Legal Community Welcomes 2018 Chancellor Mary F. Platt

Angela J. Davis, professor of law at American University Washington College of Law, is an expert in the criminal justice system with a strong focus on prosecutorial power and racism. She was the keynote speaker at the Take Action Philly convening, titled “Black, White and Blue in America: Race and Justice in the 21st Century,” at the Free Library of Philadelphia on Jan. 11. Take Action Philly is an initiative of the Philadelphia Bar Association, with the support of the City of Philadelphia and several non-profit legal aid organizations. This was the third convening.

Reggie Shuford, executive director of ACLU-PA, introduced Davis. He opened the program, which featured speeches and panel discussions covering topics such as police reform, criminal justice, and racial inequality.

Davis Urges Progressive Prosecution

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Time to Renew Your Membership

It is that time of year when we ask you to renew your membership in the only association that connects all lawyers throughout Greater Philadelphia. Your membership dues are the lifeblood of our Association.

Our Association is committed to speaking out on issues that impact the rule of law and our profession, and fighting for legislation that improves the laws of our City and our Commonwealth. Other membership benefits include:

- Free and Low-Cost CLE Courses
- Significant New Discounts on Frequently Used Services and Products

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Starting the Year With Member Engagement

By Mary F. Platt

As the Eagles flew into the Super Bowl by winning the NFC Championship in January, our Association kicked off the year by getting our Board of Governors, Sections and Committees up-and-running with a renewed sense of member engagement.

We introduced, engaged and united our new line-up of Board of Governors members and a few other leaders of the Association at the Bar Leaders Retreat. The Retreat focused on creating a strategic vision that would set goals for the Association and strategies for achieving them. Other topics included: Association governance, duties, responsibilities and expectations of Board members; revenue enhancement; trends affecting bar associations; building relationships with our community; and engaging with members via social media. Following the Retreat, we held a Section, Division & Committee Kick-Off at the Association to engage our 2018 leaders and introduce them to each other as well as members of the Association staff.

The Bar Leaders Retreat included a Communications and Marketing Department staff presentation with an important takeaway for all of us on how we can support the Association through social media. The Association has an active presence on LinkedIn, Twitter and Facebook, which often provides the best real-time communication with and among members. I encourage all members to follow, connect and engage with the Association using some or all of your social media accounts. We recognized Maureen Farrell, to follow, connect and engage with the Association using some or all of your social media accounts. We recognized Maureen Farrell, to follow, connect and engage with the Association using some or all of your social media accounts.

Our 2018 calendar of CLE/CJE courses are underway and our Bar-wide calendar is already beginning to fill. With new leadership and energy, we need to build on this excitement and continue to add value to Association membership and support our legal community and community-at-large. I welcome your thoughts, ideas and suggestions, which you can send to me at chancellor@PhilaBar.org. In the meantime, thank you for your engagement with our Association, and congratulations to the Philadelphia Eagles on their Super Bowl win!
YLD Update

Rudy Garcia Reminds Us to Enjoy the Ride

By Vincent N. Barbera

One of the new and exciting programs available to Philadelphia Bar Association Young Lawyers Division members this year is the Senior Lawyers Committee-Young Lawyers Division Mentoring Program. The YLD is fortunate to have some tremendous mentors who are among some of the most highly regarded and skilled members of the Association. Throughout the year, I will speak with some of them in this column for their thoughts on landing a job, achieving work-life balance and more! This month I spoke with Rudy Garcia who, among other distinctions, served as the Chancellor of the Association in 2011.

Rudy Garcia – B.A., J.D., Temple University. Saul Ewing; Buchanan Ingersoll & Rooney; Dispute Resolution at Rudolph Garcia (rudolphgarcia.com). Nearly 40 years of complex civil litigation experience, including handling numerous jury and bench trials in such areas as antitrust, securities, banking, construction, intellectual property, education, insurance and telecommunications. Past Chancellor of the Philadelphia Bar Association and of the Justinian Society of Philadelphia. Past Chair of the State Civil Litigation Section, Federal Courts Committee, Long Range Planning Council, Bylaws Committee, Election Committee, Website Committee. Current Chair of the Senior Lawyers Committee.

Vincent N. Barbera (VB): What drew you to the practice of law?
Rudy Garcia (RG): I decided to go to law school because I thought it might be both interesting and challenging, and if not, it could still be useful for other careers. I ended up enjoying the law, and once I started practicing, I loved the thrill of trials even more.

VB: What was your first legal job and how did you land it?
RG: I clerked for a 10-lawyer firm in Philadelphia after my second year of law school, and received and accepted an offer at the firm after that summer. The firm broke up after my first year of practice, and I accepted a job at Saul Ewing where I practiced law for the next 27 years.

VB: If you could give one piece of advice to the first-year lawyer in you, what would it be?
RG: Maximize your opportunities. This requires consistently doing your best, learning as much as you can, proactively easing the load for partners and clients, and networking to develop eventual sources of business.

VB: The practice of law can be very demanding. How did you strike a balance between life inside and outside of the office?
RG: I worked long days with few breaks during the week to free up more time on weekends.

