ANNUAL MEETING LUNCHEON

Gross to Outline 2017 Plans as She Becomes 90th Chancellor

By Meredith Z. Avakian-Hardaway

Chancellor-Elect Deborah R. Gross, of counsel to Kaufman, Coren & Ress, P.C., will outline her plans for 2017 at the Philadelphia Bar Association’s Annual Meeting Luncheon at the Hyatt at The Bellevue on Wednesday, Dec. 7.

Gross, who is ascending to serve as our 90th Chancellor, is a champion for Philadelphia’s public interest legal community and firmly believes in the importance of giving back.

In addition to serving a two-year term as the president of the Philadelphia Bar Foundation - including its 50th anniversary year - she has been a trustee of the Foundation for the past 12 years. Gross also has served as chair of the Philadelphia Bar Association’s Federal Courts Committee and has helped to organize the Federal Bench-Bar Conference.

Gross graduated from the Wharton School of the University of Pennsylvania and Boston University School of Law and is the proud mother of three adult children. She and her husband, Stuart Kurtz, who is an attorney and co-founder of Kurtz and Revness, P.C., live in Gladwyne, Pa.

Also at the luncheon, the PNC Achievement Award will be presented to both Jay G. Ochroch, partner at Fox Rothschild LLP, and Manny D. Pokotilow, senior counsel at Caesar Rivise, P.C.

Ochroch is a member of the Board of Directors and the Executive Committee of the Consumer Bankruptcy Assistance Project. Since 1998, he has represented 113 individuals, all within the poverty guidelines, unable to afford legal counsel and the high costs of Chapter 7 bankruptcy. These pro bono clients face financial challenges arising from unanticipated catastrophic life events.

Pokotilow was a founding member of and served on the committee that began the mediation program for the U.S. District Court for the Eastern District of Pennsylvania. In its first three years alone, the program saved the court thousands of trial hours. Pokotilow also founded the annual Philadelphia Bar Association 5K in 1979. Since its first run in 1980, the race has raised approxi-
A Grays Ferry resident who had his petition finalized described it as “beautiful.” A woman was elated to find out that her corruption of a minor charge was eligible for expungement – she had been barred from volunteering at her child’s school due to this charge showing up on her FBI background check. She was excited that she would be able volunteer with her child.

On Saturday, Nov. 12, more than 100 local attorneys, paralegals, law students and other volunteers staffed six locations throughout Philadelphia to volunteer for the Philadelphia Bar Association Young Lawyers Division’s inaugural Expungement Clinic. The YLD partnered with Rep. Jordan Harris, the City of Philadelphia’s Office of the Mayor, Community Legal Services, the Office of the District Attorney of the City of Philadelphia and the Philadelphia Court of Common Pleas to help process expungement petitions. More than 1,800 individuals with criminal records signed up for the clinic. According to the U.S. Department of Justice, an estimated 100 million American adults carry a criminal record. This equates to approximately 400,000 individuals in the Philadelphia area alone. Most people are unaware of the repercussions of having a criminal record: it is common for an individual with a record to have difficulty obtaining housing, a job and escaping poverty. Many are surprised to learn that even non-conviction charges remain on a criminal record. Though our justice system’s cornerstone is “innocent until proven guilty,” an individual cannot be presumed innocent when they are haunted by a criminal record.

continued on page 12
Is a Sales Tax on Legal Services Inevitable in Pennsylvania?

By Gaetan J. Alfano

During the 2015-16 Commonwealth legislative session, this Association campaigned vigorously against Senate Bill 76. This Bill would have imposed a sales tax on most legal services. SB 76 was spearheaded by conservative legislators from Central and Western Pennsylvania who were seeking to eliminate school property taxes and to replace them — inadequately — with an expanded sales tax.

We pointed out that a sales tax is designed to be a tax on voluntary purchases, while the acquisition of legal services is rarely voluntary. We noted that the proposed “business-to-business” exception to the tax would result in an imbalance of power in litigation between individuals and corporations. We argued that a sales tax on legal services would make Pennsylvania law firms less competitive than law firms in other states, costing jobs and impacting firm revenues.

Through our Legislative Action Center, members sent hundreds of letters and messages to legislators urging them to vote against the Bill.

When the Bill came up for consideration in November 2015, the Senate vote was a cliffhanger: 24 senators voted in favor of the sales tax on legal services, while 24 senators opposed the measure. We applauded when Lieutenant Governor Stack cast the tie-breaking vote to defeat the Bill.

In March of this year, we met with the sponsors of SB 76 and, on behalf of our members, expressed our strong opposition to a tax on legal services.

While we considered this outcome to be a great victory for our members, the victory may only have been temporary.

First, the results of the November General Election have tilted the General Assembly in favor of proponents of the sales tax on legal services. In the Senate, Republicans have gained a veto-proof majority, although not achieved, is close.

Second, there is a consensus emerging among lawmakers and policy experts that the Commonwealth may be facing a structural deficit of as much as $3 billion in the 2017-18 fiscal year. Revenue in the current fiscal year is below projections. Thus, the Commonwealth’s financial condition will compel consideration of new and/or increased taxes in the 2017-18 session.

The Philadelphia Bar Association will remain vigilant and oppose any legislative efforts to enact a sales tax on legal services.

Throughout the year, I have stressed the importance of membership in the Philadelphia Bar Association. Advocating for our lawyer members is at the heart of what we do.

While my year is coming to a close, the important work of this Association goes on. I hope you will support incoming Chancellor Debbie Cross with your membership and engagement on this critical issue. Thank you for your continued support of the Philadelphia Bar Association.

Gaetan J. Alfano (GJA@Pietragallo.com), partner at Pietragallo Gordon Alfano Bosick & Raspanti, LLP, is Chancellor of the Philadelphia Bar Association.

Tell Us What You Think!
The Philadelphia Bar Reporter welcomes letters to the editors for publication. Letters should be typed. There is no word limit, but editors reserve the right to condense for clarity, style and space considerations. Letters must be signed to verify authorship, but names will be withheld upon request. Letters may be mailed, faxed or e-mailed to: Thomas E. Rogers, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 12th floor, Philadelphia, PA 19107-2955. Phone: (215) 238-6345. Fax: (215) 238-1119. E-mail: reporter@philabar.org.

YLD EXPUNGEMENT CLINIC NOV. 12

Chancellor Gaetan J. Alfano and Debby L. Freedman, executive director, Community Legal Services, at Vare Recreation Center in the Point Breeze neighborhood of Philadelphia, Vare Recreation Center was one of six locations of the Nov. 12 Expungement Clinic hosted by the Young Lawyers Division in partnership with Rep. Jordan Harris, the City of Philadelphia’s Office of the Mayor, Community Legal Services, the Office of the District Attorney of Philadelphia and the Philadelphia Court of Common Pleas. Full coverage on PAGE 2.
It has been a great honor to serve as chair of the Philadelphia Bar Association’s Young Lawyers Division. Whether it is through Law Week, the High School Mock Trial Tournament, Legal Advice Live or Ronald McDonald House, the Association’s main interaction with the public falls on our shoulders. This year, I am very proud that we added an Expungement Clinic to modernize the services that we provide to Philadelphia’s citizens. The tremendous amount of time and effort required to pull off these events is donated largely by the members of the Executive Committee of the Young Lawyers Division, as well as our friends and colleagues. I am incredibly grateful for the dedication of my committee members and our greater membership. None of my accomplishments as chair would have been possible without you.

I also had the help and support of a deeply dedicated Association staff. I would like to thank Meredith Z. Avakian-Hardaway, Tom Rogers and Wes Terry for their personal commitment and professionalism, especially in regards to the Expungement Clinic. I must thank Tracey McCloskey and Dawn Petit for their support not only this year but in all my five years as a member of the Association, especially with Law Week. The details of the Expungement Clinic would have been overlooked without Tara Phoenix, Paul Karzars and Tracey McCloskey, and I learned to be a better Chair and person from watching Charlie Klinch deftly and gently guide us through whatever proposals for bylaws or resolutions we sent his way. All staff rose to the occasion on the day of the Expungement Clinic and for that I am immensely grateful.

