Chancellor-Elect Rochelle M. Fedullo, a partner at Wilson Elser Moskowitz Edelman & Dicker LLP, will share her vision for 2019 at the Association’s Annual Meeting Luncheon on Wednesday, Dec. 5, at the The Bellevue Hotel in Philadelphia.

Shelli Fedullo has infused two decades of Association leadership with energy, creativity and passionate commitment. Collegial and inclusive, Shelli is an engaging, empathetic and accessible leader who inspires and brings out the best in others. With characteristic diplomacy and grace, she brings people together and confronts challenging issues by skilfully building consensus. As 92nd Chancellor, Shelli will be guided by the principle that each member is a valued part of the Association.

Shelli is a litigator and partner with Wilson Elser Moskowitz Edelman & Dicker LLP, which she joined in 1985 following three years as a litigator in the City of Philadelphia Law Department.

A graduate of Temple University, she earned her degree, magna cum laude, in three years and began a first career teaching English at a Philadelphia public high school. Six years later, she became a teacher by day and a student at night, when she entered the evening division of Temple University Beasley School of Law, from which she graduated in 1982.

Highlights of Shelli’s leadership include: chairing the Board of Governors, on which she has served for 10 years, and cochairing the State Civil, Women in the Profession, Medical-Legal and Lawyer Referral and Information and Service committees. She also has twice chaired the Bench-Bar and Annual Conference. Serving our public interest partners, Shelli has been a member of various boards and led multiple fundraising efforts.

Shelli has been married since 1974 to Bill Fedullo, 2014 Chancellor and a private-practice solo practitioner. Their son, Bill, is a third-year student at the University of Pennsylvania Law School and will join White and Williams LLP as an associate in the fall of 2019.

Also at the luncheon, former Justice James J. Fitzgerald III, Supreme Court of Pennsylvania, will be presented with the Justice William J. Brennan Jr. Distinguished Jurist Award, and the PNC Wealth Management Achievement Award will be presented to both David I. Grunfeld, of counsel to Astor Weiss Kaplan & Mandel, LLP, and Ryan A. Hancock, of counsel to Willig, Williams & Davidson. The Association also will honor Bridget Whan Tong, the winner of the 2018 Justice Ruth Bader Ginsburg “Pursuit of Justice” Legal Writing Competition.

The Board of Governors adopted a resolution on Nov. 29 opposing changes in federal regulations that expand the definition of a “public charge” and make it more difficult for lower or middle income families to seek visas or residency within the United States.

The term “public charge” within the context of the Immigration and Nationality Act is a legal concept to determine admissibility to the United States, and individuals deemed to be “public charges” may be inadmissible to the United States. Under current policy “public charge” includes, in relevant part, individuals who are likely to become primarily dependent on the government for subsistence. Also, an immigration official only may consider an immigrant’s current and past receipt of cash assistance (Temporary Assistance to Needy Families, General Assistance, and...
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Frontline

Time to Say Good-Bye and Ask You to Renew Your Membership in the Philadelphia Bar Association

As my year as Chancellor draws to a close at the end of this month, I want to thank the Philadelphia Bar Association staff for their assistance, hard work and dedication to our mission. I also want to thank the chairs of the Sections, Committees and Young Lawyers Division for engaging our members in a multitude of activities and events.

This year, our Sections, Committees and YLD hosted over 150 CLEs with the assistance of our director of CLE, Tara Phoenix, and our CLE program earned The Legal Intelligencer’s Best of 2018 CLE Provider. Our Federal Courts Committee held a sold-out Federal Bench-Bar Conference in June, and we had an excellent turnout of lawyers and judges at the Bench-Bar & Annual Conference in October. During a quarterly meeting held at Bench-Bar, members voted to adopt the amended and restated Association Bylaws, after our Bylaws Committee, chaired by Marc Zucker, conducted a comprehensive review of our Bylaws for over two years.

The Association also hosted four Chancellor Forums and two Take Action Philly (TAP) conventions that focused on topics of interest to our entire legal community:

- Jan. 11 “Black, White and Blue in America: Race and Justice in the 21st Century” (TAP)
- April 4 “#MeToo for Legal Practitioners” (Chancellor’s Forum)
- June 13 “Public Charge: New Threat to Immigrant Communities and our City” (TAP)
- July 16 “What Can and Should Be Done Under the Second Amendment to Curb Gun Violence” (Chancellor’s Forum)
- Sept. 6 “Impact of Technology on the Practice of Law” (Chancellor’s Forum)
- Nov. 1 “The Constitution and Separation of Powers in America” (Chancellor’s Forum)

I attended as many Section, Committee and Division meetings and events as possible and issued several statements that defended the judiciary, promoted the core values that we hold as attorneys and praised the Association’s former Chancellors, Hon. Thomas N. O’Neill Jr., Alan Gordon and Seymour Kurland, after they passed away.

In April, I participated in the 2018 ABA Day in Washington D.C. where local and state bar association leaders lobbied our representatives in Congress to support funding for the Community Legal Services Corporation and preservation of the federal Public Service Loan Forgiveness Program.

I also moved the admission of 20 Association members to the United States Supreme Court at a ceremony in May, and gave a presentation at the National Conference of Bar Presidents in August on the development of and the important role that our Civil Gideon and Access to Justice Task Force has played in our community.

Last year, our Civil Gideon and Access to Justice Task Force commissioned Stout Risius & Ross, LLC, to conduct a study titled “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-Income Tenants,” which was recently released. The study, which has attracted national press coverage, concluded that the City will save approximately $45.2 million annually if it spends $3.5 million annually to provide legal counsel for low-income tenants at risk of eviction.

Our Board of Governors, chaired by Kathy Jaffari, approved eight resolutions this year aimed at improving laws on immigration, incarceration, sentencing, free speech, and right to counsel, opposing a bill giving school personnel access to firearms, and preserving student loans programs.

I am especially proud of the fact that our Board of Governors adopted the Association’s first Strategic Plan, which sets goals for the Association and identifies general strategies for the Executive Director, Chancellor, Board of Governors, and staff to pursue through 2021. In doing so, the Plan provides a framework for them to discuss, collaborate and decide on actions that will implement the strategies and achieve the Association’s goals, which in turn will promote continuity in programming over time.

In addition, the Board approved both the sale of the Association’s art collection, which had been displayed at Jenkins Library for decades and had to find new homes, and a new member benefit, which will enable members to obtain investment advisory services and retirement plans from BPU Investments for a lower cost.

This month, the Association moves into the season when we ask each of you to renew your membership for 2019 and encourage others to join the Association. Anyone who joins the Association now automatically becomes a member for the remainder of 2018 and all of 2019.

I urge you to renew your membership and encourage your colleagues and friends to join the Association. As Philadelphia lawyers, we have an obligation to serve the interests of lawyers, judges and our justice system in Philadelphia. Membership in the Association is the best means for doing so because the Association connects everyone in our legal community and enables them to work together to advance their careers, improve our justice system, our laws and access to justice, defend our core values and serve the community-at-large.

Mary F. Platt (mplatt@finemanlawfirm.com), attorney at Fineman Krekstein & Harris P.C., is Chancellor of the Philadelphia Bar Association.
It is hard to believe that we will soon ring in 2019. Time sure does fly when you are having fun! And fun we had. At the (substantial) risk of omitting something, I nevertheless want to take this opportunity to recap some of the highlights of 2018, which is a year I will never forget as Chair of the Young Lawyers Division.

We continued our proud tradition of service to our community. Through our monthly Legal Line and our annual Legal Advice Live programs, we provided dozens of hours of free legal advice and counsel to Philadelphians. Law Week was again a success, and allowed us to provide important civics education to dozens of school children. We again partnered with Temple to deliver another great installment of the John S. Bradway high school mock trial competition. The YLD organized and participated in expungement clinics. We resurrected People’s Law School, where our volunteers gave of their time and considerable talent to provide free basic legal education. Our members also worked tirelessly to plan, organize, and host another successful fundraiser for the Philadelphia Bar Foundation, raising thousands of dollars to support the Foundation’s critical mission to increase access to justice. This work is essential to who we are, and I am immensely proud of, and forever indebted to, all our members for delivering in a big way in 2018.