VB: What have you found to be the single best way to generate new client relationships?
RG: Achieving great results for existing clients leads to referrals of new ones, especially if you have established a good reputation by speaking, writing and networking.

VB: What is the best piece of professional advice you have received (and who shared it with you)?
RG: Creative thinking is the most valuable thing we can do for our clients, so choose the most effective way to accomplish your goals instead of just following a standard approach. I learned this from both Gerry Litvin (the legendary trial lawyer) and Hank Ruth (the Watergate prosecutor).

VB: What have you found to be the most rewarding aspect of the practice of law?
RG: I am fortunate enough to have had many rewarding experiences in the practice of law. Serving as Chancellor of the Association was among the best, because it allowed me to help the bench and the bar. I also enjoyed representing pro bono clients because it made such a major difference in their lives. With respect to private practice, my two most memorable moments were winning a nine-figure verdict in an antitrust case, and representing Muhammad Ali at a federal trial.

VB: Just for fun – what is one little-known, unique or interesting fact about Rudy Garcia?
RG: I went to Woodstock, which was the best party ever. Also, as a teenager, I hitchhiked to California with nothing but $10 and the clothes on my back. Then, after earning some money on a landscaping crew, I bought a motorcycle and rode it back to Philadelphia.

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

YLD EXECUTIVE COMMITTEE ORIENTATION

The Young Lawyers Division held its annual Executive Committee Orientation at U-Bahn in Philadelphia on Jan. 25.

YLD Chair Vincent N. Barbera (holding microphone) opens the Orientation by introducing the YLD Cabinet on Jan. 25.
Looking Back, Looking Ahead

The Philadelphia Bar Foundation distributed a total of $556,550 in grants in December 2017 to approximately 40 civil legal aid organizations in Philadelphia – 22 percent more than we provided in 2016. These grants were awarded in support of general operations and the Foundation’s trustees, staff and volunteers are proud of this achievement. For those of you who provided in-kind and financial donations in 2017, we are very appreciative of your commitment.

During the 2017 grant cycle, we also added a new nonprofit partner to our list of grant recipients: Philadelphia Lawyers for Social Equity (PLSE). This organization is doing terrific work in communities most affected by criminal history record certification. The PLSE organization is doing terrific work in communities most affected by criminal history record certification. The Equal Justice Center will make it possible for litigants to travel to one location to get answers for various legal questions and problems through the consolidation of dozens of legal-aid agencies now spread out across the country. This substantial collaborative venture is the first of its kind in the United States, and has exciting implications for advancing the mission of the Foundation.

Another highlight of 2017 was the growth of the Foundation’s Board Observer Program that was only recently established in 2012. The program operates in partnership with the Philadelphia Bar Association’s Young Lawyers Division and Delivery of Legal Services Committee. The 2018 cohort of Board Observers has 57 participants – the largest group of new lawyers to date who are placed in an observer role with a Philadelphia nonprofit board, many of whom are the Foundation’s nonprofit partners. Involvement in the program raises awareness of the need for legal aid and nonprofit support in our region. Many of the Board Observers continue to serve in nonprofit board and leadership roles at the end of this experience. This is evidence of the program’s effectiveness and its legacy. It is our hope that this program will grow even more through the years.

Our Scope of Support for the Legal Aid Community

It is my pleasure to serve a second year as the president of the Foundation and to support its important mission of providing access to justice for all people in our community. The Foundation employs a broad scope of work to accomplish that mission in addition to the core activity of providing grants to our nonprofit partners. Many lawyers, law firms and business professionals may not be aware that there are programs (such as the Board Observer Program), awards, fellowships and events throughout the year that also support our mission.

Each year, the Foundation issues awards that acknowledge and promote excellence and accomplishment in the legal profession for pro bono service, public interest service, nonprofit legal aid achievement and historical role models for justice. They include:

- Pro Bono Award - 2017 honoree Drinker Biddle & Reath LLP
- The Honorable Louis H. Pollak Champion of the Public Interest Award - Richard C. Glazer received this award in 2017
- Samuel T. Gomez Award - our most recent recipient was Linh H. Nguyen
- Trailblazers for Justice - Sadie T.M. Alexander was our inaugural recipient
- Philadelphia Bar Foundation Award – proudly presented to Ayodele Gansallo in 2017

A notable Foundation initiative is the Trailblazers for Justice, a trial advocacy skills training program for our nonprofit partner organizations.

There are several fellowship programs that the Foundation administers in support of individuals who have committed their professional careers to public service:

- The Honorable Albert W. Sheppard Scholarship Fund
- The Judge William M. Marutani Fellowship
- The Morris M. Shuster Public Interest Fellowship Program

In addition, we administer the Association of Corporate Counsel Greater Philadelphia’s Diversity Corporate Internship Program and the Judge Alfred L. Luongo Fund.

Finally, we have a LexisNexis Research Grant Program for our nonprofit partners.

As you can tell from this comprehensive list, the Foundation is in a unique position to identify sector-wide needs and marshal the resources to address issues in effective and timely ways. With your help, we can continue this comprehensive approach as we work to close the access to justice gap.