A theme of my message is that my generation has been dealt a bad hand. We are the focus of endless negative commentary on helicopter parenting, work ethic, resilience, living quarters, politics, work habits and more. This is particularly frustrating coming from a generation that went from Woodstock to the “Me Generation,” and whose prosperity is firmly based in government institutions that are unavailable to us. The sacrifices of my generation are continued on page 18.
DECEMBER CLE COURSES

Preparing to Win a Trial and Litigation Trends: Perspectives From Plaintiffs' and Defense Counsel
Tue., 12/13/16 - 9:00 a.m. - 12:15 p.m. (3 SUB)
Join the panelists - experienced litigators - for three roundtable discussions on how to effectively and efficiently prepare for trial during crucial stages of litigation: discovery, dispositive and pre-trial motions, and trial. The panelists will conclude by offering guidance regarding future trends in litigation for 2017 and beyond. Attend this CLE program to hear a lively presentation of trial preparation techniques, as well as informative litigation trends that will provide you with the tools to become a more effective and efficient trial practitioner.

Conducting Business With China: Navigating Law and Culture
Wed., 12/14/16 - 9:00 - 11:15 a.m. (2 SUB)
In this seminar, panelists examine the realities of conducting business with the Chinese, seeing the similarities but more importantly the differences in the Chinese mindset regarding determining suitable business partners. Receive guidance on avoiding the cultural faux pas likely to undermine all of the goodwill engendered until that fateful mistake. Hear a discussion about the Chinese legal system and the potential traps for the unwary when considering that “once in a lifetime” deal.

Commercial Litigation and Law Firm Funding Survey, Updates, and Recent Developments
Thu., 12/15/16 - 12:00 - 3:15 p.m. (2 SUB/1 ETH)
Co-presented with Summit Legal Resources, LLC, Nationwide Litigation Funding, Inc. and Connolly Gallagher, LLP
This timely new CLE course delivers a detailed survey of the rapidly growing market of litigation funding and law firm financing by third-parties. This type of innovative financing is being utilized by boutique practices to large, national firms for cases that include contract breaches, business torts, intellectual property infringement, misappropriation of trade secrets, shareholder and consumer claims, and class actions and mass torts. Attorneys representing business clients and corporate counsel need to know how non-recourse funding works, and how it can be used to finance meritorious claims, manage firm, corporate and legal department budgets, and reduce the risk of loss.

A Cybersecurity: How to Keep the Sky From Falling
Fri., 12/16/16 - 9:30 - 11:30 a.m. (1 SUB/1 ETH)
Mon., 12/19/16 - 4:00 - 6:15 p.m. (1 SUB/1 ETH) - VIDEO ENCORE
Wed., 12/21/16 - 9 - 11 a.m. (1 SUB/1 ETH) - VIDEO ENCORE
This is the third and final 2016 FREE CLE for Philadelphia Bar Association members in good standing.
This CLE will examine the growing cybersecurity threats to firms and their clients’ data and how to thwart them. Gain a better understanding of how to mitigate cybersecurity risk and maximize the value of your and your clients’ data. Hear from a leading cybersecurity expert regarding today’s data breach headlines. Explore firms and clients’ data security obligations from an ethical and legal perspective. Examine the primary considerations involved in implementing an effective (risk-based and culture-centric) cybersecurity program at your firm and your clients’ companies. Finally, gain a better understanding of how to mitigate cybersecurity risk and maximize the value of your and your clients’ data.

Day on Financial Planning
Tue., 12/20/16 - 9 a.m. - 5 p.m. (6 Total CLE Credits: 5 SUB/1 ETH)
Cocktail reception 5 - 6 p.m.
Sponsored By BPU Investment Management, Inc.

Part I - Now What? I’m a Lawyer Earning Money and I Need a Financial Plan (9 - 11 a.m.)

Part II - I Think I Want to be Done Working (12 - 2 p.m.)

Part III - Taking Control - Financial Planning for Women (3 - 5 p.m.)
Philadelphia Bar Association CLE and BPU Investment Management, Inc. are proud to present a day on financial planning. The day consists of three CLE programs, the first beginning at 9 a.m. provides guidance to the newly admitted attorney on how to implement strategies to get the most out of their current paycheck and develop the right financial habits that, if consistently applied over time, can build wealth. The second course, at 12 p.m. is for the attorney contemplating retirement. The program will address the questions: do I have enough saved; how do I make it last; how do I protect it; and how do I pass it on? The last CLE program focuses on financial planning for women at 3 p.m. You may register for one, two or the full day of courses. Finally, join your colleagues for a cocktail reception to end the day and continue the conversation.

VIDEO ENCORE - Deposition Skills Courtroom Litigators Need to Know
Tue., 12/27/16 - 9:00 a.m. - 12:15 p.m. (2 SUB/1 ETH)
Litigators know that the deposition is a crucial opportunity to evaluate an adversary’s case, challenge key theories and witnesses, and to seek admissions for use in a potential summary judgment motion or at trial. This video encore CLE, presented by Raynes McCarty litigators, examines effective deposition strategies and techniques every courtroom litigator needs to know! Whether you are a first-year litigation associate, senior partner or a solo practitioner you will learn new skills to maximize your effectiveness at deposition.

VIDEO ENCORE - Ethics and Incorporating New Technologies in Your Law Practice Digital Marketing
Wed., 12/21/16 - 12:30 - 3:45 p.m. (1 SUB/2 ETH)
Join your colleagues to learn the ethical considerations of what you can and can’t do when digitally marketing your legal services.
Digital marketing is inevitably injected into the conversation as an integral part of a successful overall marketing plan. “Techy” or not, digital marketing remains a challenge for attorneys to implement given the limited amount of resources including the attorney’s time and money. Understanding the ethical involved with self or law firm promotion is important to comprehend before implementing any marketing campaign regardless of the medium. This CLE program will provide ethical considerations when promoting a law practice in the digital environment.

VIDEO ENCORE - 2016 Securities Litigation & Regulatory Update
Thu., 12/29/16 - 9 - 3 p.m. (2 SUB/1 ETH)
As lawsuits, investigations and enforcement actions continue apace, it is critical that securities litigators and enforcement lawyers keep apprised of the latest developments. Join colleagues from both sides of the Delaware for an annual update in securities litigation and regulatory practice, a full-day program that explores and profiles significant developments and trends in securities laws. Don’t miss this annual update featuring prominent securities litigators and lawyers, high-level enforcement officials, senior in-house counsel and economists!

VIDEO ENCORE - Discovery in a Digital World Modern Investigative Techniques: Cybersecurity through Computer Forensics
Fri., 12/30/16 - 9 - 11 a.m. (2 SUB)
The exponential growth of data creation in modern society continually impacts litigation from cyber exposure risk management to computer forensics best practices. The proliferation of mobile devices, new communication methods, and web-based platforms presents opportunities for hackers to steal data and creates discovery situations best left to computer forensics experts to provide assistance. This video encore program, presented by PRECISE, explores cybersecurity risk management and covers some of the most interesting areas of electronic data sources that have changed the landscape of investigations and provide interesting stories of how those have had implications on real-world cases.

VIDEO ENCORE - Attorney Ethics Found in Golf and Tennis
Fri., 12/30/16 - 12 - 1 p.m. (1 ETH)
Ethical and principled conduct is a foundational aspect of practicing law, as well as competing in the sports of golf and tennis. Both golf and tennis are played according to strict rules for fairness, just as in legal advocacy. Individuals are expected to self-regulate their actions and conform to ethical expectations, with disciplinary consequences for violations. Attorney professionals are guided by the Rules of Professional Conduct and Pennsylvania Code of Civility to maintain the integrity of the profession. This video CLE ethics hour focuses on applying valuable ethical lessons from golf and tennis to the practice of law (and vice versa).

TO REGISTER Visit the CLE page at PhiladelphiaBar.org
Focus Less on Your Job and More on Your Career

By Stephanie Kammer

Our work hours are consumed with job-related tasks. After-work hours are taken up by everything else, so when do we find the time to think about the bigger picture, to consider the trajectory of our careers? The Women in the Profession Committee hosted an invigorating, interactive program on Oct. 25, directed at moving women ahead in their careers. Rachelle J. Canter, Ph.D., president of RJC Associates and an adjunct professor at the Women Senior Leaders Program at Northwestern University Kellogg School of Management’s Center for Executive Women, distilled her more than 25 years of experience providing career assistance to attorneys and executives, into exploding the main career myths she felt were keeping women from advancing in the workplace.