We also made strides toward improving our member experience. This year’s YLD-Senior Lawyers Committee mentoring program was a resounding success. The program was so well-received, that we hope launch version 2.0 in the New Year! That’s not all. We cohosted a timely and important CLE program dealing with emerging student loan issues, and our presence was known through a terrific YLD-sponsored CLE at the Association’s 2018 Bench-Bar & Annual Conference. Thanks to the initiative of two of our members, we welcomed the creation of the Large Firm Associate Committee designed to provide an outlet for members to share best practices and enhance the experience of young attorneys in Philadelphia. And, of course, our members enjoyed numerous fun and memorable networking opportunities and happy hours. I can say with confidence that we met our goal of “raising the bar” for our members in 2018.

It was an honor and privilege to serve as your chair. Thank you, one and all, for your visible passion, commitment, involvement and service. Now, let’s keep the momentum. With your continued support, 2019 stands to be our best year yet!

Vincent N. Barbera (barberav@whiteandwilliams.com), associate at White and Williams LLP, is chair of the Young Lawyers Division.

The Young Lawyers Division presented its annual “Bootcamp: Tactics, Tips and Tricks for Law Students and New Lawyers” on Nov. 9. Practitioners and judges were featured on panels on topics from launching a career after law school graduation to advice on trying a case in court.

Top left: Melissa A. Martinez, associate at Saul Ewing Arnstein & Lehr LLP, moderates “You Passed the Bar, Now What: How to Succeed in Your First Year as an Attorney, and How to Gain Experience” with panelists Jamal C. Hill, associate at Morgan Lewis & Bockius LLP (left to right); Mara I. Smith, associate at Montgomery McCracken Walker & Rhoads; Robert L. Ransom, associate at Archer; and Angeliki N. Yannaris, associate at Dilworth Paxson LLP.

Bottom left: Jordan S. Schlossberg, partner at Astor Weiss Kaplan & Mandel, LLP (not pictured) moderated “Advice From the Bench” with panelists Hon. Frederica Massiah-Jackson, Philadelphia Court of Common Pleas; Hon. Paul P. Panepeinto, former Philadelphia Court of Common Pleas Judge; and Peter Divon, director of Dispute Resolution Center & Discovery Court, First Judicial District.
The Inspiring Aspirations of Our Legal Community

By Thomas A. Brophy

I will be stepping down as president of the Philadelphia Bar Foundation on Dec. 31, having completed my two-year tenure. My presidency follows a previous eight years serving on the board of the Foundation in various capacities. Completing one’s tenure in any role, whether it be as president of a law firm or as president of a nonprofit foundation, prompts one to reflect.

I have found my time as a trustee and president of the Foundation inspiring, rewarding and, at times, disappointing. As lawyers working in Center City in a skilled, respected and potentially lucrative profession, it is easy to forget that Philadelphia is the poorest large city in the country, that its poverty is multi-generational and that its poverty deprives too many of the city’s residents of a genuine opportunity to succeed, especially those unable to engage with the legal system.

What is inspiring is the quality of the public interest bar and the various nonprofits that assist the city’s poorest inhabitants to find access to the legal services that they desperately need. During my tenure, I have learned that the public interest bar in Philadelphia is large, multi-faceted, talented and does exceptional things with limited resources.

Meeting those persons whose needs are served by the public interest legal community is empowering. The more one is exposed to these people, whether they are clients of Community Legal Services, HIAS PA, the Support Center for Child Advocates, the Legal Clinic for the Disabled, the AIDS Law Project or one of the other legal service organizations supported by the Foundation, the more one realizes that these people have the same goals as all of us. What they have in common with us is the desire to improve their circumstances and those of their families.

Seeing the impact that access to legal services has on their ability to more fully participate as citizens or residents of Philadelphia is rewarding. Those who have studied the need for legal services know that those needing legal services who are unable to find them, find their lives compromised in multiple ways. An inability to find adequate housing impacts educational opportunities for one’s children. An inability to obtain healthcare compromises one’s ability to work. Fear of deportation discourages residents who are entitled to them, from seeking public services.

Yet, many people diligently pursue help from legal service organizations to improve their lives and are so grateful when their legal needs can be met by one of the public interest legal organizations.

One of the primary functions of the president of the Foundation is to lead its efforts in fundraising. What is disappointing is the difficulty in generating adequate resources for the organizations providing free or low-cost legal services. Over the last 10 years, the Foundation has contributed more than $5 million to the various legal service organizations it supports. However, that is not enough.

In Philadelphia alone, there are more than 10,000 lawyers. A significant number of those lawyers contribute neither time nor money to enhance the ability of the legal service organizations to provide legal aid to the indigent.

The Foundation and the legal service organizations themselves are forced to work very hard to raise money to sustain their efforts. Historically, the Foundation has generated money for grants and for its endowment through events (a golf outing and an Access to Justice Benefit) and through individual and institutional giving. The Foundation’s events to raise money have become increasingly expensive and, with the number of organizations holding such events, have become increasingly competitive. Therefore, this past year we moved to a “Unified Giving” initiative. Under that initiative, law firms pledge to contribute a certain amount of money to the Foundation, independent of an event. The goal is to make law firm support predictable, consistent and inexpensive with the goal of raising more money for the Foundation’s annual grants to legal service organizations by reducing or even eliminating the costs associated with events. This year’s Unified Giving initiative will serve as a baseline on which to build over the next few years.

Hopefully, most of you are familiar, at least in concept, with the Equal Justice Center. The Foundation is spearheading the construction of a building at 8th and Vine streets that would house a significant number of the legal service organizations providing legal aid. Rents for the legal service organizations in the building would be stabilized and below market, enabling the organizations to control their costs. Additionally, they may share a common client-intake system, back-office support, IT and conference rooms, maintaining or reducing costs and enhancing their facilities. Housing these legal service organizations in one location will facilitate access to those legal services by their clients. Ultimately, the Equal Justice Center will become the first place to go for anyone who is in need of free or low-cost legal assistance.

2019 will be an exciting time for the Foundation as we expect to break ground on the construction of the Equal Justice Center. Leslie John, who has served for the last two years as vice president of the Foundation, will take over as president. The Foundation will be well served by her passion for its goals and by the leadership she will bring.

Finally, I would like to thank Jessica Hilburn-Holmes, Laura Powers, Paul Kirk, Cecelia Driscoll, Adrienne Brown and Katerina Krohn for their support and assistance over the last two years. I would also like to thank all my fellow board members for their contributions during my tenure and the many individuals, firms and businesses that continue to support the Foundation. It has been a privilege to have worked with all of you. Thanks also to the executive directors of the 39 legal service organizations supported by the Foundation. Seeing what you accomplish with the resources that you have and seeing your commitment to providing legal aid to those in the city who need it makes me proud to be a lawyer and renew my faith in my fellow human beings.

Thomas A. Brophy (tabrophy@mdwcg.com), shareholder at Marshall Dennehey Warner Coleman & Goggin, P.C., is president of the Philadelphia Bar Foundation.

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Left: Hon. Gerald A. McHugh, U.S. District Court for the Eastern District of Pennsylvania (center), with Amber M. Racine, vice chair, Board of Governors, and Akbar Hossain, associate at Morgan Lewis & Bockius LLP; at the naturalization ceremony at the U.S. Courthouse sponsored by the Philadelphia Bar Association on Nov. 15. Right: Fifty-four people from 29 countries became U.S. citizens at the ceremony.