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

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Registration Now Open for 39th Bar 5K

Registration is now open for team and individual entries for the 39th Annual Philadelphia Bar Association Charity Run/Walk benefiting the Support Center for Child Advocates. Proceeds will help Support Center and its goal to protect abused and neglected children in Philadelphia. The run/walk will be held at Memorial Hall in Philadelphia’s Fairmount Park on May 20, 2018. Online registration for individuals is now open and accessible through May 18 at phillybarcharityrun.com. Runners and walkers of all ages are encouraged to participate!

The event includes a five-kilometer (3.1-mile) race and walk. Anyone may run or walk as an individual in the Open Competition. Members of the Philadelphia Bar Association are included, at no extra charge, in the Bar Competition in addition to the Open Competition. There is also a free 200-yard non-competitive Kids’ Dash for children ages 5-10 sponsored by Buchanan Ingersoll & Rooney PC. Registration for the Kids’ Dash will be on the day of the event.

The deadline for mail-in registration forms is Friday, May 11. Registration forms and applications and information for the Caesar Rivise, PC-sponsored Legal Team competition may also be downloaded at phillybarcharityrun.com. The deadline for receiving team registrations is also May 11. Should you have any additional questions regarding team sign-up, please contact Michael Berkowitz at mjbekowitz@caesar.law.

The individual entry fee for the Open and Bar Association Competitions and walk is $35 if the registration is postmarked by midnight May 11, 2018. Runners who register online by Wednesday, Feb. 28 will receive an early bird discount of $5 off registration! Individuals can register in person at the office of Caesar Rivise, PC, at 1635 Market St., 12th Floor, Philadelphia, from May 17-18, between 9 a.m. and 4 p.m. Online registration is available at phillybarcharityrun.com. A service fee is added for online registrations. The entry fee on the day of the event increases to $45, so preregistration is encouraged.

The Philadelphia Bar Association has already been joined by corporate-level sponsors this year including Firstrust; Buchanan Ingersoll & Rooney PC; Caesar Rivise, PC; Philadelphia Runner; Veritext: The Legal Intelligencers; USA Track & Field; and Philadelphia Parks & Recreation. In addition, to date, the following law firms have signed on as legal sponsors: Anapol Weiss; Dechert, LLP; Ofcif Kurman and Stevens & Lee/Griffin. Sponsorships are still available! For information regarding sponsorship levels and advertising, call Manny Pokotilow at (215) 567-2010.

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Smart Business Development Planning for 2018

By Maureen M. Farrell

“What does success look like for you?” This was the question that began the Solo, Small and Mid-Size Firm Management Committee’s presentation on business development strategies to consider for the upcoming year on Dec. 21. Maureen M. Farrell, chair of the Committee, said that only by considering both your personal and professional visions for success, can a realistic plan be developed for the new year. That plan may be taking on a partner, developing a new idea or trying different types of cases.

Farrell was joined by Gaetan J. Alfano, former Philadelphia Bar Association Chancellor and partner at Pietragallo Gordon Alfano Bosick & Raspanti, LLP, and Timothy J. Holman, partner at Smith Kane Holman, who explained their perspectives on developing business into the upcoming year.

Farrell asked the audience to engage in a realistic analysis of their business development plans and goals from the last year. After considering what goals were and were not met, she suggested developing a new plan. The plan should consider a broad business strategy and clearly define both type and volume of business in addition to budgetary concerns. It should also be understood that the business development plan should dictate networking strategies. Farrell talked about setting three goals, a “minimum,” an “attainable” and a “surpass” goal. Throughout the year, check in with yourself and re-evaluate your goals, if necessary.

“Don’t be afraid to try something new, because as a small firm owner one can evolve more easily,” Farrell said. She said she places an emphasis on follow-ups and continuing dialogue with an existing client base.

Holman talked about the importance of knowing what you do and how to adequately and succinctly convey that to a potential client or referral. He runs a niche practice as a fiduciary litigator, which is not always easy to explain. Holman said that 5 percent of his business comes from a very successful blog he writes. He said that blogging “is not rocket science” and offered suggestions on blogging and how to maintain a relevant social media presence. In terms of referrals, Holman said that it is important to be cognizant of your referral sources. He mentioned developing business by utilizing speaking engagements and other opportunities to be out there and in front of people to get your message across.

Alfano discussed the mid-size firm perspective and “leveraging the knowledge and skill of colleagues in your firm.” “Understand what your colleagues do so that you can cross-market their practice areas, especially to existing clients,” he said. Alfano talked about his strategy of watching multiple sources of news and information about cases daily in The Legal Intelligencer, Law 360 and the dockets. He said that many of his sources of business were developed from solid relationships from early in his career in the City of Philadelphia’s Office of the District Attorney and from his involvement in the Justinian Society. Alfano also talked about the importance of having the wherewithal to ask for business and the value of that skill. He spoke about grappling with “facing the inevitable rejection” when asking for business, but without summoning the courage to ask, opportunity vanishes.

There is no right or wrong answer to what is the best strategy. However, their successful business development practices were directly related to each panelist knowing and utilizing their individual style and strengths.

