Chancellor Will Lead Association With Clear Vision for 2019

By Priscilla Jimenez

Rochelle M. Fedullo, a partner at Wilson Elser Moskowitz Edelman & Dicker LLP, will serve this year as the 92nd Chancellor of the Philadelphia Bar Association, the oldest Association of lawyers in the United States, founded in 1802. Fedullo gave her inaugural address to the attendees at the Association’s Annual Meeting and Luncheon at The Bellevue Hotel on Dec. 5. During her enthusiastic and encouraging address, she outlined her vision for 2019 and discussed the challenges and recommendations she had for the future of the Association.

Fedullo has a deep and invested history with the Association, and has spent most of her legal career involved with it in various capacities. She first ran for the Board of Governors 20 years ago alongside 2018 Chancellor Mary F. Platt. Fedullo spoke about how her experience as a young woman entering practice during a time where the profession was predominantly male, shaped her path and helped make her the passionate advocate and mentor for others who she is today.

Starting her career in 1982 at the Philadelphia Law Department, Fedullo was mentored “from day one” by Hon. Sandra Mazer Moss (Ret.). Mentorship is extremely important to the growth and progress of the profession, she said. Although mentoring initiatives are already in place through the various Sections and Committees, Fedullo pledged to form a task force to focus on taking these mentorship programs and workshops to the next level.

Fedullo passionately discussed the importance of defense of the rule of law, one of her initiatives for 2019. She said that as Philadelphia lawyers, it is our responsibility to defend the rule of law and access to justice for everyone. The importance of this responsibility cannot be understated and is a nonpartisan issue. Our membership is filled with diverse attorneys with varied backgrounds and expertise who lead legislative victories on matters of importance to our community and the justice system, and as Fedullo said, we all play an important role. She shared an emotional story involving her own father who was sent to a concentration camp in Auschwitz during World War II. She said that she was inspired to become a lawyer by her belief in justice and the defense of the rule of law, integral parts of her core being instilled in her as a child.

Fedullo also talked about the significance of diversity and inclusion, pledging a personal commitment to making the
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Looking Back, Thinking Forward

By Shelli Fedullo

The other day at brunch, with my 25-year-old son, I mentioned that a large chain retailer to which I did not (voluntarily) give my email address, was not only sending me emails, but apparently knew my “browsing history,” suggesting products located in aisles where I had lingered. My comment that “they must be using some kind of fancy, high-tech stuff” was met with laughter and the reply that, unless I want to sound old, I need to improve my lingo when I talk about technology. I responded that “I am old,” and “by cracky, you are right.”

Okay, maybe I didn’t really mean it when I said I was old, but at the very least I am “oldish,” and the world has changed a lot since I was young. In 1969, if someone had told the 17-year-old me that I would be carrying a small device in my handbag that could connect me with pretty much anyone, anywhere, and provide instant information about pretty much anything (and I could shop from it), this would have been quite the fantastical, mind-blowing proposition. In 1969, if someone had also told the 17-year-old me that, in 2019, I will have been a lawyer for 37 years and Chancellor of the oldest bar association in the country, these fantastical propositions would have also blown my mind. Back then, when I visited the college guidance office at my large, urban public high school, “lawyer” was definitely not on the short (unwritten, but still very real) list of careers for girls. When I tried to land the job of editor-in-chief of the high school yearbook, the faculty advisor, a good-natured man, offered the title of “literary editor,” along with second-place on the masthead; autonomy in writing and editing copy; directing the creative aspects of the yearbook; and the very important perk of never having to answer to the boy-in-charge. I was disappointed, but not angry with the advisor. I was a product of society’s view of my demographic. The ideology of feminism was not incipient in my 17-year-old mind, and it did not dawn on me that anything was fundamentally wrong with the biases expressed by the advisor that girls could not work together, that girls needed to be managed by a boy to get anything done and that his boy-in-charge rationale was acceptable.

So, why am I sitting in front of my fancy, high-tech computer writing (some may think whining) about not being chosen as editor-in-chief of the yearbook, 50 years ago, because I was a girl? After all, I got to do pretty much everything I wanted to do, including exacting the revenge of not editing the boy’s copy for him. I just did not get the title. Why, as an oldish person, do I feel so hurt, and yes, even betrayed, by the good-natured man who, after all, was just a product of his own place in society? Why dwell on the past since the world has changed so much and biases based on gender (or race, or you name it…) no longer exist or impact decision-making, right? The problem is that these biases still do exist, and impact decision-making every day.