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PhiladelphiaBar.org
Jury Selection Unpredictable, Often Unconventional

By Brittany Anne Robertson

The 2018 Bench-Bar & Annual Conference featured a variety of CLE courses that veered from the usual format. “Wild World of Jury Selection,” presented by the State Civil Litigation Section on Oct. 12, featured a format that invited audience participation with a series of skits meant to be as informative as well as funny and entertaining.

Dorothy Dugue, a court officer for the First Judicial District of Pennsylvania, opened the program by introducing panelists Hon. Marlene F. Lachman and Hon. Lisa M. Rau, Philadelphia Court of Common Pleas; along with Lee D. Rosenfeld, managing partner at Messa & Associates, P.C.; and James P. Tolerico, State Farm in-house counsel at Robert J. Casey, Jr. & Associates, Jordan Strokovsky, trial attorney at McElldrew Young, served as moderator and “chief skit lawyer.”

During the introductions, each panelist gave a brief description of their goals for jury selection. Judge Lachman and Judge Rau wanted to ensure a fair jury and a base level of respect for the jurors and their time. Rosenfeld said that his goals were “much less lofty” than the judges and, in the context of jury selection, his goal was to “stack the deck” for his client. Tolerico’s goal was to obtain jurors who seemed reasonable, fair and organized, as jury selection is a speedy process.

The fun then began with skits featuring examples of lawyer-juror interactions during jury selection. After each vignette, the audience was asked if they thought the interaction was appropriate, after which the panelists shared their perspectives. The skits covered scenarios involving a lawyer getting too chummy with a juror, a juror expressing discomfort at having their social media profile looked at by an attorney on the case, and a juror with multiple reasons for being unable to serve.

At the end of the program, the panelists took audience questions. One audience member shared an anecdote about being part of the jury selection process himself, and how important it was for lawyers and judges to empathize with jurors and how they may feel with the personal nature of some of the questions.

Judge Lachman said that toward the end of selection, she likes to ask a final question of the jurors to look around and identify anyone they recognize. The final question that Judge Rau said she likes to ask to help streamline the process even further is, “Based on everything you’ve heard so far, is there anyone who cannot be fair?”

Brittany Anne Robertson (brobertson@philabar.org) is the temporary communications associate at the Philadelphia Bar Association.

Reacting to Obstacles for Immigrants, Refugees

By Thomas E. Rogers

Immigration law has always been a busy area of practice, but in recent years, the pace has quickened. While Philadelphia has designated itself a “sanctuary city,” the Pennsylvania counties around it and to the west do not provide the same protections. In addition, authority of immigration judges in proceedings for granting asylum or ordering deportation is being gradually chipped away.


The 2017 travel ban that acted to prevent citizens of seven predominantly Muslim countries from entering the U.S. hit home in Philadelphia. Local immigrant-rights organizations like the ACLU of Pennsylvania and HIAS PA fought the ban in court with some success, but restrictions on immigrants, especially refugees, still exist. The number of refugees seeking asylum in the U.S. has decreased significantly, according to Gansallo, who pointed to the drop from 110,000 refugees allowed into the U.S. each year under President Obama, to 45,000 under President Trump. She said that the actual number of refugees entering the country is closer to 30,000 because of the complexity and red tape involved in processing their applications for asylum.

Immigration judges are classified as administrative under the Department of Justice, giving authority to the U.S. attorney general. According to Hufe, the attorney general has made a significant

continued on page 21
DECEMBER CLE COURSES

Conflicts of Interests - Current Cases, Hot Topics, Best Practices and Tips for Obtaining Informed Consents
Tue., 12/4/18 - 9:00 - 11:15 a.m. (2 ETH) – WEBCAST ONLY
Fri., 12/14/18 - 9:00 - 11:00 a.m. (2 ETH) – VIDEO ENCORE
Fri., 12/28/18 - 9:00 - 11:00 a.m. (2 ETH) – VIDEO ENCORE

This is the final FREE CLE of 2018 for Philadelphia Bar Association members in good standing.
Hosted by the Professional Responsibility Committee
This interactive program will explore common issues that arise around conflicts of interest in the practice of law. The program will address how to determine if a proposed representation could create a conflict of interest within a lawyer’s practice. Using hypothetical scenarios as a launching point, panelists will provide an overview of the relevant Pennsylvania Rules of Professional Responsibility as they are applied. The discussion will conclude with a review of the consequences for failure to identify and address conflicts of interest. A “Must Attend” program for all practice areas. Earn your two required ethics credits FREE as a Philadelphia Bar Association member in good standing.

VIDEO ENCORE - Be the Judge, Be the Jury… Become an Arbitrator!
Tue., 12/4/18 – 12:30 – 3:30 p.m. (2 SUB/1 ETH)

Attend this entertaining video encore and learn how to conduct your first or next arbitration.
Compulsory arbitration was created as a means of efficiently disposing of smaller civil cases and conserving judicial resources by requiring as a first step that such cases be tried before a panel of three local court-appointed attorneys, with the understanding that any party can later appeal the decision and obtain a new trial. Experienced practitioners offer guidance and practical strategies to successfully conduct an arbitration and serve as an arbitrator. Attend this CLE program and obtain certification to become an arbitrator!

2018 Public Interest Law Day
Thu., 12/6/18 - 9:45 a.m. - 5:00 p.m. (6 total credits: Substantive and ethics depend upon session attended)

Hosted by the Delivery of Legal Services Committee of the Public Interest Section
Held at Duane Morris LLP, 30 S. 17th Street, Philadelphia

Experienced panelists will present a wide array of hot topics in public interest law for public interest attorneys, pro bono practitioners and private practice attorneys who are interested in learning more about cutting edge issues affecting the pro bono legal community. Session topics include: race and racial justice in our work, immigration 911, trauma-informed representation, LGBTQ rights, Pennsylvania Supreme Court update and family law issues. Immediately following the CLE program, register to attend the Public Interest Section Annual Awards Ceremony and Reception at Drexel University Thomas R. Kline School of Law Institute of Trial Advocacy, 12th and Chestnut streets (separate registration is REQUIRED).

European Competition Law vs. United States Antitrust Law: Is There a Difference?
Fri., 12/17/18 - 11:30 a.m. - 12:30 p.m. (1 SUB)

Hosted by the Antitrust Law and International Law Committees
E.U. Competition and U.S. antitrust laws cover most of the same subjects, rely on similar economic principles and follow broadly similar conceptual approaches. However, there are several key differences between the two. This interactive program is fortunate enough to have Henri Piffaut, of the European Commission’s Directorate General for Competition, address the convergence or divergence between European and United States competition law governing private rights of action, collective actions, resale price maintenance, minimum advertising pricing programs, algorithmic cartels, big data and more.

VIDEO ENCORE - Impact of Technology on the Practice of Law
Mon., 12/10/18 - 12:00 - 2:00 p.m. (1 SUB/1 ETH)

There has been great emphasis placed on technology and the law these days. The role of technology and its integration into the legal profession can change the way lawyers work, how they deliver legal services, how they argue in court, the business models of legal entities and ways to provide better or more access to law and justice. This video-encore program will examine how technology is impacting the practice of law and address policy and trends that will affect firms of all sizes everywhere.

2018 Tax Section Annual Meeting & CLE - State and Local Tax Impacts of the Federal Tax Cut and Jobs Act
Tue., 12/11/18 – 3:00 – 5:00 p.m. (2 SUB)

This advanced program is designed to provide tax lawyers with insight into the reactions of state and local taxing authorities to the myriad corporate and personal income tax changes made by the 2017 Federal Tax Cut and Jobs Act (FTCJ), with a particular emphasis on Pennsylvania, New Jersey and New York. Trends in other states will also be discussed. Topics include state and local reactions, whether through a change in law or through other forms of promulgated guidance, to certain provisions of the TCJA.