Maureen M. Farrell (maureen@maureenfarrell.com), chair of the Solo and Small Firm Management Committee and principal at the Law Offices of Maureen M. Farrell, Esq., is an associate editor of the Philadelphia Bar Reporter.
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Foreign Partners Benefit From Recent Tax Decision

By James C. Vandermark

In the recent decision of Grecian Magnesite Mining, Industrial & Shipping Co., SA v. Commissioner, the tax court declined to follow the IRS position set forth in Rev. Ruling 91-32, that posited that a foreign partner is subject to U.S. Federal income tax on the sale of the gain attributable to U.S. trade or business assets of the partnership. The Philadelphia Bar Association Tax Section presented a CLE program titled “Implications of Grecian Magnesite: A Major Boon for U.S. Partnerships?” at its Annual Meeting on Dec. 11. The program was presented by Joan C. Arnold, partner at Pepper Hamilton LLP; Joseph Calianno, tax partner at BDO USA LLP; Ellen K. Harrison, partner at McDermott Will & Emery; and Michael J. Miller, partner at Roberts & Holland LLP.

Grecian Magnesite involved a foreign partner’s interest in a U.S. company classified as a partnership for federal tax purposes. The partnership redeemed Grecian Magnesite’s interest, giving rise to a dispute as to whether the gain from the redemption was subject to U.S. tax. The foreign partner, which did not have an office or fixed place of business in the U.S., argued that it was not subject to U.S. tax. The IRS disagreed.

Calianno presented the audience with the IRS’s argument, that concentrated on an aggregate theory under Rev. Ruling 91-32. The IRS argued a foreign partner recognizes gain on the sale of partnership interest because a foreign partner is treated as engaging in U.S. trade or business if the partnership is engaged in U.S. trade or business. The ruling then required the gain to be effectively connected income because the partnership interest is the asset at issue and U.S. trade or business activity increased the value of the foreign partner’s interest.

The tax court was more than unpersuaded by the IRS’s position. While Miller, who represented Grecian Magnesite, commented, presumably in jest, that the opinion was “fair and even handed,” Arnold said the tax court’s opinion was “ruthless in its disagreement with the Service and lack of respect for the way [Rev. Ruling 91-32] had been worded and the way the case had been argued.” In the tax court’s opinion, the redemption was to be looked at under an entity theory and not an aggregate theory. Further, since the foreign partner did not have other connections with the U.S., the gain was foreign source income, not ECI, and not subject to U.S. tax.

Harrison talked about the possible implications of the Tax Court’s decision on estate and gift tax. She told the audience that the general rule is that the transfer of a U.S. intangible asset, such as a partnership interest, is subject to estate tax unless a treaty provision is applicable. Harrison said that many individuals use foreign corporations to avoid this inheritance issue and, after Grecian Magnesite, the gain to the corporation will not be subject to U.S. tax.

By Jesse Berwanger

Sometimes, an expert witness may have the art of cross-examination down from years of experience on the stand. Tips on how to handle a well-seasoned witness were presented during the second installment of the “Cross Examination Series” of Philadelphia Bar Association CLEs presented by Hon. Mark I. Bernstein (Ret.) and Larry Bendesky, partner at Saltz, Mongeluzzi, Barrett & Bendesky, on Dec. 19.

During the presentation, the panel recreated cross-examinations to showcase techniques to be used in the court room. Judge Bernstein obtained transcripts and recruited attorneys willing to portray the witnesses on the stand. The attorneys who conducted these cross-examinations were available to attend and recreate their entire questioning.

The panelists included a structure of ways to achieve a successful cross-examination whether be for experienced attorneys or attorneys conducting their first cross-examination. They focused on informing less-experienced trial attorneys on how to cross-examine expert witnesses and successfully navigate around the tactics an expert witness may use.

Judge Bernstein and Bendesky discussed the importance of a litigator’s ability to highlight weaknesses through cross-examination. One of the key things an attorney should take into consideration, they said, is researching the expert witness’s background. The panel also presented other tools and techniques for cross-examination. These included where to begin, what kind of questions to ask and whether those questions should be asked at all. They also talked about how a litigator can develop facts that help the case, methods of maintaining control over the witness, effective use of evidence, and the use of body language and speaking tone in conveying questions to the entire courtroom and not just the witness.

Jesse Berwanger can be reached at berwangerjsec@gmail.com.
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Panel Explores Reasons for Unsuccessful Prosecutions

By Julia O’Connor

A national dialog has begun around the spate of police shootings and other violence by law enforcement in America involving unarmed people of color. Take Action Philly hosted “Black, White and Blue in America: Race and Justice in the 21st Century” to propose solutions to the racial injustices in the criminal justice system and seek answers to the question, “Why are there so few successful prosecutions of police officers in police-involved shootings?”

