one of her most recent cases, the client’s neighbor fraudulently claimed title to the client’s home, forging a deed that he claimed he had been signed by the client’s deceased mother and threatening the client and her children.

Falk was able to help the client prove her mother’s estate, negotiate an affordable payment plan for delinquent real estate taxes, and have the penalties and interest that had accrued on the inheritance tax waived. “It feels good to help someone take formal ownership of their home, and is always a learning opportunity both professionally and personally.”

“I volunteer with VIP because it is personally rewarding and because it is a wonderful opportunity to develop professional skills. Kelly Gastley and Marco Gorini and the rest of the VIP staff are always available to answer questions. In addition, VIP’s detailed training materials make it possible to assist clients and develop expertise in areas outside of my usual practice,” Falk said.

Bar Foundation

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groups provide a sense of community and camaraderie for our volunteers and strengthen our capacity to serve children by promoting a ‘teamwork’ approach to our cases, especially significant in large firms and corporations.”

Sara Woods at Philadelphia VIP is encouraged that many local corporate law departments participate in VIP’s quarterly small business clinics and other VIP pro bono initiatives.

Recently Brennan and some of his colleagues in the GSK legal department hosted an Advance Planning Documents Clinic for Philadelphia VIP. GSK attorneys teamed up with summer associates from Philadelphia area law firms to help Philadelphia VIP pro bono clients execute advance planning documents and perform wills in-take services.

I am thrilled that Brennan, as a member of the Foundation Board and in his role at GSK, is taking a leadership role in accessing the legal service resources that in-house departments can provide, I thank him and his colleagues in legal departments across the Philadelphia region for devoting their time to this important work.

Wendy Beetlestone (wbeetlestone@hangley.com), a shareholder with Hangley Aronchick Segal & Boldt, is president of the Philadelphia Bar Foundation.
Kathleen D. Wilkins, a partner with Wilson Elser Moskowitz Edelman & Dicker LLP and Chancellor-Elect of the Philadelphia Bar Association, has been selected for the Advisory Council for the 9th annual Pennsylvania Conference for Women.

Carlton L. Johnson, a partner with Archer & Greiner P.C., received an honorary award from the Black Law Students Association at Temple University Beasley School of Law in recognition of his commitment to diversity in the legal profession and to the Association.

Charles S. Marion, a partner with Pepper Hamilton LLP has been appointed to the Board of Directors of the German-town Branch of Settlement Music School.

David L. Hyman, a managing partner of Kleinbard Bell & Brecker LLP, has been selected by the Economy League of Greater Philadelphia to participate in the 2012 Greater Philadelphia Leadership Exchange, “The Evolution of a Global City: Toronto, Canada.”

Marc S. Raspanti, a partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, presented at the American Bar Association’s Ninth National Institute on the Civil False Claims Act and Qui Tam Enforcement on June 7 in Washington, D.C.

Charles P. Neely, an associate with Palmer Biezup & Henderson, LLP, has been unanimously approved as a Proctor in Admiralty by the Maritime Law Association of the United States.

Cheryl L. Gaston, a partner with Spruce Law Group, LLC, has been named to the Board of Directors of The Preservation Alliance for Greater Philadelphia.

Amber Racine, an associate at Anapoly Schwartz, P.C., was recently elected president-elect of the Barristers’ Association of Philadelphia. A member of the Association’s Executive Board and past recipient of the Association’s President’s Award, her term as Barristers’ President will begin in September 2013.

John E. Quinn, a member of Eckert Seamans Cherin & Mellott, LLC, has been elected a fellow of the College of Labor and Employment Lawyers.

Ronald M. Wiener, of counsel to Drucker Beckman Sobel, LLP, organized and moderated a panel at the American Bar Association Section of Taxation’s May meeting in Washington D.C. on “Working With SB/SE to Resolve Collection Issues.”

Dino Privitera, an associate with Eisenberg, Rothweiler, Winkler, Eisenberg, & Jeck P.C., has been appointed to a three-year term on the Board of Governors of The Justinian Society of Philadelphia.

Pepper Hamilton LLP has received the Minority Corporate Counsel Association’s 2012 Thomas L. Sager Award for the Mid-Atlantic Region. The award honors a firm that has demonstrated a sustained commitment to improve the hiring, retention and promotion of minority attorneys.

Murray S. Levin, a partner with Pepper Hamilton LLP, co-chaired an effort to prepare and send a resolution to the government of Turkey at a June 9 governing board meeting of the Union Internationale Des Avocats in Fez, Morocco.

“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.

James S. Etelison, a partner with Thorp Reed & Armstrong, LLP, presented a National Business Institute CLE via teleconference on “Handling Commercial Real Estate Transactions: A Legal Primer” on June 13.

Andrew E. DiPiera Jr., a member of Baratta, Russell & Baratta, has been elected to a three-year term on the Board of Directors of Quaint Oak Bank.

Mark S. Blaskey, a partner with Pepper Hamilton LLP, has been appointed president of the Jewish Federation of Greater Philadelphia Endowments Corporation.

John M. Stern, a shareholder with Hofstein Weiner & Meyer, P.C., recently served as the moderator at the Pennsylvania Bar Institute seminar “Valuing the Small Business in Divorce.”

David N. Hofstein, a shareholder with Hofstein Weiner & Meyer, P.C., was a panelist on a program sponsored by the Montgomery County Family Law Section on professionalism and ethics in family law.

Jerry Lehocky, a partner with Pond Lehocky Stern Giordano, discussed workers’ compensation at the Annual Update of the Law Seminar at the Pennsylvania Association for Justice’s 2012 Retreat in Hershey on June 29. Lehocky was also named president elect of the organization.

Stephanie J. Sprenkle and Karen M. Sanchez of Thorp Reed & Armstrong, LLP have been appointed to serve as Hearing Committee Members by the Disciplinary Board of the Supreme Court of Pennsylvania for three-year terms.

Alexis Ouseley, an associate with Pond Lehocky Stern Giordano, appeared on the Berks County live call-in cable television show “Injured Workers of Pennsylvania” on July 2 where she discussed various matters regarding workers’ compensation law and viewers had the opportunity to call in live with questions.

Dr. Ruth K. Horwitz, a sole practitioner, has been appointed to the Philadelphia Corporation for Aging Advisory Council.

Joseph D. Mancano, a partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP presented at the 2012 PICPA Health Care Conference on June 13 in Lancaster, Pa. Mancano was named the recipient of the Nora Barry Fischer Award for 2012, which recognizes an attorney within the firm who has given back to the legal profession and the community at large.

Charles J. Meyer, a shareholder with Hofstein Weiner & Meyer, P.C., recently served as the moderator at the Pennsylvania Bar Institute seminar “Valuing the Small Business in Divorce.”

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Litigation Summit

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Attention Litigators

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- E-Discovery Challenges, Solutions & Trends
- Computer Forensics
- Judicial Panel Discussion (Ethics Credit)
- Plaintiff and Defense Use of Economic Damages Experts
- Jury Consulting

September 13, 2012
Sofitel Hotel
120 South 17th Street
Philadelphia, PA

Registration and Breakfast: 7:45am – 8:30am
Program: 8:30am – 4:00pm

To Register: Logon to www.thelegalintel.com/summit
or contact Diane McCollum 215-557-2335 | dmccollum@alm.com

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