The most important myth to debunk for Dr. Canter was the myth that hard work alone is enough to ensure career success. Related detrimental myths include: the idea that mentors would be as interested in your career advancement as you are, that IQ alone (and not attention to EQ, or interpersonal skills) could get you ahead, and that performance feedback is unimportant. Dr. Canter explained how women rely on these myths to trust that they will be rewarded for their work or talent, but when it comes to getting ahead, there is no substitute for self-confidence, focusing on advancing your own career or prioritizing your own career advancement in your daily life through small measurable steps toward your goals.

To help women manage their career ambitions and as an avenue for guiding their focus onto their careers, Dr. Canter had plenty of great tips and tools. She encouraged women to keep track of their accomplishments with an “Accomplishment Log” of quantifiable achievements. This kind of log can help boost confidence and facilitate making the case for yourself when seeking to move forward, whether in the form of an updated resume, a performance review or asking for a specific assignment. “Nothing speaks for itself,” Dr. Canter said, as she encouraged women to ask—for feedback, for recognition and for promotions. She advised women to use their calendars to ensure they prioritize getting these necessary things done, to pencil them in as they would any other job-related or personal appointment. As part of the program, Dr. Canter had attendees write out their long-term career goals, how they planned on expanding their skills and value over the next year and how they planned on expanding their skills and value over the next three years.

Participants were then asked to brainstorm one small step they could take in the next two weeks to accomplish their goals. The crucial takeaway from the presentation, aside from the great tips, was that more than anything, for women, a critical step in ensuring their advancement is making it a priority in their lives—to focus less on their jobs, and more on their careers. In short, Dr. Canter encouraged women to “woman up!” when it comes to their own career success.

Stephanie Kammer (stephanie.kammer@phila.gov), assistant city solicitor for the City of Philadelphia, is an associate editor of the Philadelphia Bar Reporter.
How will foreign relations evolve under the new U.S. presidential administration? That question, viewed through the lens of the U.S.-Korea relationship, was the topic of discussion at a recent event sponsored by the Philadelphia Bar Association’s International Law Committee, Pepper Hamilton LLP and the Institute for Corean-American Studies (ICAS).

The Oct. 5 panel featured a delegation from the Republic of Korea, including Chong Wook Chung, vice chairman of the Presidential Committee for Unification Preparation (PCUP) and former ambassador to China. Established in 2014, PCUP is tasked with forging national consensus and making preparations for unifying North and South Korea.

Part of PCUP’s mission is to seek support for unification from the international community, and one issue that Chung identified as being important to the U.S. is North Korea’s growing nuclear and ballistic missile capability.

“I would not be surprised if North Korea has the capacity to strike the continental United States before the next president steps down in 2021. The new U.S. president will face a fundamental security challenge from North Korea, and South Korea and the U.S. will have to work together,” he said.

Chung then introduced Professor Jaechun Kim from Sogang University, who discussed the progression of the U.S.-South Korea relationship. He said that changing leadership will prove trying for the alliance, particularly after burden-sharing became a hot topic in the U.S. election.

Kim said that, despite comments to the contrary, the U.S. is not shouldering the financial burden alone. Rather, South Korea is paying 52 percent of the cost of stationing U.S. forces in the country, and that number has been increasing. When factoring in indirect costs, South Korea’s share increases to 65-75 percent. The relationship provides benefits to the U.S. that outweigh its costs, he said. In particular, the alliance promotes U.S. interests in Asia, a strategically important region and one that has experienced uncertainty with the rise of China. Kim also echoed Chung’s comments on the dangers posed by North Korea and the importance of banding together to address the threat.

“The North Korea threat is not just a threat to South Korea,” Kim said. “What better way to deter North Korea than by utilizing the Republic of Korea-U.S. alliance?”

Jong-Hoon Kim, former minister for trade, next spoke about his work on the South Korea-United States Free Trade Agreement. He noted that the agreement faces an uncertain future under a new U.S. administration. “Korea as a country is apprehensive about the emotions being expressed by future U.S. leaders about free trade,” he said.

Despite anti-free trade sentiment, Kim said the South Korea-U.S. agreement has been beneficial for both countries. In 2011-2015, world trade decreased, but Korea-U.S. trade increased for goods and services. Further, Kim said that the free trade agreement is not the cause of the U.S. trade deficit. While Korean imports of U.S. goods are down 1.2 percent, that decrease is far lower than the drop in Korean imports from other countries (down 16.8 percent), and the U.S. deficit with other trade partners is even more significant.

Erin Murphy (murphye@pepperlaw.com) is a marketing writer and editor at Pepper Hamilton LLP.

Chong Wook Chung, vice chairman, Presidential Committee for Unification Preparation and former ambassador to China for the Republic of Korea, spoke to the members of the International Law Committee, attorneys from Pepper Hamilton LLP and members of the Institute for Corean-American Studies at Pepper Hamilton on Oct. 5.

Photo by Erin Murphy
New Section Award Honors Youth Court Participants


The Philadelphia Bar Association’s Workers’ Compensation Section is pleased to announce the recent creation of the Philadelphia Bar Association Workers’ Compensation Section Educational Outreach Award. The establishment and implementation of this new award was a joint venture between the Section’s Diversity and Inclusion and Community Service and Charitable Events subcommittees. The award was created to promote the development of middle and high school students who exhibit excellence, have an interest in the legal field, and who have participated in their schools’ youth court programs. The Section is thrilled to announce and introduce the first two recipients of this award, Phedora Jean-Philippe and Heather Kodhelaj.

Both Phedora and Heather have already achieved much in their young lives, not only academically, but also through their respective internships with Hon. Sierra Thomas Street and Hon. Teresa Sarmina, Philadelphia Court of Common Pleas.

In the summer of 2016, Phedora, a ninth-grade student at Franklin Learning Center High School, interned with Judge Thomas Street. She was selected to receive the Educational Outreach Award for her intelligence, enthusiasm and newfound passion for the Philadelphia legal community. Despite her young age, she thrived in her internship, and impressed those she met. Judge Thomas Street found her to be “mature and well poised,” and a pleasure to work with as an intern.

Heather is an eighth-grade student at A.M.Y. at James Martin School, and she interned with Judge Sarmina over the summer of 2016. Judge Sarmina was not expecting to host an intern as young as Heather. However, the judge and her staff found Heather to be inquisitive, smart, and engaging — a “breath of fresh air.” Heather’s drive and commitment impressed Judge Sarmina and were the primary factors for her nomination and receipt of the award.

Through their internships, both recipients had the opportunity to learn about the legal system first-hand, witnessing hearings, trials and the behind-the-scenes work that goes on in the Philadelphia legal system.

Phedora and Heather also participated in the youth court program as jury members and student representatives in their schools, and it was through the program that these students earned their internships. Youth court is a program that provides an alternative to formal education.

Halloween Happy Hour at Finn McCoool’s Benefiting Women Against Abuse Oct. 27

The Workers’ Compensation Section’s Charitable Events and Community Service sub-committee hosted a Halloween Happy Hour at Finn McCoool’s on Oct. 27 to raise money for Women Against Abuse. Attendees were encouraged to dress up in their Halloween finest for the occasion. The Section raised more than $1,300 at the happy hour. The event was sponsored by ExamWorks.

For more information on placing a Lawyer to Lawyer referral ad, please contact LANA EHRLICH at 215-557-2392 or lehrlich@alm.com.
The Benefits of Participation

By Steven E. Bizar

This is a month of endings. It is the month when the Philadelphia Bar Foundation conducts its final fundraising event of the year—the Individual Giving Campaign. It is the month when we make our grants. This is also the month for my final article for the Philadelphia Bar Reporter as president of the Philadelphia Bar Foundation and its board of trustees. In January 2017, my close friend, Tom Brophy, takes over. The passing of this torch, while necessary and appropriate, is bittersweet. It is a reason for personal reflection on the more than 10-year journey that has brought me to this point. Most important, it is an opportunity to reflect on the benefits of participation—and I do not mean simply the benefit for others of one’s participation in an organization like the Foundation—which is right dedicated to promoting equal access to justice for the many disadvantaged members of our community. Rather, quite selfishly, I mean the benefit to me from my involvement with the Foundation.