The first panel was moderated by Keir Bradford-Grey, chief defender at the Defender Association of Philadelphia. The discussion was kicked off by Dr. Donald F. Tibbs, professor at Drexel University Thomas R. Kline School of Law. He talked about the perceived lower standards applied to police officers when accusations involving force are brought to court. According to Tibbs, the legal system allows for the objective review of harm to come from other police officers, creating subjectivity, conflict and inherit injustice in the review process. He said that the ramifications of slavery today and persistent and systemic racism in America have created an unacceptable and harmful narrative that shapes the implicit bias of police officers regarding the fallacy of the “criminal and deviant” black man. He called for activists and lawyers to work together to find collaborative solutions to change this narrative of problems of race and the criminal justice system.

Professor Marie Gottschalk of the University of Pennsylvania said that police cannot be successfully prosecuted for their actions. The final panel discussion during the Take Action Philly convening on Jan. 11 tackled investigations into police-involved shootings and other incidents. Panelists included Brian Abernathy, first deputy managing director of the City of Philadelphia; Larry Krasner, Philadelphia District Attorney; and Hans Menos, executive director for the Police Advisory Commission. The panel was moderated by Nikki Johnson-Huston, principal of The Law Office of Nikki Johnson-Huston, LLC.

Abernathy began by outlining the procedure of the Philadelphia Police Department once a police-involved shooting takes place. Generally, when an officer fires his or her weapon, they need to respond and report that to police radio immediately. Police radio then informs internal affairs. Ideally, according to Abernathy, the officer involved is interviewed within 72 hours. Two investigative teams work simultaneously on the police-involved shooting. One team investigates for criminal conduct that may have taken place and refers their findings to the district attorney for criminal charges. The other team conducts an administrative investigation and makes recommendations to the Police Board of Inquiry. The two investigative teams act completely separately to preserve the integrity of the investigations.

Recently elected to the office of Philadelphia District Attorney, Krasner focused his discussion on how he plans on dealing with the issue of police-involved shootings during his administration. He talked about the quality of these types of investigations and how police-involved shootings are investigated completely differently than other shootings, giving the public the idea that there is favoritism at play in shootings involving officers. Krasner provided some examples of this, including how the average person is immediately interrogated upon the event. He said that the difference between how police-involved shootings are handled from other shootings divides society and makes civilians feel alienated from police. When asked how he plans on dealing with these issues, Krasner responded that although it is a work in progress, he would like to bring more of these cases in state court instead of leaving them to the federal government to pick them up.

The goal of the PAC, Menos said, is to help the relationship between police officers and the community by identifying problems, highlighting issues, and making conversations happen. One of the difficulties he said he finds in his post is the role that race plays between officers and citizens. He said he hopes for more access to resources, while focusing on policy, practice, and custom, and to direct those resources in relation to police involved shootings.

While the panel made it clear that there is a lot of work to be done to address the issues involved in police shootings, including race issues, it is also clear to the panelists that more steps need to be taken. Abernathy said he wants to provide improved and continuous training for officers, while holding bad actors accountable. Krasner said that there must be accountability on behalf of the officers and that he plans to prosecute based on the facts and the law in each case. Menos proposed that police incorporate different practices into their enforcement besides taking people into handcuffs and “locking them up.” He also said that citizens should inform the PAC if they have any concerns with police.

Prosecutions From the Law Enforcement Point-of-View

By Melanie C. Grimes

Police-involved shootings are a part of the larger discussion around holding law enforcement accountable for its actions. The final panel discussion during the Take Action Philly convening on Jan. 11 tackled investigations into police-involved shootings and other incidents. Panelists included Brian Abernathy, first deputy managing director of the City of Philadelphia; Larry Krasner, Philadelphia District Attorney; and Hans Menos, executive director for the Police Advisory Commission. The panel was moderated by Nikki Johnson-Huston, principal of The Law Office of Nikki Johnson-Huston, LLC.

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Have an Ethics Question?

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Angela J. Davis

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by reading from her latest book, remembering Eric Garner, Walter Scott, Terence Crutcher and other black men who had been killed by police officers in recent years. Except for the officer involved in the Scott shooting, Michael Slager, none of the officers involved in any of the other incidents had been found guilty of a crime to date.

“No issue is more important to me than the unjust treatment of black and brown people in the criminal justice system,” Davis said. She talked about Slager’s conviction on a civil rights violation, not the murder of Scott. She said that although Slager would be serving time, it was for the wrong crime.

Inherent racism in the criminal justice system is evident, said Davis, in terms of the rates of arrests and convictions of black men and boys. She said that even though there are other groups, like the LGBTQ community, discriminated against by the system, the situation facing black men and boys is unique. “[Black men and boys] are impacted more adversely at every step of the process,” she said. For instance, sentences can be more than 19 percent longer for black men than white men convicted of the same crime. Nearly 50 percent of black men can expect to be arrested by the age of 23, and according to Davis, black men are treated worse than their white counterparts at all levels of the system, regardless of whether they are the accused or the victim.

Davis said that the 2012 killing of Trayvon Martin put the issue on the map, garnering self-reflection by President Obama and stemming the “Black Lives Matter” movement. Davis said that change lies with prosecutors and prosecutorial power. Police officers can recommend charges, but it is the prosecutor’s role to bring them. It ends up being the prosecutor, through the charges, who essentially decides how long a convicted individual will remain in the criminal justice system.