For questions regarding Philadelphia Bar Association CLE, contact Director of Continuing Legal Education Tara D. Phoenix at 215-238-6349 or tphoenix@philabar.org.
Marijuana is still a Schedule I controlled substance under federal law. As Pennsylvania’s Medical Marijuana Law (MMJ) for approved conditions, more and more Pennsylvania workers are using MMJ. Since Pennsylvania’s Medical Marijuana Law legalizes the use of medical marijuana, employees must review their policies to accommodate reasonable accommodation requests for the protection of these workers’ rights and responsibilities. As Pennsylvania’s Medical Marijuana Program continues to evolve, the Program commits to provide clients with multifaceted strategies and solutions to complex circumstances. In the latest in immigration landscape. This ever-evolving practice area highlights the need to provide clients with multifaceted strategies and solutions to complex circumstances. In this practical program, panelists offer guidance and fundamental information regarding immigration appeal practice. Attendees will learn the procedures regarding how to structure and file an appeal -- and understand where to file, competently lodge appeals and reasonably afford.

How to Win Your Case in Negotiation

Mon., 12/17/18 – 12:00 - 2:15 p.m. (2 SUB)

Hosted by the Alternative Dispute Resolution Committee

Since only a small percentage of cases actually go to trial, negotiation skills are essential and may be even more important than trial skills. Both directly in mediation or settlement conferences, more lawyers lose large sums of money for their clients in negotiation than by trial errors. In this 2-hour interactive program, Dr. Maurice Schweitzer, recognized for national expertise in negotiating skills, will help attorneys hone their negotiating techniques. He will provide attendees with a framework for thinking about negotiations and identify key psychological principles that guide the negotiations. Attendees will learn practical steps to make careful, strategic choices in their negotiations with a chance to test their negotiation skills.

VIDEO ENCORE - Private Eyes: They’re Watching You

Thu., 12/20/18 – 9:30 - 10:30 a.m. (1 SUB)

From the hiring of a private investigator to film someone, to the monitoring of social media presence, attorneys are increasingly using methods of surveillance to gather evidence for trial. Certain technological methods question the need to balance researching injured workers’ activities with the workers’ rights to privacy. Panelists address ethical issues attorneys may face including investigators interacting with claimants under false pretenses, creating fake Facebook accounts and performing surveillance in questionable locations, such as doctor’s offices and churches. Attend this video-encore CLE program to receive practical information regarding these issues within the workers’ compensation context.

The Blunt Impact: Effects of Medical Marijuana on Employment Law and Workers’ Compensation Claims

Thu., 12/20/18 – 12:30 - 1:30 p.m. (1 SUB)

Hosted by the Medical Marijuana and Hemp Committee

Since Pennsylvania’s Medical Marijuana Law legalizes the use of medical marijuana (MMJ) for approved conditions, more and more Pennsylvania workers are using MMJ. Marijuana is still a Schedule 1 controlled substance under federal law. As Pennsylvania implements its Medical Marijuana Program, employers must review their policies for employees. This CLE program will offer attorneys guidance regarding common concerns among employers and employers about their respective rights and responsibilities. As Pennsylvania’s Medical Marijuana Program continues to evolve, the Program must consider and tips on what to do and what not to do when presenting one’s petition to the court.

VIDEO ENCORE - Back to School with Local Control: Issues Facing the School District of Philadelphia

Fri., 12/21/18 – 12:00 - 2:15 p.m. (2 SUB)

The School District of Philadelphia (SDP) returned to local control in July with the dissolution of the state-controlled School Reform Commission. What are the legal issues facing the SDP as it returns to local control? In this informative video-encore program, panelists with education law expertise will examine these important issues. From the politics of whether the laws are amended to allow for an elected school board, to critical funding issues, such as changing the law to provide the SDP with independent taxing authority, and to the law governing the funding, approval, and renewal of charter schools.

VIDEO ENCORE: Implicit Bias: Identification in the Law and Action Plans

Thu., 12/27/18 - 12:30 - 2:30 p.m. (2 ETH)

This dynamic video-encore program will help attendees gain a comprehensive understanding of implicit bias in the law and learn how to identify implicit bias both within themselves and in others. Attendees will also learn strategies and action plans to better address internal and external implicit biases.

VIDEO ENCORE: The Legal and Practical Implications Facing Employers with a Remote Work Force in the U.S. and Abroad

Fri., 12/28/18 - 12:30 - 1:30 p.m. (1 SUB)

A 2018 study found that more than 60 percent of the world’s workforce works at least one day a week away from the office and that more than half of all employees work half the week remotely. The rise of the “remote work force” however also comes with new practical and legal challenges for employers to navigate. This luncheon CLE will examine the following challenges, among others: immigration and visas, tax nexus, foreign worker compensation and other insurance issues, management and productivity, and organizational policy issues.

For more new, unique and affordable CLE programs, please visit the Philadelphia Bar Association CLE webpage at PhiladelphiaBar.org.
Board Opposes Change to Fee Waivers for Naturalization

The Board of Governors adopted a resolution on Nov. 29 opposing changes in federal regulations that make it more difficult for eligible indigent immigrants to apply for fee waivers to obtain citizenship.

The U.S. Citizenship and Immigration Services (USCIS) is permitted by regulations to waive certain fees provided the party requesting the benefit is unable to pay the prescribed fee. Since 2011, USCIS has permitted fee waivers where an applicant received a means-tested benefit, thus allowing families and individuals to use evidence of their means tested benefit to qualify for a fee waiver.

On Sept. 28, 2018, the Department of Homeland Security published a Notice of Proposed Rulemaking in which changes have been proposed regarding the process to obtain fee waivers. The proposed rules would rescind existing policy regarding fee waivers and issue new guidance that excludes means tested benefits as a documentary basis to demonstrate need when requesting a fee waiver. They also would require all applicants for fee waivers to provide documentary evidence of income, which many indigent immigrants do not possess.

The proposed change will create additional barriers to obtaining fee waivers and will effectively discourage eligible individuals from seeking lawful status, residency and naturalization in the United States.

The Board of Governors authorizes the Chancellor, or the Chancellor’s designee, to communicate the contents of this resolution to the Department of Homeland Security, the U.S. Citizenship and Immigration Service, elected officials, the media and the public and to take such other efforts as may be necessary to effectuate this resolution.

To view the full resolution, visit PhiladelphiaBar.org.

Public Charge

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social security disability benefits) or receipt of Long-Term Care Medical Assistance when making a public charge determination.

On Oct. 10, 2018, the Department of Homeland Security published a Notice of Proposed Rulemaking in which changes have been proposed regarding the definition of public charge. The proposed rules would expand the definition of public charge to include anyone who is likely at any time in the future to use federal Medicaid (except Emergency Medicaid), Supplement Nutritional Assistance Program (SNAP food stamps), housing subsidies, and Medicare Part D subsidies.

The proposed rules would heavily and negatively weigh the receipt of these benefits during public charge determinations. They would create barriers and negatively impact immigrant families with lower or middle incomes including families with incomes below 250 percent of the federal poverty line (i.e., families of four making $62,000 annually, or about $7,000 more than the median income in Pennsylvania).

The change will effectively discourage immigrants from obtaining health insurance or healthcare, housing or food assistance for their families. It will effectively discourage eligible individuals from seeking visas or residency in the United States.

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History, Maintenance of Separation of Powers

By Brittany Anne Robertson

Today’s political climate has given the country a front seat to the struggle for power among the three branches of government, executive, legislative and judiciary. A Chancellor’s Forum CLE on “The Constitution and Separation of Powers in America” assembled a panel of experts on Nov. 1 to discuss the constitutional separation of powers and how that separation works, or does not, in practice, historically and today.

Chancellor Mary F. Platt opened the program with a quote from James Madison, “The very definition of tyranny is when all powers are gathered under one place,” before introducing the forum’s moderator, Cherri Gregg, community affairs reporter for KYW Newsradio 1060. Panelists were Hon. D. Brooks Smith, U.S. Court of Appeals for the Third Circuit; Jean Galbraith, professor at the University of Pennsylvania Law School; former U.S. House Rep. Joseph M. Hoefll III; Scott A. Coffina, former U.S. attorney and White House counsel to President George W. Bush, now a prosecutor in Burlington County Prosecutor’s Office; and Zane David Memeger, former U.S. attorney, now a partner at Morgan Lewis & Bockius LLP; shared their perspectives from the executive branch and Department of Justice.