There are many far more compelling stories out there than the one I just told. Many of you know them because you have lived them. They need to be told and remembered, or we run the risk of having too many new ones. The world really has changed so much, but we need to protect positive changes and be agents of more change. That is what Philadelphia lawyers always do.

Left: Chancellor Fedullo
with former Chancellor, law partner and friend, Kathleen D. Wilkinson, at the Philadelphia Bar Association’s Annual Meeting and Luncheon at The Bellevue Hotel on Dec. 5.

Rochelle M. Fedullo (Rochelle.Fedullo@wilhelmelers.com), partner at Wilson Elser Moskowitz Edelman & Dicker LLP, is Chancellor of the Philadelphia Bar Association.
Our relationships with other people matter. For the Young Lawyers Division, 2019 is all about the people who make our organization great. As we look forward to another successful year, we will focus on strengthening our relationships with other groups, with our colleagues and with each other.

First, we will concentrate on strengthening the relationships between YLD and other organizations. This year, YLD will expand its scope by focusing on working with other sections of the Philadelphia Bar Association, affinity bar groups and city organizations. It is critically important that we look outward. As the practice of law has continued to become more nuanced, we, as lawyers, too often get “silo’d.” Whether it is within our practice areas, within our sections of the Association or within our age groups, it is easy to get comfortable where we believe we belong. We suffer, however, as individuals and as lawyers, if we are content to be big fish in small ponds. We must expand our sights to grow and succeed. Reaching out to work with others is vital to share information and resources, to avoid duplicating efforts and to work together to achieve our mutual goals. YLD will continue our relationship-building with other organizations through events, such as our diversity reception and mentoring program with the Senior Lawyers Committee. We look forward to building new relationships by cosponsoring events and working together.

Second, we must focus on the relationships within our specific workplaces. We should invite our colleagues to get involved in the Association. Encouraging coworkers to experience the benefits of membership serves two purposes: it welcomes them into the Association and it offers a glimpse into what we do when we spend time away from our desks. The leadership and development experience that we gain through Association membership is priceless, and we need to demonstrate that value to our firms. I encourage YLD members to speak with partners about their involvement, and I ask partners to support their young lawyers in their professional growth through the Association.

Finally, we look forward to highlighting our relationships with each other. YLD membership is thriving, with approximately 3,000 members. As the Association’s bylaws have just been updated to raise the maximum age requirement of YLD from 37 to 40, we anticipate significant growth in YLD membership this year. YLD membership is more than numbers, though. We are a group of people working together throughout the year on our development and community outreach, and forming lasting personal and professional relationships. We put a lot of effort into our volunteer work with the Association, and fostering our friendships makes it both fun and rewarding. After all, it is the people that matter.

Michaella Tassinari (michaella.tassinari.kfyk@statefarm.com), attorney at Robert J. Casey, Jr. & Associates, is chair of the Young Lawyers Division.

Puppy Yoga at Sweat Fitness

The Young Lawyers Division hosted “puppy yoga” at SWEAT Fitness in Center City on Tuesday, Nov. 13. Adoptable puppies from Morris Animal Refuge in Philadelphia found their inner peace with members of the YLD. Thank you to SWEAT Fitness for hosting!
This is my first column as president of the Philadelphia Bar Foundation. For those of you who I have not yet had the opportunity to meet, please allow me to introduce myself. I grew up in the San Francisco Bay Area and attended the University of California, Berkeley, where I received both my undergraduate and law degrees. Currently, I am a partner at Ballard Spahr LLP. My husband, Greg Blackman, is a research scientist at DowDupont. We have been married for more than 25 years and have two children—one an aspiring opera singer and Crossfit enthusiast, the other beginning a career in the sciences.

The mission of the Foundation—to remove barriers to justice, encourage support for legal aid and educate people on their right to equal justice—reflects principles that have guided both my professional and personal lives. The programs, grants and partnerships developed and implemented by the Foundation have never been more important than they are right now. The legal community has a critical role to play, and it is imperative that we work together to demonstrate our shared commitment to access to justice.

That commitment has been evident throughout the work of the Foundation, and I am honored to have been a part of many of the decisions that have kept us moving forward. I have been privileged to serve as a trustee of the Foundation since 2010, and as a member of the executive committee since 2014. I chaired the Raising the Bar and New Development Initiative committees, cochaired the Access to Justice Benefit Committee and served as a member of the Awards and Programs, PBF-PBA Review, Individual Giving and Equal Justice Center committees. Our work is changing lives.