Davis also said that it is up to the prosecutor to bring charges against officers involved in these shootings if there is just cause to be found. She supports progressive prosecutors, calling out Philadelphia’s District Attorney, Larry Krasner, as an example. The public needs to be engaged, she said, to make sure candidates like Krasner are elected. Davis said that officials like him are willing to ask the tough questions about how to address the systemic issues that lay the foundation for racism in the criminal justice system.

Prosecutions

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because of systemic inequities and legal barriers. However, she shifted the conversation toward not resolutions that do not seek prosecutorial solutions. She said that the rules of engagement and policing should be changed to ensure accountability, allow for civil suits and ultimately limit the deaths of citizens in police shootings. She suggested an increase in police training, reducing police contact with the public and demilitarizing officers. She concluded that prosecutions are important and symbolic for families and the community, but she said that they are not necessary and will not change the problem. She said that only changing the rules can alter the tides of justice.

The final panelist, Lance Hannon Ph.D. of Villanova University, focused on the data for the policing strategy of “stop-and-frisk.” The data, he said, clearly depicted the deep, systemic disparity and implicit bias in policing of African-American communities and individuals. The data showed that African-Americans are stopped at disproportionate rates with less success in uncovering contraband. The collateral consequences of this policy are damaging and lack any evidential justification. He said stop-and-frisk is unnecessary, citing data that showed that despite a 60 percent reduction in the strategy’s use, Philadelphia’s crime rate did not increase. He urged the policing community to make things better not worse, and to start with smart solutions to create a higher standard of public safety that reaches beyond crime and expands safety for all individuals.

Julia O’Connor (joconnor@philabar.org) is the public interest intern at the Philadelphia Bar Association.

Membership

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• Business and Professional Development Opportunities

We also remain committed to supporting public interest organizations through our charitable arm, the Philadelphia Bar Foundation, and suggest that you make a contribution when you pay your dues. We look forward to your continued membership and welcome your ideas and suggestions on how the Association can serve your interests. Note that dues in a few categories have changed for the first time since 2009. Please call Andrea Morris-Tracey, our member services manager, at 215-238-6313 if you have any questions about your membership, or visit PhiladelphiaBar.org for more information.
Preventing School Pushout: SDAS

By Sara Lynch and Darien Wynn

A female middle school student we will call Ashley was on her way to the bathroom when a male grabbed her sweatshirt and ran into the boy’s bathroom. Ashley ran in after him. Moments later a group of boys entered and began harassing another boy, took pictures above the stall door, and posted them to social media. Everyone in the bathroom was suspended – including Ashley, though her presence was unrelated to the bullying incident. The School District of Philadelphia scheduled hearings to determine whether the students would be further punished with a transfer to a disciplinary school.

Ashley’s grandmother called the School Discipline Advocacy Service. SDAS is a law student pro bono group that advocates for Philadelphia public school students in informal school discipline proceedings. Each year SDAS partners with the Education Law Center. ELC provides training to dozens of law students from Philadelphia law schools on students’ substantive legal protections in school discipline. In cases like Ashley’s where the school recommends a disciplinary transfer, students have the right to an informal hearing before a district hearing officer where they can explain the circumstances of the incident and show why they should not be suspended or transferred to an Alternative Education for Disruptive Youth school.

Ashley’s grandmother told SDAS the facts of the case, described Ashley’s prior disciplinary issues and shared Ashley’s education goals. Following SDAS’s assistance at the hearing, the hearing officer found there was insufficient evidence to warrant Ashley’s transfer to disciplinary school and Ashley stayed at her current school. SDAS also helped Ashley to raise other grievances with the school and proposed more appropriate solutions such as a behavior contract.

In other cases, the facts are less favorable. SDAS recently assisted Matt, a senior at a special admissions high school. Matt was caught possessing marijuana. Based on student statements alleging that Matt was distributing on school grounds, the school issued an automatic transfer to an AEDY school. Under Pennsylvania law, schools may make transfers prior to a hearing if a student “poses a continuing danger” or “an ongoing threat of disrupting the academic process.”

At the hearing, in support of Matt’s request to return to his school, SDAS elicited testimony that Matt had no prior disciplinary record and was an honor-roll student, submitted a character letter from Matt’s church, and presented a petition from students and faculty supporting Matt’s readmission. SDAS also raised concerns that Matt regularly received assignments below grade level at the disciplinary school. However, the hearing officer upheld the transfer.

While not all outcomes are favorable, the fact that these students have an advocate to help them in the transfer hearings can make a huge difference. And for the law students who participate, the experience provides an opportunity to practice client communication skills and to push back against school pushout.

Sara Lynch and Darien Wynn are students at University of Pennsylvania Law School.

*The clients’ names were changed to respect their privacy and protect their identities.*
By Mary E. Ashenbrenner

The year 2017 was a year full of headlines: global politics, tensions flaring in the Middle East, and a new U.S. presidential administration dominated the news. The financial markets have focused on shifting monetary policy as the Fed continued to raise interest rates. For this month’s interview, I sat down with Bill Stone, chief investment strategist, PNC Asset Management Group, to discuss his expectations for the coming year.