When I was invited to join the Foundation board more than 10 years ago, I felt all of the emotions one might expect to feel when embarking on a new endeavor: excitement at the opportunity to make a difference; eagerness to plunge into a new organization and meet, befriend and learn from my new colleagues. I was impressed by the lawyers who had interviewed me for the board: Elaine Rinaldi, Amy Ginensky, Wendy (now U.S. District Judge) Beetlestone, and Deborah Gross. Each of them was a leader who had devoted considerable effort advocating through the Foundation and otherwise for those facing discrimination and difficulty securing their legal rights. I figured they and the other board members would show me the ropes and I would be able to make a difference. I’d find a way—through effort and dedication—to help the Foundation accomplish its mission of ensuring equal access to justice. I hoped to have an impact on the legal community and the city—to do something bigger than myself. While I thought I might be able to use the opportunity that participation on the board would afford me to broaden my circle of business contacts, I was mostly focused on doing something positive for the community in which I live and work, and where my wife and I were raising our family.

My time on the Foundation board, and particularly the last four years as vice president and president, gave me all I could hope for and more. But as my term as president draws to a close, I have come to realize that whatever little I may have accomplished in our community, is dwarfed by the benefits I have reaped from the experience of participation. I have gained a circle of friends with whom I share a common vision—that together our efforts can help those less fortunate to have access to the legal services they and their loved ones need to survive and perhaps even to thrive. Working together to support the Foundation’s fundraising initiatives and the development of a robust set of programs and fellowships has at times felt like working on my cases; I have experienced a sense of camaraderie and teamwork that I found both gratifying and sustaining. In short, I have developed friendships that I look forward to maintaining long after my term as president, and my ongoing service on the Board, has come to an end.

At the same time, I have honed through Board service a valuable set of skills and learned new skills from some of the best lawyers and leaders in this town: how to run meetings efficiently; how to fundraise in difficult fundraising environments; how to handle difficult and sensitive, politically-charged issues; how to make principled decisions about who should receive grants; how to launch innovative programs (like the Board Observer Program); how to involve the judiciary in our cause without running afoul of ethical rules; how to advocate for those without a voice—to name just a few. I literally have had the opportunity to collaborate with the masters: law firm leaders, judges, Philadelphia Bar Association Chancellors, leading lights of the legal public interest community, city officials, law school professors, fellow trustees, other professionals, and the tremendous staff we have assembled at the Foundation. Each of them has shared with me their gifts and insights, helping me to add to my repertoire. I hope to carry the skills I have learned from these extraordinary individuals with me as I continue my career.

Perhaps most significantly, my work on the Foundation board—and as its president—has given me perspective. I see better how privileged many of us are to be members of a learned profession; a profession that allows us to have an impact—sometimes a profoundly positive impact—on the lives of others and on the quality of life in our community. I also have come to appreciate the extraordinary work performed every single day by the Foundation’s grantees. The more than 35 public interest organizations to whom the Foundation makes grants each year are truly awe-inspiring organizations, run by individuals with an unwavering dedication to those less fortunate. They are on the front lines of the most pressing legal and social issues we face, and every day they do more with less than any group of lawyers or individuals I have ever met. Supporting them through our work and fundraising at the Foundation, watching them exchange ideas and collaborate on the Association’s Delivery of Legal Services Committee, getting to know their leaders and staff and involving them in the Foundation’s work has given me a sense of fulfillment that I will always treasure.

I joined the Foundation board thinking I could perhaps help do some good, but also thinking that I would grow as a lawyer. I have grown much more than I could have hoped or expected. Indeed with the exception of being a husband and father, and of running a successful trial team, few endeavors in my life have brought me the sense of fulfillment I have experienced in this role. So my final message to all of you is to participate, to join the Foundation in its important work, to seek out opportunities for community service, not to fill out your resume but to fill out who you are as a human being. Perhaps you too will experience the same sense of satisfaction and personal growth that I have experienced. Thank you for all of your support.

Steven E. Bizar (steven.bizar@dechert.com), a partner at Dechert LLP, is president of the Philadelphia Bar Foundation.

Donation Opportunity

Contribution to the Philadelphia Bar Foundation shows you care about our justice system and the assistance it provides to the community. With one contribution you are supporting all the public interest legal organizations in the Philadelphia area that serve those who need a lawyer to help them assert their legal rights but who cannot afford one. For more information, please visit www.philabarfoundation.org.

ATTORNEY DISCIPLINARY / ETHICS MATTERS
STATEWIDE PENNSYLVANIA MATTERS
NO CHARGE FOR INITIAL CONSULTATION

Representation, consultation and expert testimony in disciplinary matters and matters involving ethical issues, bar admissions and the Rules of Professional Conduct

James C. Schwartzman, Esq.
• Chairman, Judicial Conduct Board of Pennsylvania
• Former Chairman, Disciplinary Board of the Supreme Court of Pennsylvania
• Former Chairman, Continuing Legal Education Board of the Supreme Court of Pennsylvania
• Former Chairman, Supreme Court of Pennsylvania Interest on Lawyers Trust Account Board
• Former Federal Prosecutor
• Selected by his peers as one of the top 100 Super Lawyers in Pennsylvania and the top 100 Super Lawyers in Philadelphia
• Named by his peers as Best Lawyers in America 2015 Philadelphia Ethics and Professional Responsibility Law “Lawyer of the Year,” and in Plaintiffs and Defendents Legal Malpractice Law

1818 Market Street, 29th Floor • Philadelphia, PA 19103 • (215) 751-2863

PhiladelphiaBar.org
Big M&A Deals Down, Though Core Still Thriving

By Stephen B. Heimann

In 2016, several large M&A deals were withdrawn or terminated, but the core of the M&A market – deals in the $1-10 billion range – remained robust. Companies continue to seek top-line growth through acquisitions in the face of weak organic growth and persistent low interest rates. The market is currently rewarding large strategic deals, even at high premiums.

The Business Law Section’s Mergers & Acquisitions and Venture Capital and Private Equity Law Committees hosted a CLE program titled “M&A Markets and Economy Updates” at Reed Smith LLP on Oct. 13, 2016. The panelists were Niraj Shah and Sameer Singh, managing directors, Citi; and Owen Ellsworth, director, Citi Private Bank.

Shah and Singh, who focus on M&A in the industrial sector, gave an update on the domestic and global M&A markets. They observed that 2016 had seen a decrease in completed M&A deals from the record high in 2015, when lack of organic growth, the expectation of increased regulatory pressure, and many inversion deals drove M&A activity.

The healthcare and financial sectors saw a marked decrease in deals. European activity also decreased, due largely to Brexit, with U.K. companies losing attractiveness as their potential loss of access to the European market outweighed the decreased value of British currency. Chinese outbound M&A in Europe and the U.S. has dramatically increased in recent years, though. Japanese CEOs and South Korean companies also have showed increased interest in acquisitions.

In Chinese deals, getting an up-front escrow is critical, since specific performance is not available in China. Financing can be dicey with Asian companies, so financing due diligence should be conducted early and thoroughly. Passing through the Committee on Foreign Investment in the United States (CIFIUS) is a lengthy and complex process, so CIFIUS counsel should be engaged early. Asian acquirors normally resist breakup fees tied to regulatory denials or other circumstances outside their control. When negotiating a deal with an Asian company, maintain regular contact with the key decision maker, since mid-level deal personnel normally do not know a CEO’s thinking or strategy.

Shareholder activism has become a major force in transactions. C-suite executives must be aware of this and should consider developing a defense strategy. But activist-focused hedge funds took a hit in the market correction during the first quarter of 2016, and have become more cooperative with management, often taking a consultative, rather than hostile, position.

Ellsworth concluded with an overview of smaller deals and holdback trends. Deals up to $200 million have seen the same market trends as larger deals. Holdback/escrow periods tend to be about 12-15 months. Holdbacks for deals under $100 million are trending at 12-15 percent of the purchase price, up from the historical average of 10 percent, with cross-border deals accounting for much of the increase. Deals in the $150-250 million range have holdbacks of about 2 percent, though cross-border strategic deals see 5-7 percent holdbacks. In hedge fund/financial deals, protection is normally obtained through reps/warranties. Citi has seen claims against about 20 percent of its holdback escrow accounts, usually related to financial statement issues, taxes and litigation.