Gregg presented an example of the current separation of powers struggle, the president’s announcement of his intention to revoke birthright citizenship, a right established by the legislative branch and 14th Amendment and affirmed by the judicial branch through multiple court rulings. Prof. Galbraith outlined the system of checks and balances as originally designed and spoke about how the system has evolved over time around “national security” and the U.S.’s involvement with international organizations.

Judge Smith discussed the authority and limitations of the judiciary, and talked about its uniqueness in that it does not establish an agenda, only responding to cases that are brought to it, and exists as an ostensibly independent branch that is entirely dependent on the executive branch for appointments and on Congress for appropriations.

As former members of the DOJ, Memeger and Coffina said that while the DOJ is a part of the executive branch, it needs to be viewed as independent. Historically, it was not much of a force in politics. Recently, however, it has been wielded as an arm of the executive branch, which undermines the public’s confidence in the DOJ’s ethical integrity; they said. In his role as White House counsel, Coffina said that his job was to protect the executive branch and executive privilege, not to serve as the president’s personal legal counsel.

A view from within the legislative branch of a “dysfunctional” Congress was presented by Hoefll, who said basic issues, such as budgeting, war powers and oversight have reached a standoff due to extreme partisanship. Gregg asked what was to be done when the branches clashed or when they refuse to do what they must. Galbraith presented the example of President Richard Nixon, who resigned after members from all three branches took action that pushed him toward resigning, indicating that it would take a coalition of two or more branches to check the oversteps of the third.

Ensuring Secure, Error-Free Election Procedures

By Elisa C. Advani

With November’s 2018 midterm elections and the federal probe into Russia meddling in our democracy, it is important to know what our government is doing to prevent future attacks and restore faith in our election system. The Civil Rights Committee welcomed Hon. Eugene A. DePasquale, auditor general of Pennsylvania, along with James J. Eisenhower, of counsel to Dilibworth Paxson LLP, and Kirsten Nussbaumer, Ph.D., J.D., assistant professor of political science at Rutgers University Camden, to “Election Hacking, Ballot Security: Protecting Our Vote” on Oct. 2. They talked about the challenges the government faces when dealing with election tampering, and the proposed remedies to ensure that each vote counts. The internet and social media play a role in election hacking, not only because hackers might gain access to an online election system and alter the votes, but also because hackers and bots can pose as Americans and actually influence the way voters think.

The Pennsylvania Office of the Auditor General is currently auditing the entire state’s voting system, including the voter registration and the voting system. “The voting registration system is standard statewide, this is the easy part,” said DePasquale, “but in Pennsylvania we have 67 counties that each have their own voting system, some electronic, or a combination of both.” Pennsylvania has 9,000 voting precincts that rely on election-day volunteers to ensure that each vote is properly counted. DePasquale’s office is reviewing security protocols and system accuracy from registration down to the tallying of votes and will complete the audit by early 2019. “With online security being a major concern, he said, “paper ballots take longer to count, but they are harder to hack.” Many states rely on an electronic registration list that does not even have a hard

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PHILADELPHIA BAR ASSOCIATION CLE - CIVIL RIGHTS COMMITTEE

PHILADELPHIA BAR ASSOCIATION CHANCELLOR’S FORUM CLE

By Brittany Anne Robertson

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Navigating the Maze of Student Loan Repayment

By Mary LeMieux-Fillery

Student loans can create a slippery slope, with confusing regulations and long-term repayment options. The Young Lawyer’s Division, the Delivery of Legal Services Committee, the Public Interest Section Law School Outreach Committee, the Government and Public Service Lawyers Committee and Drexel University Thomas Kline School of Law cohosted a CLE on “Developments in Federal Public Service Loan Forgiveness” on Oct. 16. Heather Jarvis, a student loan expert, provided guidance on federal student loan repayment and forgiveness options.

Jarvis discussed the two primary kinds of federal student loan forgiveness programs. The first, federal loan forgiveness plans, are income-driven repayment options, unrelated to employment type. If one chooses an income-driven repayment plan and makes payments for 20-25 years, depending on the specifics of the plan, the balance of the federal student loan will be forgiven. However, the caveat of this program, she said, is that the loan balance forgiven will be taxed as income in the year it is received.

The second, the public service loan forgiveness program, is not earned by the passage of time, but by making 120 qualifying payments on a federal direct student loan. Qualifying payments must be made while one is working full-time for a government employer or a qualifying nonprofit organization. Any forgiveness on these loans is not taxable as income under current law.

Although the Federal Public Service Loan Forgiveness Program went into effect on Oct. 1, 2007, recent data shows that due to its convoluted and complex nature, only 96 people so far have qualified for forgiveness. She added that the loan servicers are not providing accurate information, which has resulted in numerous lawsuits being filed against them. If one has any issues concerning repayment of student loans, write a letter to the lender requesting the loan payment history and an accounting of all payments made to all servicers.

For borrowers to obtain their student loan history, the National Student Loan Data System will provide information for all federal and private loans borrowed, Jarvis said. This service gives detailed information on the specifics of federal loans to determine if the loans are direct student loans or if they can be consolidated into direct loans, which may qualify for loan forgiveness.

Jarvis said private student loans will be referenced on one’s credit record, and that borrowers should obtain a copy of the promissory note on any private loans to determine if the loan has a variable or fixed interest rate. If one has a private loan with a variable or higher interest rate borrowers should contact the lender about interest rate refinancing.

Borrowers should also keep an eye on the “PROSPER” Act, Jarvis said. The act has the potential to stop public loan forgiveness for new borrowers and impose borrower limits. They should also keep their income information up-to-date and avoid forbearance.

As overwhelming as student loan debt can seem, Jarvis said, borrowers should look at this debt as part of the overall larger financial picture. Loan repayment will be a balancing act unique to each individual borrower’s financial situation.

Mary LeMieux-Fillery (alemieux-fillery@paworkinjury.com), associate at Martin Law LLC, is an associate editor of the Philadelphia Bar Reporter.
New Perspective for Criminal Justice Via Body Cameras

By Karen M. Maschke

“The cameras make good cops, great cops, and marginal cops follow the rules.”

Chief Inspector Michael Cochrane of the Philadelphia Police Department made that statement at a CLE hosted by the Criminal Justice Section titled “Cops! Camerad! Action!” on Oct. 25.

The CLE was presented in two parts, the first panel discussed the policy, background, and culture of body-worn cameras on the street from the perspective of Chief Inspector Cochrane; Chief Thomas J. Nestel III, chief of police of the SEPTA Transit Police; and Hans Menos, executive director of the Police Advisory Commission of the City of Philadelphia.

Body-worn cameras started in the military and have spread to many police departments in the United States. Both the Philadelphia police and SEPTA police equip all their officers with body cameras. The officers are required to turn on their cameras for all events and interactions, except for greetings or giving directions. Even within this small panel, not everyone shared Chief Cochrane’s sentiment on body cameras. The cameras can lead to increased policy transparency, reduce complaints against the police and prove suspect demeanor. There are concerns, however, such as those mentioned by Menos who said that viewing the footage can irreparably harm the officer’s ability to objectively prepare a report. However, it was said that often the camera was used to support the officer’s recollection. On the occasions when it did not, the officers were disciplined.