Mary Ashenbrenner (MA): What are your expectations for interest rates and earnings in 2018?

Bill Stone (BS): We expect the Fed to continue to raise rates gradually in 2018. PNC Bank expects three interest rate increases next year, each at 25 basis points. We will be watching the change in leadership at the Fed, as current chair Janet Yellen is succeeded by newly nominated Jerome Powell, who will assume office in February 2018. For 2018 we are expecting another solid year for earnings growth, and our PNC Bank estimate for S&P 500 earnings is in the mid- to upper-single-digit range. The recent tax reform passage could increase that estimate for the S&P 500 to 15 percent.

MA: How do you feel about the economic expansion as reflected in the GDP that we saw in 2017 will continue?

BS: We expect the economic expansion to continue into 2018, forecasting 2.7 percent GDP growth for 2018. It is estimated that the job market should be close to full employment later this year; job and wage gains are helping boost personal incomes; consumer spending should continue to lead economic growth; and the housing market will probably continue to gradually recover. The short-term impact from the hurricanes is likely to be offset by rebuilding efforts in late 2017 and early 2018.

MA: How do you feel about the monetary policies here in the U.S. as well as overseas?

BS: We believe that, given the strong growth in the U.S. and global economies, the extraordinary monetary policies previously undertaken by the Federal Reserve and other major global central banks are becoming less necessary. The Fed is now firmly on a path of normal monetary policy as we move into the ninth year of an economic recovery, much improved since the days of the financial crisis and Great Recession. The Bank of England raised interest rates in 2017 for the first time in a decade, despite the ongoing Brexit process. The European Central Bank has made adjustments to its monthly bond purchases, while not yet raising interest rates. Overall, however the strength of these and other nations show a picture quite different than what we saw during the global recession.

MA: What are your overall themes for the financial markets in 2018?

BS: Our themes for 2018 are:

• potential tiffs in global growth synchronization;
• volatility mean reverting;
• the impact of higher long-term interest rates on fixed income;
• bitcoin frenzy and blockchain’s future;
• the rebound in capital expenditures; and
• Global Industry Classification Standard in the mix.

MA: Are stocks faring versus bonds?

BS: Annually, we review historical trends for stocks and bonds, and for the fifth year in a row stock returns have been better relative to bonds. The current 10-year trailing return of stocks relative to bonds reflects outperformance largely tied to the strong performance of the equity markets for more than a few years now.

MA: Do you expect significant market corrections in 2018?

BS: Despite the headlines throughout 2017, including concerns regarding fluctuating interest rate expectations, political news, and geopolitical risks, volatility was somewhat sanguine relative to history while markets moved strongly higher. On the heels of tax reform, continued economic data, and good earnings, the S&P 500, the Dow Jones Industrial Average and NASDAQ continue to test new all-time highs. While this performance has emboldened some investors to become more aggressive, it is worth remembering that even good markets have pullbacks and corrections. U.S. stocks have gone longer than average since a marked retreat, and we note that market corrections do occur from time to time.

MA: What are some of the key factors to watch in 2018?

BS: We expect markets to continue to watch the Fed and other central banks worldwide for shifts in monetary policy. Movements in inflation and currencies are key factors to watch this year. We believe unforeseen outcomes in global politics could continue to surprise. While we acknowledge the difficulty for us, or anyone, to predict with great accuracy the short-term behavior of stocks, we feel investors should continue to focus on their long-term goals, working with their financial advisors to develop an asset allocation that matches their risk and return objectives.

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Loving the New Addition to the Starr Family

By Lee A. Schwartz

Loving the New Addition to the Starr Family

Dandelion, the British tavern, also a Starr S. 18th St., Philadelphia (just across from the Stephen Starr empire, located at 130 heart. The Love is the next iteration in love” in the form of a literally handmade heart. The Love is the next iteration in love” in the form of a literally handmade hea

Go onto the website and you will find a menu that is eclectic and choices were difficult. We asked the waitress for help and she advised the Handmade Pierogis were not to be missed. She was right on point. Though expensive for a first course ($24), they are wonderful. No potato in these soft, lovely babies. They are stuffed with creamy farm cheese and served with a buttermilk panna cotta topped with caviar. They were dreamy. Some advice though, eat them while they remain hot. Once cold, the glory is gone. We ordered the Farm Salad ($14). This was a Boston lettuce salad covered in blue cheese, bacon and sliced onion. Very good. We also ordered the Purist Poke, with raw salmon cubes, radishes, olive oil and salt. The salmon quality was first-class.

For dinner, my trusted companion ordered the 24-hour slow-roasted Lamb with sweet berry sauce and cooked carrots ($36). It was a special that evening and was phenomenal. I ordered the perfectly cooked Seared New England Scallops ($32). They were scallops as good as they get, served with red cabbage, carrots, brinco and a tangerine butter.

Dessert for us was the “Carrot Cake” Sundae, with cream cheese custard and wet walnuts ($11). The cream cheese custard was akin to vanilla ice cream and it was with chunks of carrot cake. What could be bad?