PHILADELPHIA BAR ASSOCIATION CLE - BUSINESS LAW SECTION

Tips for Success: Motioning for Summary Judgment

By Annie Kernicky

Whether on the plaintiff or defense side, trial attorneys who practice in federal court must grapple with summary judgment motions. Although each judge’s specific preferences on summary judgment motions vary, Federal Rule of Civil Procedure 56 sets the ground rules for how judges can dispose of cases without a trial. The Federal Courts Committee hosted an informative CLE on Oct. 19 featuring Hon. Michael M. Baylson, Senior U.S. District Court Judge for the Eastern District of Pennsylvania, titled “Best Practices in Litigating Summary Judgment Motions.” The panel also included Lane Schiff, attorney, Console Law Offices, LLC, representing the plaintiff’s side, and Lindsay L. Vest, associate, Curley, Hurtgen & Johnsrud LLP, from the defense side. The panelists discussed their views on the best practices in litigating summary judgment motions, as well as the development of Rule 56.

Judge Baylson began by noting that summary judgment motions are often a controversial topic among attorneys, particularly in employment cases, and are generally a popular topic with defense attorneys because most summary judgment motions are filed by the defendant. Judge Baylson was a member of the Advisory Committee on Civil Rules of the Judicial Conference of the United States and chaired the Rule 56 Subcommittee that led to an updated Rule 56, which took effect in 2010. From Judge Baylson’s perspective, the major impact of the 2010 revision is that the moving and/or contesting party must clearly articulate parts of the record upon which counsel is relying. Although the standard for granting summary judgment did not change, the 2010 updated Rule changed the procedures for presenting summary judgment motions and made the procedures more consistent with those already used in many courts, according to the advisory committee’s notes. In his individual practice rules, Judge Baylson requires the moving party to set forth in numbered paragraphs facts that are undisputed, with citations to the record, and then requires the responding party to cite countervailing record evidence, paragraph by paragraph, to dispute any asserted fact.

Hon. Michael M. Baylson, Senior U.S. District Court Judge for the Eastern District of Pennsylvania (center, left); Lindsay L. Vest, associate, Curley, Hurtgen & Johnsrud LLP (center); and Lane Schiff, attorney, Console Law Offices, LLC (center, right); with Leslie A. Mariotti (left) and Michael A. Morse, co-chairs, Federal Courts Committee, at the CLE on Oct. 19.

Vest said as a defense attorney that in almost all cases she strongly favors filing a summary judgment motion, whether it is full or partial. Her goal from the first pretrial proceeding is to narrow issues quickly.
File for Review If Client’s Claim Comes Under Question

By Regina M. Parker

Under the Pennsylvania Workers’ Compensation Act, an injured worker is entitled to payment of medical expenses. However, the insurer-employer is not obligated to pay for medical treatment if such treatment is not reasonable, necessary or directly related to the work injury. Payment of medical bills can be denied or limited by way of utilization review or medical fee review, panel members told attendees during the Oct. 14 Workers’ Compensation Section CLE program titled “Fee Reviews and Utilization Reviews-An Overview of What You Need to Know.”

The panel explained that after providing treatment for a work injury, the provider is required to submit bills to the insurer on the appropriate forms and attach supporting documentation such as office notes. The insurer is not obligated to pay for treatment if bills are not properly submitted.

Saylor said that if an issue arises regarding the reasonableness or necessity of medical treatment, the parties can file a Request for Utilization Review (UR) to address this issue. A UR must be filed within 30 days of receipt of a medical bill.

After a UR request is filed, the carrier’s obligation to pay for the treatment under review is stayed, pending the outcome of the UR. An independent Utilization Review Organization (URO) will be assigned by the Pennsylvania Bureau of Workers’ Compensation to address the reasonableness or necessity of the treatment under review. Saylor also said that if the URO determines that all or part of the treatment is unreasonable or unnecessary, the employer will be relieved of the obligation to pay all or part of the medical bill. If all treatment is found reasonable, the insurer must pay for all treatment. Either party can appeal the determination to a Workers’ Compensation Judge (WCJ) for de novo review. On appeal, the insurer bears the burden to establish that the medical treatment is not reasonable or necessary.

Unlike the utilization review, the medical fee review is driven by and filed by medical providers. Donan pointed out that in addition to doctors and hospitals, a medical provider can include physical therapists, pharmacy, durable medical equipment or trauma centers. Unlike the UR process, Donan explained that in fee review situations, the treatment is presumed to be related to the work injury. The only issues that are going to get decided are the amount and timeliness of the payment of the medical bill. From the provider’s standpoint, the best-case scenario is that all bills will be paid in full. Typically, this is not the case. Donan said that if the insurer does not pay a bill or submits partial payment of a bill, the medical provider has the right to file an Application for Fee Review with the Bureau of Workers’ Compensation which must be filed within 30 days following notification of disputes concerning the bill or 90 days following the original billing date, whichever is later. Donan cautioned that if the provider misses the 90 days, the statute of limitations is blown. In such instance, the only way to get a bill reviewed would be in cases where the insurer submits partial payment somewhat later. This gives the provider an additional 30 days from the partial payment to request review.

The Bureau of Workers’ Compensation is permitted to deny a fee review based on amount, timeliness or based on down-codes. In either case, the insurer and provider have the right to take an appeal. Appeals from these administrative decisions are assigned to a hearing officer for a de novo proceeding. The insurer bears the burden of establishing by a preponderance of evidence that it properly reimbursed the provider.

The panel cautioned both the parties and providers to be mindful of deadlines involving UR and fee reviews.

Regina M. Parker (rparker@tthlaw.com), partner at Thomas, Thomas & Hafer LLP, is an associate editor of the Philadelphia Bar Reporter.

CLE Topic Idea?
To submit a topic idea for a CLE course or volunteer to be a course planner or presenter, contact Director of Continuing Legal Education, Tara D. Phoenix, at 215-238-6349 or tphoenix@philabar.org.
Expungement

In the weeks leading to the clinic, YLD members Meghan Claiborne and John Coyle, who spear-headed the clinic, along with other YLD members, attorneys and law students, pre-screened applicants to determine if they would qualify for a petition. Among the more than 1,800 who applied, it is estimated that more than 1,200 will have petitions filed on their behalf. Prior to the clinic the Association and Duane Morris LLP hosted four hour-long Philadelphia Bar Association CLE trainings by attorneys at Community Legal Services. This training, free for volunteers, taught them how to process the petitions for expungement or sealing of the record. However, filing of the petitions is only step one. Step two will occur over the coming months and will include attorneys attending hearings on behalf of individuals whose petitions are challenged by the court.

As a volunteer at Point Breeze’s Vare Recreation Center location I got to see, first-hand, how much of an impact this clinic had on these individuals. It made me proud to be a part of the Association and truly gave meaning to the city we affectionately refer to as The City of Brotherly Love.

Emily Ashe (eashe@anapolweiss.com) is an associate at Anapol Weiss.

CLE Topic Idea?

To submit a topic idea for a CLE course or volunteer to be a course planner or presenter, contact Director of Continuing Legal Education, Tara D. Phoenix, at 215-238-6349 or tphoenix@philabar.org.

Summary Judgments

From the plaintiff’s perspective, Schiff noted that filing a summary judgment motion is very rare. Schiff explained that, as the non-moving party, he also prefers a paragraphed statement of undisputed facts because he thinks it is a good way to display discrepancies between the parties, and tends to show there are a number of disputed facts. If a fact is cited to the record and there is not a disputed fact on the record, Schiff will use an affidavit from the plaintiff. Judge Baylson noted that the moving party should almost always submit an affidavit, but that does not happen as much as it could, he said. The affidavit should not, however, be a reiteration of what is in the party’s brief or contradict deposition testimony, Judge Baylson said.

Annie Kernicky (annie.kernicky@flastergreenberg.com), associate at Flaster/Greenberg, is an associate editor of the Philadelphia Bar Reporter.

Member Benefit: PAR-Recycle Works

PAR-Recycle Works is a 501c3 nonprofit social enterprise that hires citizens who returned to our community after imprisonment to recycle used electronics. PAR-Recycle Works’ mission is two-fold – working to restore the lives of returning citizens by providing them with job training and transitional paid employment in a supportive environment while protecting the planet by assuring that valuable e-waste is re-used and re-purposed.