As many of you know, Ballard Spahr has a longstanding commitment to providing pro bono legal services to people and organizations in need. Our lawyers and staff donate more than 50,000 hours of pro bono legal services each year and have a 90 percent participation rate. We are deeply involved in Philadelphia’s nonprofit community and all the communities in which our offices are located.

At Ballard Spahr, I am the practice leader of its antitrust group. We handle civil and criminal antitrust cases across the country, from multi-district litigation and class actions, to investigations by federal and state officials. We also offer strategic guidance on business collaborations, securing antitrust clearances and developing competition strategies that will hold up in court, at the negotiation table or before an antitrust agency. My clients include global corporations, many of whom are leaders in the pharmaceutical and life sciences, aerospace, infrastructure, communications and consumer products industries.

I also serve on Ballard Spahr’s Diversity and Inclusion Council, which promotes the hiring and retention of lawyers from all backgrounds and ensures that all lawyers are included in all aspects of firm life, from effective integration to development and engagement. I also am involved in Ballard Women, a firm-wide affinity group that provides mentorship and networking opportunities to women lawyers at every level and across our 15 U.S. offices.

We have much to be excited about at the Foundation over the next two years. Very soon, we expect to break ground on the Equal Justice Center, a building at 8th and Vine streets that will house a significant number of the city’s legal aid organizations. By providing a single home to these organizations, we will enable them to direct more resources to their clients. The center—believed to be the first of its kind in the nation—will be a hub that will foster cooperation, increase desperately needed services and deliver significant cost efficiencies to the participating organizations.

I am excited about what lies ahead for the Foundation and about working with you. Thank you for joining me in advancing the mission that unites us—ensuring equal access to justice and leveraging the strength of our extraordinary legal community to make our region a better place.

Leslie E. John (john@ballardspaehr.com), partner at Ballard Spahr LLP, is president of the Philadelphia Bar Foundation.

December Cafecito on the Art of Networking

The Hispanic Bar Association of Pennsylvania welcomed Beth Rosenfeld, of Business Development University, for its third Cafecito, hosted by Kleinbard LLC on Dec. 14. The program focused on how to network in a purposeful and strategic way. Rosenfeld talked about SMART (specific, measurable, achievable relevant and time-based) goals, to be used as a guide for setting realistic networking objectives. The program covered the nuts and bolts of networking strategy, including how to prepare for a networking event, who to network with, what to say to a room full of strangers, organization of new contacts after an event, timely and effective follow-up meetings and opportunities for giving and receiving referrals. Rosenfeld also shared various tools, checklists and web applications to support a business development strategy. The next Cafecito is scheduled for February 2019.

Cafecito is the Hispanic Bar Association of Pennsylvania’s women’s breakfast series focused on fostering deeper relationships among Philadelphia-area minority attorneys. The series is organized by board member Melissa A. Martinez, associate at Saul Ewing Arnstein & Lehr LLP. For more information, please contact Martinez at Melissa.Martinez@saul.com.
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Photos by Thomas E. Rogers

DEC. 14, 2018 BILL OF RIGHTS DAY NATURALIZATION CEREMONY

Left: Hon. Cynthia M. Rufe, U.S. District Court for the Eastern District of Pennsylvania (center, left); with 2018 Chancellor Mary F. Platt (second from left); Sozi Pedro Tulante, fellow and lecturer at the University of Pennsylvania Law School (third from left); with members of the Pennsylvania Society Sons of the Revolution; at the Bill of Rights Day naturalization ceremony at the U.S. Courthouse sponsored by the Philadelphia Bar Association on Dec. 14. Right: Forty-eight people from 27 countries became U.S. citizens at the ceremony.
Supporting Loyal, Canine Companions for Veterans

By Deborah B. Richman

The guests at the wildly wicked Workers’ Compensation Section Halloween Happy Hour passed the “witch’s cap” and raised $340 for Team Foster. The Section held its annual Halloween Happy Hour at the new Brickwall Tavern in Philadelphia on Oct. 25. Participating in the frightful festivities were Sonny, a wounded veteran, and his blue-eyed Huskie mix, service-dog-in-training, Juno. Juno and Sonny were brought together through Team Foster, the charitable beneficiary of the happy hour.

Team Foster is an organization that raises money to partner service dogs with tristate-area veterans suffering from combat-related illnesses, including post-traumatic stress disorder and traumatic brain injury, at no cost to the veterans. The charity was founded in 2014 to honor friend and hero, Erick Foster, who was killed in 2007 while engaging enemy forces in Iraq. Team Foster has an innovative partnership with the Camden County jail, where low-level offenders volunteer to train the service dogs and receive a marketable skill, and lots of puppy love in return. Not only does the dog help the veteran with daily tasks, but also with skills proven to reduce depression and anxiety.