The second panel addressed the use of body-worn cameras in practice within the courts and criminal justice system. Amanda Hedrick, assistant district attorney of the Philadelphia District Attorney’s Office; Paul Hetznecker, attorney at the Law Offices of Paul Hetznecker; Michael Mellon, police accountability unit of the Defender Association of Philadelphia; and Menos spoke on this panel. Body-camera video has become a large part of criminal defense and prosecution since its introduction. The Philadelphia District Attorney’s Office charging units will not issue charges without reviewing the body-camera videos of the events. Mellon talked about the importance of the audio component, as often information can be gleaned from what was said, not only by the parties involved, but also by officers discussing what happened afterward. Attorneys practicing in this area should know that unless a video is tagged in conjunction with an arrest, in which case it is retained longer, the city’s police department retains its videos for 75 days and SEPTA retains its videos for 90 days. These videos can be used in the criminal system both for protection for the police and protection against the police. Complaints of excessive force against the police have dropped dramatically since the implementation of body cameras and the body cameras have had a huge impact in civil rights cases against the police.

While there are some concerns about the use of body cameras, it is obvious that they have made a dramatic impact on both the practice of officers in the street and in the criminal justice and civil rights systems.

Karen M. Maschke (Karen.Maschke@wilsonelser.com) is an associate at Wilson Elser Moskowitz Edelman & Dicker LLP.

Spotting, Addressing Implicit Bias in Court

By Jon-Michael Olson

When we think of biases, we think of overt racism, bigotry, tragedies like the synagogue shooting in Pittsburgh, or police shootings. However, there resides a certain bias that lurks just beneath the surface.

Kristin A. Lane, PhD., M.S., associate professor and director of the Social Psychology Lab at Bard College, said that implicit bias resides outside of our conscious awareness. Implicit bias is a subtle component that affects our perception and can be treated as if we are all individuals with potential biases.

The dilemma about implicit bias is that as people have become more sophisticated, cognitive biases that lead to discriminatory practices have become more difficult to prove since people have become better at hiding their true intent.

Reginald T. Shuford, executive director of the ACLU Pennsylvania, said that the courts have not evolved to recognize these modern discriminatory practices. Historically, the courts require a showing of explicit targeting to successfully litigate discrimination cases, however, this intent standard does not account for the recognition of implicit bias. Throughout Shuford’s legal career, it has been an uphill battle, he said, to make the necessary societal changes in the way it defines and treats discrimination lawsuits.

However, change does not have to depend on court decisions. Hon. Joseph L. Fernandes, Philadelphia Court of Common Plea, said that the most important step is to accept that we are all...

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Evolution of the #MeToo Movement

By Leah Cilo

The impact of the #MeToo movement is playing out in offices, court rooms and judicial chambers across the country, but it has been more of an evolution than a revolution. The Women in the Profession Committee presented a Philadelphia Bar Association CLE that explored the roots and the effects of the #MeToo movement on Oct. 30. It was planned by Kathleen Kirkpatrick, Committee cochair, and moderated by Leslie Miller Greenspan, counsel at Tucker Law Group. The panel members were Christine E. Burke, partner at Karpf, Karpf & Cerutti; Kristen M. Gibbons Feden, associate at Stradley Ronon Stevens & Young, LLP; Wanda E. Flowers, attorney and employment counselor; and Deborah Harley, former chief assistant district attorney in the Philadelphia District Attorney’s Office. All have experience with cases of sexual harassment and violence both in and outside of the workplace.

The panelists defined the #MeToo movement as an attempt to level the playing field for victims of sexual harassment and assault by removing discrediting questions about their behavior and their reaction to trauma from the adjudication process. For example, juries should be assessing credibility based upon the incident itself and not upon the clothing that the accuser wore, or the amount the accuser had to drink.

Even though the #MeToo movement began roughly in late 2017, Harley said that it is an extension of 1970s women’s movement, which undertook the modernizing of rape and sexual assault laws. She explained that until the 1970s the rape laws in this country were based on 17th century English common law and required physical proof that the victim resisted and that the accused used substantial force. Up until the passage of rape shield laws, defense attorneys regularly asked an accuser about her prior sexual history on the witness stand.

In the decades after the women’s movement in the late 20th century, other laws were changed to level the playing field, like instructing juries that “words alone” can convict the accused and hiring experts who treat sexual assault victims to testify. The #MeToo movement has brought these prior changes to the national stage and started informing current social attitudes. Feden contextualized the effects of this national conversation by describing the change that occurred between the two Bill Cosby trials. After the first trial, which ended in a hung jury, the #MeToo movement gained momentum and the second trial resulted in conviction in no small part, according to Feden, because jurors were better educated about the issues and less susceptible to the character assassination of the accusers. She said that

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Avoiding Missteps When Using Interpreters in Court

By Elis C. Advani

Interpreters facilitate communication and provide access to justice by putting the non-English speaker in the same position as an English speaker. The Philadelphia Bar Association’s Model Rules of Ethics on interpreting require familiarity with the language of the speaker and the context of the hearing. The Philadelphia Bar Association’s Model Rules of Ethics on interpreting require familiarity with the language of the speaker and the context of the hearing.

By J. Michael Considine Jr.

Rule 1.1, Comment 6 of the Model Rules of Ethics requires familiarity with basic technology and staying abreast of changes. Rule 1.6 requires lawyers to protect client information and prevent unauthorized access to it; and Rule 1.6 requires protection of all communications to protect the client’s interest. The Philadelphia Bar Association International Business Initiative, the Chester County Bar Association International Business Initiative, and the Pennsylvania Bar Association International Business Initiative sponsored a seminar to educate the legal profession on how to minimize the risk of being hacked and how to comply with the American Bar Association’s Model Rules of Ethics on Aug. 17. Attorneys Richard J. Bortnick and Daniel Healy, cybersecurity expert C. Matthew Curtin of Interhack Corporation, Assistant U.S. Attorney Albert Glenn and FBI agent Ben Stone provided sage counsel and non-technical advice for protecting the information of your business and clients.

If your or your firm’s computers are hacked, violations of these can come in one fell swoop. Fortunately, there are steps that you can take to immediately lower your hacking risk. First, you can physically protect the workstation or laptop on which you conduct business and keep your computer and documents offline until you are ready to share them. Keep your credentials secret. Use “tough” passwords, then use a password manager.

In addition, while it may seem obvious: do not share your passwords. For back up, use an external drive or flash drives and keep them safe. If using a cloud storage provider, understand the provider’s policies so that you can be assured your data is secure.

Firm-wide, establish security standards, protect your computer and/or firm intranet with antivirus, anti-hacking and firewall software, and use audit procedures. Regularly encrypt sensitive records, and use restrictive covenants for sensitive information access. Hire information technology security personnel and annually train staff on cybersecurity. Keep up to date on cybersecurity CLEs. Use multifactor identification or use a secure email server like ProtonMail. Develop an emergency response plan and test it. Hacking insurance is also available.

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Expungement Opens Opportunities to Philadelphians

By Louisa Robinson

“I want to live a normal life,” the 22-year-old man in front of me said as I interviewed him as a volunteer attorney for an expungement clinic sponsored by Face to Face, a nonprofit located in Germantown. Aaron* had one criminal contact on his record for a felony gun case and had been found not guilty of all charges. But, he said he knew that this contact had prevented him from securing better employment and educational opportunities.

Non-conviction dispositions remain on a record unless they are expunged. Courts can sell this data to background check companies who can sell it to employers. Approximately 87 percent of employers consider criminal records when hiring employees. Although Pennsylvania law precludes employers from considering non-convictions, anecdotally, it is well-known that employers and landlords reject candidates due to non-convictions.

How many Philadelphians have criminal records?

According to a Community Legal Services expungement training on Jan. 16, 2018, in 2011, there were 61,032 arrests in Philadelphia resulting in 354,951 charges. Of those charges, only 52,193 (15 percent), resulted in conviction.

Since all non-convictions are eligible for expungement, the need in Philadelphia to clean up criminal records is tremendous. At Face to Face, I am part of a team of attorneys who have committed to participating in a series of expungement clinics for one year. I have had clients who waited over three hours to see me and others had to be turned away.

After interviewing clients, and reviewing their criminal records, I prepare expungement petitions for review and acceptance by Face to Face. The organization updates all clients on the status of their petitions and whether they must appear in court. The process can take up to a year, and there is no guarantee that the petition will be granted.