PAR-Recycle Works collects servers, desktop computers, laptops, PCs, printers, scanners, tablets, cell phones, telephones, keyboards, fax machines, DVD players, VCRs, chargers and more. Please note they do not accept TVs or CRT monitors. PAR-Recycle Works offers a pick-up service for all items at no cost to you.

PAR-Recycle Works is a first-level processing center for used electronics. Their workers deconstruct the items they receive and then separate them into their major components. They erase all data from hard drives and then sell the components to environmentally responsible downstream processors. The money received for these materials is used to create paychecks for its employees.

For more information and to view a three-minute video on PAR-Recycle Works, visit the Member Benefits page at PhiladelphiaBar.org. PAR-Recycle Works is located at 342 E. Walnut Lane, Philadelphia, Pa. 19144.
Kazaras Resolution
continued from page 1

position as assistant executive director of the Philadelphia Bar Association as of Dec. 31, 2016, with plans to pursue teaching and other interests within the law, and to continue to be an important presence in the field of legal ethics.

During his 15 years as assistant executive director, Kazaras was deeply appreciated and respected by all Chancellors; other Association officers; Board of Governors Chairs; members of the Board of Governors; and Chairs, Co-Chairs and members of the Professional Responsibility and Professional Guidance Committees of this Association for his wise counsel, sound judgment and exceptional dedication. He has been a tireless and selfless staff leader for these two committees and an invaluable member of the Philadelphia Bar Association staff.

“Paul is an exceptional person, an outstanding and dedicated servant of the Bar Association and the legal community,” said Hon. Denis P. Cohen, Philadelphia Court of Common Pleas.

Kazaras advised the Professional Guidance Committee, in addition to guiding the Professional Responsibility Committee regarding proposed ethics rule changes, and legislative and bar association proposals that may impact the Pennsylvania Rules of Professional Conduct. His time, energy and intellectual commitment to the ethics hotline, and to the members of the legal community who have utilized that outstanding service, is one of the shining hallmarks of the Philadelphia Bar Association.

To view the full resolution, visit PhiladelphiaBar.org.

Annual Meeting
continued from page 1

nately $2 million and averages 1,500 runners each year.

Online election of officers and members of the Board of Governors will also culminate on Wednesday, Dec. 8, at 5:30 p.m. There will be a Help Desk available on the Ballroom Level of the Hyatt at The Bellevue for members who have questions about voting. Officers to be elected are Vice Chancellor, Secretary, Treasurer, Assistant Secretary, Assistant Treasurer and five members of the Board of Governors for three-year terms. Candidates for office are: Rochelle M. Fedullo, Vice Chancellor; Marc J. Zucker, Secretary; Regina M. Foley, Treasurer; Jennifer S. Coatsworth, Assistant Secretary; Natalie Klyashchorny, Assistant Treasurer; Hon. Mark B. Cohen, Katayun Jaffari, Michael Mattioni, Hon. Sandra Mazer Moss (Ret.), Maureen M. Olives, Amber M. Racine and Jennifer L. Seme, Board of Governors (elect five).

Philadelphia Bar Association Annual Meeting Luncheon

Wednesday, Dec. 7, 2016 at 12 p.m. at Hyatt at The Bellevue, Broad and Walnut Streets

• Featuring inaugural remarks by Chancellor-Elect Deborah R. Gross
• Presentation of PNC Achievement Award to Jay G. Ochroch and Manny D. Pokotilow
• Introduction of Kyoung Williams, winner of Justice Ruth Bader Ginsburg “Pursuit of Justice” Legal Writing Competition

Please make reservations for the Philadelphia Bar Association’s Annual Meeting Luncheon. Tickets are $65 for members; $55 for YLD members, public interest and government members; $25 for law student members; and $75 for non-members. Checks should be made payable to the Philadelphia Bar Association.

Name: ___________________________________________________
Firm/Employer:  _____________________________________________
Address: _________________________________________________
_______________________________________________________
Phone: ___________________________ Fax: ____________________
E-Mail: ___________________________________________________

Credit Cardholder: ___________________________________________
_____ Visa   _____ MasterCard   _____ American Express
Card number: ______________________________________________
Expiration date: ____________________________________________
Signature: ________________________________________________

Return to:
Annual Meeting Luncheon
Philadelphia Bar Association
1201 Market St., 11th floor
Philadelphia, PA 19107-2955

Purchase tickets by credit card online at PhiladelphiaBar.org
PRO BONO SPOTLIGHT - LEGAL CLINIC FOR THE DISABLED

Overcoming Obstacles With Morgan Lewis

By Lauren E. Ridley

Morgan, Lewis and Bockius LLP is a proud pro bono partner of the Legal Clinic for the Disabled (LCD). Through LCD, our lawyers represent individuals with physical disabilities in a variety of legal actions, including landlord-tenant disputes, ejectment proceedings, and Social Security disability appeals. Morgan Lewis volunteers also assist with client intake at the Riverfront, Magee’s outpatient rehabilitation facility. This partnership provides us with challenging, yet rewarding, opportunities to help disabled individuals, and allows us to develop meaningful and lasting relationships with our LCD clients.

In a recent project, I was able to represent a young man seeking Supplemental Security Income (SSI) benefits. My client had extremely limited mobility as a quadriplegic, having been injured in a violent incident, with a prognosis of limited to no functionality of his lower extremities for the rest of his life. He applied for SSI benefits on his own in 2014 and was initially denied. His later attempt to appeal this rejection failed when he was unable to connect with the Social Security Administration (SSA) in a timely manner due to an unstable housing situation. Thankfully, my client was introduced to LCD in 2016 as a patient at Magee Rehabilitation Hospital. Shortly thereafter, LCD teamed up with Morgan Lewis to begin our representation—we would provide benefits assistance, and LCD would provide housing support.

Because he, the client, had such limited mobility and unstable housing—staying with friends if he could—the two of us were only able to meet at his monthly Magee appointments to review and sign appropriate paperwork. Through LCD’s connection, Magee accommodated us so that we could talk in private rooms for an unlimited amount of time. He and I also remained in constant contact through phone calls and texting, despite his limited hand mobility—a true benefit of technology.

Moving through the SSA system and gathering his medical information quickly proved to be difficult, and the pressure mounted as he faced impending homelessness. Regardless of these challenges, LCD and I continually assisted one another to utilize our collective experiences. Eventually, we gathered all the evidence required and submitted an “on-the-record decision,” more than two months ahead of his scheduled hearing.

Within five days of submitting our application, SSA approved my client for SSI benefits, with retroactive payments owed back to 2014. While he awaits the start of his SSI payments, LCD and I are in the process of helping him secure public housing and set up a special needs trust for his SSI benefit payments.

My client’s constant optimism, gratefulness, and smile remind me of the pride we can take as lawyers in helping those who cannot help themselves. We have the capacity to serve those who are less fortunate, and in doing so, my practice has truly been more fulfilling.

Lauren E. Ridley (lauren.ridley@morganlewis.com) is an associate at Morgan, Lewis and Bockius LLP.

If you are interested in learning more about pro bono opportunities through the LCD or know someone that could benefit from the LCD’s services, please contact Esther Miller, managing attorney, at emiller@lcdphila.org or 21-597-3357.

Lauren E. Ridley (lauren.ridley@morganlewis.com) is an associate at Morgan, Lewis and Bockius LLP.
If you’re investing for the long-term you likely are going to encounter a bear market at one time or another, given the cyclical nature of today’s financial markets. For this month’s interview, I sat down with John Song, senior investment advisor with PNC Wealth Management to explain how investors can position themselves to survive a bear market.

Mary Ashenbrenner (MA): Is there anything investors can do to prepare themselves for a sudden market downturn?

John Song (JS): Market volatility is often a result of uncertainty; and when you take into consideration the global nature of 2016 markets, uncertainty isn’t hard to find. Slowing growth in China, soft economies in Europe and Japan and even terrorism alerts have each contributed a bit of uncertainty to 2016. One key to weathering these challenging environments is in the planning. The S&P 500 has historically experienced a bear market about once every 2.5 years, which is why asset allocation is so important for all investors.

MA: How does proper asset allocation help to mitigate downside risk?

JS: Asset allocation is at the heart of investing. Just like you shouldn’t head off into the woods without a map, you shouldn’t construct a portfolio without clearly defined goals, objectives and an understanding of your tolerance for risk. In fact, the very act of building a sound asset allocation strategy can help mitigate some of the uncertainty that comes with a bear market. If you know your plan was mapped for the long-term and recognize volatility is likely to occur along the way, it can help reduce the impulse to make a reactionary decision when the “bear” shows its face.