The Love has an extensive wine list and a nice beer list. There are plenty of choices on the dinner menu and they also serve lunch.

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LEGAL ADVISORY UPDATE FROM USI AFFINITY

5 Ways to Avoid LPL Coverage Gaps

There is little need to explain why lawyer professional liability (LPL) coverage gaps are not a good thing and could lead to disastrous consequences. Gaps in LPL coverage commonly occur in one of two ways:

1. No coverage for prior acts committed prior to the effective or retroactive date of current coverage; or
2. No tail coverage for acts committed during your current coverage but reported after the policy expiration date.

What can a lawyer or law firm do to prevent gaps in insurance coverage?

1. Remember, you generally only have 30 days after a policy expires to purchase tail coverage, also known as extended reporting period or extended reporting endorsement, and failure to do so will result in a gap in coverage.
2. If you’re leaving a firm, just because your previous employer assures you that it will maintain its malpractice insurance coverage, don’t think that this means that you will continue to be covered.
3. If your new firm is not purchasing prior acts coverage, ask the firm if you can pay an extra premium to obtain prior acts coverage for yourself.
4. If you’re leaving to have a child, changing to non-practicing status, or switching to a non-legal career, remember that you still need to have tail coverage to cover past errors you may have made that may be discovered in the future.
5. If you are considering hiring another attorney, you need to find out whether you will be assuming liability for the prior acts of that attorney prior to joining your practice, and if so, how it will affect your insurance coverage.

Any attorney in private practice is at the risk of being sued for malpractice, and such an allegation can cost thousands of dollars to defend, putting significant financial strain on the attorney as well as the law firm. Closing gaps in LPL coverage can provide a more secure financial cushion should that event occur.

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 contact 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 1-855-874-067.

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For more information about defending malpractice allegations, contact Rich Balasa, senior professional liability consultant at USI Affinity, today at (800) 265-2876 x 11444.

By Lee A. Schwartz

5 Ways to Avoid LPL Coverage Gaps

There is little need to explain why lawyer professional liability (LPL) coverage gaps are not a good thing and could lead to disastrous consequences. Gaps in LPL coverage commonly occur in one of two ways:

1. No coverage for prior acts committed prior to the effective or retroactive date of current coverage; or
2. No tail coverage for acts committed during your current coverage but reported after the policy expiration date.

What can a lawyer or law firm do to prevent gaps in insurance coverage?

1. Remember, you generally only have 30 days after a policy expires to purchase tail coverage, also known as extended reporting period or extended reporting endorsement, and failure to do so will result in a gap in coverage.
2. If you’re leaving a firm, just because your previous employer assures you that it will maintain its malpractice insurance coverage, don’t think that this means that you will continue to be covered.
3. If your new firm is not purchasing prior acts coverage, ask the firm if you can pay an extra premium to obtain prior acts coverage for yourself.
4. If you’re leaving to have a child, changing to non-practicing status, or switching to a non-legal career, remember that you still need to have tail coverage to cover past errors you may have made that may be discovered in the future.
5. If you are considering hiring another attorney, you need to find out whether you will be assuming liability for the prior acts of that attorney prior to joining your practice, and if so, how it will affect your insurance coverage.

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PHILADELPHIA BAR ASSOCIATION

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Monique Myatt Galloway, associate at Kessler Topaz Meltzer & Check, LLP, was named an Access to Justice Champion by the Pennsylvania AARP for her leadership in launching The Barristers’ Association of Philadelphia, Inc.’s Life Planning Clinic in partnership with SeniorLAW Center on Nov. 29.

William P. Fedullo, former Chancellor and counsel to Rosen Schafer & DiMeo LLP, has been appointed as board chair of SeniorLAW Center.

Sozi Pedro Tulante, city solicitor for the City of Philadelphia Law Department, was awarded the Honorable William F. Hall Award by The Barristers’ Association of Philadelphia, Inc. at its Dr. Martin Luther King Jr. Annual Memorial Breakfast on Jan. 15.

Gaetan J. Alfano, former Chancellor and partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, spoke at the Business Insurance 2017 Women to Watch national conference in New York City on Dec. 15.

Henry I. Pass, principal at the Law Offices of Henry Ian Pass, was recently interviewed on WWDB’s Lifestyle radio program where he discussed the evolution and success of his boutique practice and the types of matters for which clients seek his legal and business acumen.

George Martin, founding partner at Martin Law LLC, was recently re-appointed as chairman of the Planning Commission of West Vincent Township.

Jonathan M. Katona, partner at Klehr Harrison Harvey Branzburg LLP, is the new president of the Homeless Advocacy Project board of directors.

Edward J. Sholinsky, partner at Schnader Harrison Segal & Lewis LLP, was appointed to serve as vice president of the board of directors for HIAS Pennsylvania.

Hon. Mark I. Bernstein (Ret.), is the new president of the Eastern Pennsylvania Chapter of the American Board of Trial Advocates for 2018.

Gary A. Krimstock, attorney at Fineman Krikstein & Harris P.C., participated in the PA/DelVal CAI chapter State of the Industry Breakfast at The Union League.

“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.

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