On my first day, I handled six clients, resulting in 36 different petitions. In total, I found 143 charges eligible for expungement in that one clinic alone. When I told one client, Brad,* that his record may be reduced down to two counts, he went silent on the phone, let out a slow breath, and said, “I will be able to get an apartment and this opens up a lot of things for me - it will help me get a job.” I felt moved that I helped to make another person’s life better.

All Philadelphians benefit by having more citizens eligible for gainful employment. Additionally, the personal cost to the petitioner’s self-image is incalculable. As a former career prosecutor, I have a strong sense of justice and due process. Volunteering made sense since I am very comfortable reading criminal histories and talking with people who have been involved in the criminal justice system. It may seem incongruous that a prosecutor would do this type of work, but I remember my first supervisor telling me that I was paid to seek justice not convictions. If a case did not result in a conviction, and there is no compelling reason to keep the record, then I believe that the fair thing is for any Philadelphia to be able to, as Aaron said, try “to live a normal life.”

*Names changed to protect privacy.

5 Things Lawyers Need in Online Payment Solutions

It always pays to do a little research before making a purchase, and payment solutions are no exception. There are many to choose from, but not all are designed for legal professionals like you. Let us examine five essential features you should look for when shopping for an online payments processor.

1. Tailor-made for law firms

Most online payment solutions work best for retail stores, restaurants and hospitality businesses, as these are some of the most common businesses in the country. You will likely find that they have features, functions, and price points that would suit these businesses perfectly.

But, you are not selling a product—you are providing a complex, valuable professional service. A typical paper receipt will not properly convey the type of work you do for your clients and the full value of your services.

This is why specialized payment solutions are the best fit for law firms like yours. These companies hire experts to design their product specifically for the legal industry. They will know how important it is to protect your IOLTA account from third-party debiting, and keep your earned and unearned fees separated with each transaction.

2. Allows both invoiced and in-person payments

Online credit card payments have quickly become the most popular way for consumers to pay. In fact, 74 percent of households prefer to pay their bills online. However, not all payment processors are designed with this in mind. Many of them only take in-person transactions, with little (if anything) in the way of online payments. Your best bet is to look for a payment processor that will let you do both—send online payment requests that your clients can pay from anywhere, or take credit card payments in your office.

3. Simple reconciliation

Using a credit card processor means you will have to pay transaction fees. For many payment solutions, these fees are debited as soon as a transaction is received. However, this can make reconciling an absolute nightmare. You will have to consider the amount you have billed compared with the amount displayed. Why add extra work to your busy day?

Use a payment processor that will debit all of your fees on a single day. This way, you will see 100 percent of each payment in your transaction history, and can view your total processing fees as a separate charge each month. Simpler account reconciliation each month means more time spent serving clients.

4. Detailed reporting

The best payment solutions for lawyers let you run detailed reports on your transactions, and filter them by time frame or the status of the payment. These solutions also make it easy to view your top clients by volume, payment trends and even export your payment history in whichever format you prefer.

In contrast, most generic payment providers will have metrics tracking gift cards or cash drawer history—stats that might appeal to a point-of-sale business, but meaningless to a law firm like yours.

5. Pricing without gimmicks

Between the various interchange rates, processing fees and codes to decipher, online payments systems can sound incredibly complicated. The last thing you want is to spend more time figuring out the fee structures of your processor than you do on billable hours.

Choose a payment processor with no hidden fees, no minimum processing requirements and no long-term contractual obligations. Payment processors for law firms will let you easily budget for your expenses by keeping their rates straightforward and easy to predict.

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PRO BONO SPOTLIGHT - FACE TO FACE

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Elections
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copy as a backup, which would make it very difficult to determine if the list was hacked or altered. Nussbaum said that the U.S. relies on partisan control for the electoral system, unusual when compared to other countries. According to Nussbaum this is “especially problematic now given that partisan polarization is at its peak.” The U.S. also differs from other parts of the world in that we lay the responsibility for our federal elections at the state and local level.

Foreign influence, whether in the form of direct manipulation of votes or bots influencing the way Americans think, ultimately turns people off from our electoral process. “These concerns are not new and date all the way back to the Federalist Papers,” said Eisenhower. “Hamilton discussed it in Federalist 68 and John Jay in Federalist 4, that our government must remain independent from foreign influence.” Election interference used to be traced to foreign money, and laws were set up as a blockade. There are statutes that protect a person’s right to vote from being threatened, intimidated or coerced, and these laws can be read in a broader way to address issues that are less obvious than violence and disenfranchising of minorities. When we design new and improved voting systems, “we should not only think about security against hacking but we should also prioritize increasing voter trust,” said Nussbaum.

- Elisa C. Advani (eadvani@paworkinjury.com), associate at Martin Law, LLC, is editor-in-chief of the Philadelphia Bar Reporter.

Working Remotely
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a few countries that have black-line rules either classifying all remote work as work requiring a permit or as not work at all, most countries fall in a somewhat ambiguous middle ground. Those countries often balance multiple factors including the remote worker’s length of stay, whether the worker is paid by a local company, whether the worker is negotiating any deals while in the country and whether the remote worker has an exit visa.

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Implicit Bias
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biased.

Through his experience in Family Court, Judge Fernandes must listen and adjudicate on one of the most difficult subjects to decide; whether to remove a child from their parent’s care. Unfortunately, parties and their attorneys bring their biases into court which makes the proceeding more difficult for the judge and the parties to resolve.

At times, Judge Fernandes said, judges fall into their own biases. He collaborated in creating “bench cards” as a judicial resource for judges when hearing certain cases, like those based on dependency, trans-competency, and special immigrant status to combat bias. The bench cards are a “cheat sheet” for judges, informing them about a certain topic. They are meant to help them realize their own biases by understanding and analyzing the issues at play.

Attorneys must interrogate themselves daily to mitigate their biases, implicit and explicit, toward others, Judge Fernandes said. Rather than relying on group information, attorneys must strive to see a person for who they are, and recognize the biases they themselves possess.

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Hacking
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On a personal scale, everyday routines and, to some degree, use of common sense can go far in protecting your computer and information. Delete accounts for services you no longer use and maintain a suspicion about emails and email attachments from unknown senders. Avoid pornography websites. Be wary of attempts to acquire usernames, passwords or credit card details from sources masquerading as trustworthy entities, a practice known as spear phishing. Know that you will seldom need to provide your social security number over email.

Protect your mobile device by declining phone calls from unknown numbers. Watch out for suspicious activity on your phone, such as its trying to surf the net or access data that you do not use. For Android phones, download antivirus software, and, when using public Wi-Fi, do not share or send personal data.

Finally, protect financial transactions by developing wise protocols for wire transfers, or pay using PayPal or one-time-use credit cards.

If a breach does occur in a worst-case scenario, call the FBI. Stolen credentials occur in 100 percent of breaches. If you get a virus notice, shut off the computer immediately. Do not pay ransom from ransomware.

Criminal prosecution and civil claims may be brought under the Computer Fraud and Abuse Act, enacted in 1986.

J. Michael Considine Jr. (adventure7@gmail.com) is chair of the International Business Initiative.

SOLO & SMALL FIRM MANAGEMENT COMMITTEE

The Solo and Small Firm Management Committee hosted a seminar titled “What We Learned in Our First Year of Business and What We Tried Not To Repeat” on Nov. 8. Panelists discussed what they learned and tried to continue, and what they needed to reevaluate during their first year of business.

Left: Committee chair Maureen M. Farrell (center) with Jennifer Gomez Hardy, principal at Gomez Law Group, and Brad V. Shuttleworth, partner at Alva & Shuttleworth, LLC.

#MeToo
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the second jury better understood the seemingly counter intuitive behavior that victims sometimes display and chose to convict beyond a reasonable doubt.