MA: How often should investors rebalance their portfolios to keep them in line with their plan?

JS: Once your “map” has been drawn, check your footing systematically. Yearly rebalancing is wise to accommodate changes in personal risk tolerance and market environments. If changes in market prices have caused your portfolio to veer from its original path, the impact could carry through to longer-term goals.

MA: Is it ever appropriate for investors to deviate from their original plan?

JS: While you might adapt some portions of your asset allocation based on market conditions, it may not be wise to change investment plans based solely on the market. Consider this: The S&P 500 hit a peak in October 2007 at 1,576 and bottomed out in March 2009 at 667 – a decline of approximately 58 percent. However, before the economy even began its recovery, stocks began to rebound. In February 2016, the S&P reached 1,950 — almost 200 percent of the lowest index value from 2009. Investors who sold stocks and moved to cash holdings during this period would now be behind on performance. And even worse, investors who sold out near the bottom may have lost so much of the rebound opportunity that their net worth could be permanently impaired. It’s a stark reminder of the importance of staying invested and trusting your investment strategy; rather than letting the “bear” dictate your path through the woods.

MA: Could alternative investments help to offset losses during a bear market?

JS: For qualified investors, alternative investments such as hedge funds, private equity, or real estate, could help reduce downside risk in the event of a “bear” encounter, while helping to meet or exceed your total expected return. However, there is a caveat. Historically, alternatives highly correlated to traditional assets do little to improve a portfolio’s efficiency during market downturns. The benefits of adding alternatives to your asset allocation come from adding specific alternatives that have lower correlations to one another and low correlations to traditional assets. At that point, alternatives could help increase your overall portfolio diversification, potentially offering a degree of protection.

MA: How can investors avoid the strong urge to sell once they sense a downturn approaching?

JS: When you do come face-to-face with a bear market, the best advice is shockingly similar to how you should react if suddenly confronted by a real bear in the woods. Simply put, don’t panic. By staying calm and sticking to your investment strategies, you can avoid the urge to panic-sell and better position yourself to capitalize on the recovery that may follow.

Mary E. Ashenbrenner (maryashenbrenner@pnc.com or 215-585-1041) is a senior vice president with PNC Wealth Management.
Attorneys are often asked by family members and friends to handle matters that are outside their area of practice, or AOP.

It is often difficult to say no to such requests, but there are some compelling arguments against dabbling in unfamiliar areas of practice, the main ones being the increased risk of an ethical violation, malpractice claim and substantially higher insurance rates. Some experts estimate that more than 50 percent of malpractice losses occur outside an attorney’s primary area of practice.

The Area of Practice Factor

One of the main factors that affects the pricing, underwriting and procurement of lawyers professional liability (LPL) insurance is what is known as AOP factor. While insurance companies are aware that certain legal areas of practice generate more claims than others, most attorneys may not appreciate the dramatic effect that their AOP has on the pricing for the LPL insurance for their firm.

Plaintiff personal injury firms consistently report more claims on a per attorney basis than defense firms, and the higher frequency of claims that comes with personal injury law drives higher LPL insurance pricing, and if a personal injury law firm handles more than 50 cases per attorney per year, that can be a read flag in the eyes of many LPL underwriters.

You Don’t Know What You Don’t Know

Many LPL underwriters consider the perfect law firm to be one that focuses on smaller, less complex risks, preferably all within the same AOP. If something does go wrong, the resulting damages may not be as severe and because of specialization, the firm will have developed a history of expertise and systems designed specifically to handle the demands of that particular AOP.

Generally, the more complex the matters being handled, the higher the payouts by LPL insurers when something goes wrong. Worse yet, lawyers who routinely take cases out of their typical practice area are treading on an even more slippery slope – after all, you don’t know what you don’t know.

To learn more about LPL coverage, contact Jenny Shazes at USI Affinity today at (610) 537-1456 or jenny.shazes@usiaffinity.com.

For more information about insurance, visit the Philadelphia Bar Association Insurance Exchange at www.usiaffinityex.com/PhiladelphiaBar. For Lawyers’ Professional Liability and other business coverage, you can continue to visit the regular Philadelphia Bar Association Insurance Program website at www.mybarinsurance.com/PhiladelphiaBar. If you’d like to talk to someone about insurance and benefits options for Philadelphia Bar Association members, call USI Affinity Benefit Specialists at 1-855-874-0267.

For over 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. As the endorsed broker of the Philadelphia Bar Association and more than 30 other state and local bar associations and with more than 30,000 attorneys insured, USI Affinity has the experience and know-how to navigate the marketplace and design the most comprehensive and innovative insurance and benefits packages to fit a firm’s individual needs.
Wm. Mulherin’s Sons: Reincarnation of Chris Painter

By Lee A. Schwartz

Chef Chris Painter was last preparing his culinary works of art at Il Pittore, part of the Stephen Starr lineup of restaurants. When that closed, a great restaurant and one of the most thoughtful wine lists in Philadelphia, closed forever. It was a sad day.

But glory be, Chris Painter has risen again! The executive chef from Il Pittore is now the owner of Wm. Mulherin’s Sons in the Fishtown neighborhood of Philadelphia, where he serves a truly eclectic combination of foods from around the world, from pizza and small plates to brunch and main dinner courses, that are simply as good as food gets in Philadelphia; and, the wine list is a thoughtful and lengthy collection, from Eastern and Western Europe as well as America, of approachable wines.

Wm. Mulherin was of Irish descent and he came to America in 1869, distilling rye whiskey from the very building where the current establishment is located. On a recent Sunday night, my trusted companion and I began with “Billy’s Goods,” a list of wonderful, special wines by the glass. I enjoyed a beautiful Nebbiolo. A wine lover should spend the extra few dollars on wines from this list.

We started with a Speck and Fontina Pizza, six slices of perfectly prepared pizza with caramelized onions and egg, giving this a very creamy texture.

Next, we sampled a “Snack” item off the menu, Seafood Mixto, a tasty bowl of rock shrimp, mussels, octopus and calamari in a parsley, lemon sauce. It was very tasty and fresh. We also had the Hamachi Crudu, four slices of beautiful tuna with pistachios, mint and sweet grapefruit balanced with chilies, to give it a nice sweet/spicy kick. We next ordered the Roasted Cauliflower, a generous helping of cauliflower, with an olive and almond puree combined with raisins. They worked well together. The cauliflower was perfectly blanched and was warm yet firm at the same time.

The pasta was a special, a casavecchia pasta, a three-inch long piece of twisted pasta, coated with Parmesan cheese served with walnuts, mushrooms and chili flakes. It was wonderful.

Beginning to get full, we shared the striped bass entree, served with a celery root puree, brown butter, capers and trumpet mushrooms. My Trusted Companion commented “FABULOUS” after her first bite; it truly was.

Wm. Mulherin’s Son’s is located at 1355 N. Front St., just off of Girard Avenue. The cozy fireplace is surrounded by a couch and a couple of chairs. It is a nice place to hang out with a beer or a prosecco before or after dinner. Service is very smart. Brunch is also served. Do not miss it.

Lee A. Schwartz (Lee@schwartzjordan.com) is an attorney/mediator/collaborative lawyer at SchwartzJordan Law-Group LLC.
### CALENDAR OF EVENTS

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. Luncheons are $9 for members and $15 for non-members, unless otherwise indicated. Register online for most events at PhiladelphiaBar.org. Unless otherwise specified, all checks for luncheons and programs should be made payable to the Philadelphia Bar Association and mailed to Bar Headquarters, 1101 Market St., 11th Floor, Philadelphia, PA 19107-2955.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec. 1</td>
<td>Section and Division Chairs</td>
<td>meeting, 8:30 a.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Labor Law Employment Committee</td>
<td>meeting, 12 p.m., 11th Floor Conference Center. Lunch: $9.</td>
</tr>
<tr>
<td></td>
<td>Real Property Section Executive Committee</td>
<td>meeting, 12 p.m., Ballard Spahr LLP 1735 Market St., 48th Floor, Mattoon Room, Philadelphia.</td>
</tr>
<tr>
<td>Dec. 2</td>
<td>CLE - Canon Law 101</td>
<td>The First Two Thousand Years. 12 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td></td>
<td>Cabinet Meeting</td>
<td>12 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Delivery of Legal Services</td>
<td>8:30 a.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Annual Meeting and Luncheon</td>
<td>12 p.m., Hyatt at The Bellevue, Grand Ballroom, Broad and Walnut streets, Philadelphia. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td></td>
<td>Criminal Justice Section Executive Committee</td>
<td>meeting, 12:30 p.m., 11th Floor Committee Room.</td>
</tr>
<tr>
<td></td>
<td>Public Interest Section Annual Awards Ceremony and Reception</td>
<td>5:30 p.m., DoubleTree by Hilton Philadelphia Center City, 237 S. Broad St., Philadelphia. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td>Dec. 9</td>
<td>Philadelphia Lawyer Editorial Board</td>
<td>meeting, 12 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>CLE-Preparing to Win a Trial and Litigation Trends: Perspectives from Plaintiffs’ and Defense Counsel</td>
<td>9 a.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td></td>
<td>Law Firm Pro Bono Committee</td>
<td>12 p.m., Blank Rome LLP, One Logan Square, 130 North 18th St., Philadelphia.</td>
</tr>
<tr>
<td>Dec. 15</td>
<td>Philadelphia VIP Board Meeting</td>
<td>8:30 a.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Family Law Section Executive Committee</td>
<td>meeting, 12 p.m., 11th Floor Committee Room South.</td>
</tr>
<tr>
<td></td>
<td>Foundation Board</td>
<td>meeting, 12 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>YLD Cabinet</td>
<td>12 p.m., 11th Floor Committee Room. Board of Governors: 4 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Criminal Justice Section Annual Reception &amp; Awards</td>
<td>5 p.m., The Artrium (Crystal Tea Room), 9th Floor, Wanamaker Building, 1 Penn Square East, Philadelphia. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td>Dec. 16</td>
<td>CLE-Cybersecurity: How to Keep the Sky from Falling</td>
<td>9:30 a.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.</td>
</tr>
<tr>
<td>Dec. 19</td>
<td>Public Interest Executive Committee</td>
<td>meeting, 12 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td>Dec. 20</td>
<td>Employee Benefits Committee</td>
<td>meeting, 12:30 p.m., 11th Floor Conference Room South. Lunch: $9.</td>
</tr>
<tr>
<td></td>
<td>Business Law Section Executive Committee</td>
<td>meeting, 12 p.m., 10th Floor Board Room. Education Committee of the Probate and Trust Law Section</td>
</tr>
<tr>
<td>Dec. 21</td>
<td>Immigration Law Committee</td>
<td>12 p.m., 10th Floor Board Room.</td>
</tr>
<tr>
<td></td>
<td>Federal Courts Committee</td>
<td>12:30 p.m., 11th Floor Conference Center. Lunch: $9.</td>
</tr>
<tr>
<td></td>
<td>Legal Line</td>
<td>5 p.m., LRIS offices.</td>
</tr>
<tr>
<td>Dec. 26</td>
<td>Christmas Observed</td>
<td>offices closed.</td>
</tr>
<tr>
<td>Dec. 28</td>
<td>FREE CLE-Cybersecurity: How to Keep the Sky from Falling</td>
<td>9 a.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.</td>
</tr>
</tbody>
</table>

### YLD continued from page 4

largely ignored. The fact that we will be the first American generation not to exceed the prosperity of their parents is hardly covered. I have seen much attention paid to the fact that anyone 26 years old or younger has already spent half of their lives living in a nation at war, or to the fact that veterans of those wars will be Millennials.

The recent presidential election, like every one in which I have been eligible to vote, was between two baby-boomer (or baby-boomer adjacent) candidates. The 2016 candidates were near-perfect archetypes of the two faces of boomers and it is safe to say that when future historians examine your legacy, they will not lead with Woodstock.

If you believe in generations as cycles, mine is the pragmatic, idealistic one that will rebuild America’s institutions (most similar to your parents). You should find a way to support us. One simple way is to cut off the negative narrative about our generation. I hope I have persuaded you this year that we are worth your time.

Erin E. Lamb (elamb@rawle.com), associate at Rawle & Henderson LLP is chair of the Young Lawyers Division.

### Outreach Award

continues from page 8

discipline in a school setting. Students who are to receive disciplinary action are provided with a hearing in front of a group of their peers rather than receiving formal disciplinary action. The offending student will be assigned his or her case to a peer who will present his or her case to a jury of peers. The student receives an apology and a written essay. The youth offending student why the behavior is inappropriate. The Section encourages everyone to learn about the youth court program and discover the positive impact this program has on students.

The Section congratulates Phedora and Heather on receiving their awards.

Caroline E. Diehl (diehld@jebau.com) is an associate at Thomas, Thomas & Hafer LLP; Alexis C. Ousley (aousley@pondlebobsky.com) is an attorney at Pond Lehocky Stern Giordano; Howard A. Rosen (hrosen@pondlebobsky.com) is an attorney at H. Rosen Law, P.C.; Charles Z. Collins (cha-rice_collins@pmagroup.com) is an attorney at the Law Offices of Carol L. Cingranelli; Amit Shukla (asukla@patwtknjury.com) is a partner at Martin Law LLC; and Anish A. Desai (adesai@hermanovs.com) is an attorney at Herman Vol.
Priscilla J. (“Sally”) Mattison, of counsel to Bernard M. Resnick, Esq., P.C., participated in the “Entertainment Law” panel at Lebanon Valley College’s 12th Annual VALE Media Industries Conference.

Jared C. Leon, associate at Dilworth Paxson LLP, was presented with an Adopt Coordinator Award on Monday, Dec. 5 by the Homeless Advocacy Project.

Sharon B. Eckstein, Eckstein Mediation and Conflict Resolution Services, has been elected chair of the Lower Merion Human Relations Commission.


Marc Stephen Raspanti, partner with Pietragallo Gordon Bosick & Raspanti, LLP, was recognized as the recipient of the 22nd Annual Beccaria Award for his contribution to the cause of justice and the advancement of legal education.

David N. Hofstein, a founding shareholder of Hofstein Weiner & Meyer, P.C., was the moderator for a program on ethics in family law at the annual meeting of the American Academy of Matrimonial Lawyers in Chicago.

Josh J.T. Byrne, partner at Swartz Campbell LLC, presented to the Office of General Counsel University on the “Legal Pitfalls of the Technology Age” on Sept. 8.

Kimberly Rice, president/chief strategist at KLA Marketing Associates, presented “5 Steps to Develop a Marketing Mindset” to the New Jersey State Bar Association’s Paralegal Special Committee.

Enid H. Adler has agreed to donate to the Villanova Law Library her personal, extensive and unique collection of historical materials from the International Criminal Court’s inception in 1998 to the present, plus inclusion of future updates.

Bradley D. Remick, shareholder in Marshall Dennehey Warner Coleman & Goggin, P.C., was a featured speaker at the DRI Fire Science and Litigation Conference, held Nov. 16 – 18, in Scottsdale, Ariz.


“People” highlights news of members’ awards, honors or appointments of a community or civic nature. Send news to Thomas E. Rogers, Senior Managing Editor, Philadelphia Bar Reporter, at trogers@PhilaBar.org.

+ THIS IS WHY WE’RE NOT ON THE FRONT PAGE OF THE LEGAL EVERY WEEK

You read about people getting big numbers in personal injury cases. We’re getting those numbers. We’re just not talking about it.

Your referred clients are not just another number to brag about. We treat them like family.

If you have a case you’d like to talk about, call Tom Duffy direct at 215-238-8701.

It is further understood and agreed and made part hereof, that the undersigned, their family and representatives and their attorney(s) shall not comment, either directly or indirectly, on any aspect of this case or settlement to any member of news media, or in any way publicize or cause to be publicized in any news or communications media.

DUFFY + PARTNERS
PHILADELPHIA LAWYERS
55th Floor, One Liberty Place, Philadelphia, PA 19103
215 238 8700 DUFFYFIRM.COM
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 as 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.

Philadelphia’s Employment Lawyers

SIDNEY L. GOLD & ASSOCIATES, P.C.
1835 Market St., Suite 515
Philadelphia, PA 19103
PH: (215) 569-1999 • FX: (215) 569-3870
www.discrimlaw.net