The #MeToo movement’s impact is not limited to juries and has already been referred to in judicial opinions. Burke referred to the Third Circuit’s recent decision Minarsky v. Susquehanna County calling it “huge for victims of sexual harassment.” In Minarsky, the court reversed a grant of summary judgment, because even though the plaintiff failed to timely report the harassment, it reasoned that a jury could find that she did not act unreasonably under the circumstances and referenced the current atmosphere about sexual harassment by noting that “there may be a certain fallacy that underlies the notion that reporting sexual misconduct will end it.”

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The 2018 Bench-Bar & Annual Conference was held at Borgata Hotel, Casino & Spa in Atlantic City on Oct. 12-13. Attendees had the opportunity to earn up to nine CLE or CJE credits through 23 unique courses offered by the Philadelphia Bar Association, The Legal Intelligencer’s Best of 2018 CLE Provider. All photos by Thomas E. Rogers.

Left: Hon. Idee C. Fox, Supervising Judge, Philadelphia Court of Common Pleas (seated, right), with Amanda J. Dougherty, associate, Klehr Harrison Harvey Branzburg LLP; James C. Vandermark, associate, White and Williams LLP (standing, right); and Robert N.C. Nix III, of counsel, Obermayer Rebmann Maxwell & Hippel LLP; present “Philadelphia Real Estate Taxes” on Oct. 12.

Right: Joel Oster, president and general counsel, Comedian of Law, LLC, presents the interactive plenary CLE program, “Deal or No Deal,” on Oct. 12.

Left: Hon. Stella Tsai, Philadelphia Court of Common Pleas (center, right) with Amal M. Bass, staff attorney, Women's Law Project (left to right); Catherine T. Barbieri, partner, Fox Rothschild LLP; Rachel M. Keene, director, senior counsel, Accolade, Inc.; Jeffrey Campolongo, principal, Law Office of Jeffrey Campolongo; and Carol E. Tracy, executive director, Women's Law Project; present “Moving Forward From #MeToo: Sexual Harassment at the Courthouse, Networking Events & Beyond” on Oct. 13.
effort to crack down on immigration and speed up the deportation process. Judicial quotas, activated in April 2018, have imposed a minimum of 700 cases per year to be completed by immigration judges, and no more than 15 percent of those cases can be overturned on appeal.

Sachs referred to immigration court as essentially an administrative tribunal. Several constitutional protections, Arnold added, do not exist in either civil or criminal immigration court proceedings. In May 2018, the attorney general went one step further by declaring that immigration judges have no authority to administratively close a case, whereby they can no longer temporarily take a case off their docket to allow for completion of related proceedings. All this contributes to a degradation of due process in the interest of closing cases as quickly as possible, the panelists said.

Restrictions also affect immigrants who are in the U.S. on work visas and foreign students being hired by American companies. The window for applications for work visas is quite small. 65,000 of those visas are available each year, and are often snatched up in days, said Suh. Employers should get ahead and prepare early to apply and renew to keep their talent.
QUICK BITES: L’ANIMA

Inspired Return to Grad Hospital BYOB

By Lee A. Schwartz

Inspired by Jim Zwolak’s review of L’Anima, my Trusted Companion and I decided to dine there also. Jim, as usual, was spot-on. Here is our take on this new dining spot.

Our friends from Melograno, the Italian BYOB on Sansom Street in Rittenhouse Square, have created a specifically Roman location in the Graduate Hospital neighborhood. The food is authentic Roman fare. We ate at L’Anima (“The Soul”) on a Tuesday night and the decidedly trendy space was packed.

L’Anima offers nine Antipasti. We enjoyed one of our favorites, the Rustico, which included imported cured meats and cheeses, vegetables and pickles. We would have liked a spread of some kind, like a grainy mustard, but that may be the “Americanized” presentation and not the authentic Roman offering.

We also shared the Caprese Di Alici with very fresh mozzarella, hollowed out in the middle and stuffed with a mountain of white anchovies. Instead of the normal cheese over tomatoes, L’Anima offers two halved and roasted tomatoes with spring onion basil oil. It was truly yummy and a different take on a traditional caprese.

We then shared an order of Vaccinara, wide pappardelle noodles covered in braised oxtail ragù. It was very good, and we had no problem clearing our plates. Also on the menu was the Pesto, another pappardelle dish, offered with lemon-scented, arugula-mint pesto over seared sea scallops with toasted almonds and pecorino Romano. A server glided past us carrying a Pesto and it looked and smelled wonderful.

For dinner, my trusted companion hit the nail on the head (as she normally does) with the Spigola, the roasted Mediterranean sea bass, served with rosemary potatoes, pear tomatoes, seasonal mushrooms, white wine and garlic. Garum is a fermented fish sauce used in Roman cooking. The dish was wonderful, and if you like sea bass, this is a must-try. I ordered the special, grilled Lamb Chops, served at the suggested warmth of medium rare. Three large lamb chops were perfectly cooked and served with large white beans in a sweet red pasta sauce. Frankly, how can one go wrong? Being the “sharers” that we are, we each ate half and we both loved both dishes.

L’Anima offers two other fish dishes, a fried Gulf shrimp dish, the Gambonera, and scared cod, the Baccal’ alla Trasteverina. There is also the Porchetta, served with charted Brussels sprouts, among other offerings.

Pizza is also on the menu at L’Anima. However, the dough is rice-based, instead of wheat. We did not have room to try them, but we wish we had. The Thunnus, topped with cured imported Italian tuna, oven roasted tomatoes, buffalo mozzarella, pickled red onion and caper mayonnaise, looked massive and delicious. L’Anima is located at 1001 S. 17th Street (at Carpen- ter Street). Outdoor seating is offered.

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QUICK TIP FROM USI AFFINITY

How Subpoena Assistance Can Benefit Your Law Firm

Subpoenas serve a very important function in the litigation process, but the wrong response when served can result in serious consequences. Responding to a subpoena in a proper, adequate, and prompt way is extremely important, but not always easy.

Although the receipt of a subpoena is typically an infrequent event, if you respond without notifying your lawyers’ professional liability (LPL) insurance carrier, this could lead to a malpractice claims denial at a later date. One the first steps you should take when you receive a subpoena is to notify your LPL carrier of this request and ask for information about how to proceed with complying with the request.

Most LPL policies, including those offered by USI Affinity, offer a benefit called subpoena assistance coverage to help you properly comply with the request and will also appoint an attorney to provide you legal representation and advice.

What is Subpoena Assistance Coverage and Why Do I Need It?

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The Philadelphia Lawyer Magazine Accepting Submissions for Race and Law Issue

The Editorial Board of The Philadelphia Lawyer magazine is soliciting submissions for a forthcoming issue on race and the law. The board is looking for articles that tell stories from the perspectives of people of all colors who have encountered the law in any way. This issue is slated for spring 2019.

We are looking for shorter articles of 750 words and longer feature-length articles of 1,200-1,500 words. Authors may ask to remain anonymous to protect their privacy.

All submissions must be previously unpublished and approved by the board for publication. No article is guaranteed to be published. For more information and to submit an article for consideration please email tplmag@philabar.org.

The attorneys of Duffy + Fulginiti congratulate Tom Duffy on receiving the 2018 Justice Michael A. Musmanno award from the Philadelphia Trial Lawyers Association.

It is a well-deserved honor.

We are proud to continue to work alongside you, both in our work at the form and on behalf of an organization dedicated to protecting the rights of injured individuals.

Mary Gay Scanlon, former partner at Ballard Spahr LLP has been elected to the U.S. House of Representatives. Above: Scanlon thanks her supporters after her win.

Leonard A. Bernstein, partner at Holland & Knight LLP (center, right), hosted a reception to introduce the city's pro bono community to the firm. Guests included leaders of many of the Philadelphia-area pro bono organizations and law school pro bono programs, as well as the Chancellor Mary F. Platt (at Bernstein’s left-hand side).

Mary Gay Scanlon

Leonard A. Bernstein

The Philadelphia Lawyer

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