One service dog can take more than two years, and upward of $25,000, to be properly trained and prepared to partner with a veteran. Neither the U.S. military, nor the Veterans Administration or the U.S. government provides funding or support for service dogs. Team Foster has several fund-raising events each year, including the Foster 100, a 100-mile fully supported bicycle ride from Philadelphia to Cape May, New Jersey; the Ruck March at Valley Forge National Park; and the Ruff Ride, a 24-hour spin relay.

To learn more about Team Foster, participate in a fund-raising event, make a donation or purchase a No Hero Left Behind jersey, t-shirt or hoodie, visit TeamFoster.org.

Deborah B. Richman (brichman@tthlaw.com), associate at Thomas, Thomas & Hafer LLP, was a 2018 cochair of the Workers’ Compensation Section Charitable Events and Community Service Committee.

Exchange Program Lawyers Share International Insight

By Erin Murphy

Each year, the International Law Committee invites young lawyers from other countries to work at Philadelphia firms as part of an exchange program. One of the highlights of the program is the opportunity to present on issues of international law at a Committee meeting. This year’s presentations were hosted at Pepper Hamilton LLP on Nov. 19.

Committee Cochair and Pepper partner Jeremy Heep welcomed attendees and introduced the three exchange lawyers: Shouyuyendu Ray, Hugues Delignette and Camille Cléon. Ray, from Mumbai, India, is hosted by Pepper and recently completed his LL.M. program at the University of Pennsylvania. Delignette, who is also hosted by Pepper, and Cléon, who is hosted by McElroy, Deutsch, Mulvaney & Carpenter, are both from Lyon, France.

Ray presented on “India’s Arbitration Landscape” and covered the history of arbitration in the country, from its earliest mention in Hindu scripture to modern law, which is largely derived from India’s Arbitration & Conciliation Act of 1996. He also discussed recent trends, including the government’s push to make India a hub for international arbitration. The biggest hurdle, however, is the country’s prohibition on foreign lawyers practicing in the country, which includes participating in international arbitrations. “You can’t have India as a global hub for international arbitration if you only have Indian lawyers representing clients in arbitration,” Ray said.

Delignette covered “Sports Arbitration and National Courts,” providing an overview of the Court of Arbitration for Sport, an independent, international body established in Switzerland in 1984. He said that the court was formed to remove sports-related disputes from national courts because “sport is a special area that should not be tainted by local or national politics.” Delignette touted CAS’s speed in deciding cases. The court has an “ad hoc” division, where cases are decided in 24 hours or less. During major sporting events, like the Olympics or the World Cup, the division is used when a delay in deciding a dispute could prevent an athlete from competing in a career-changing event. CAS turns 35 next year. “In that time, it has established itself as a true supreme court for international sport,” Delignette said.

Cléon’s presentation discussed estate law by looking at French singer Johnny Hallyday, who died in 2017 and left behind a complicated estate. His will, which was drafted in California under U.S. law, left his estate to his last wife and their adopted daughters. His biological children have contested the will under French law. Cléon used this as a comparison of the French and U.S. estate rules. She said that the dispute over Hallyday’s estate will hinge on the question of where his “last usual residence” was. If it is held to be the United States, U.S. law will apply and the will shall be upheld. If it is determined to be France, French law will apply — including France’s “forced heirship” rule, which does not allow children to be disinherited.

Erin Murphy (murphye@pepperlaw.com) is the communications and publications manager at Pepper Hamilton LLP.

International Law Committee
JANUARY CLE COURSES

VIDEO ENCORE: Ethics and Malpractice Avoidance
Fri., 1/11/19 - 12:30 - 2:30 p.m. (2.0 ETH)
This video-encore CLE program, applicable to attorneys in all practice areas, will provide guidance regarding how to protect yourself and minimize your chances of being sued for malpractice or being subject to other ethical issues. Panelists will address the primary reasons why attorneys are sued, the stages of a representation where attorneys get into trouble, practical steps an attorney can take to minimize risk, as well as professional liability insurance, which is critical in protecting the law firm and the attorney in the event of legal malpractice. Attend and earn a discount on your malpractice insurance, advised and administered by UniAffirm. The discount does not apply to part-time policies.

VIDEO ENCORE: Moving Beyond Cash Bail
Tue., 1/15/19 - 12:30 - 2:30 p.m. (2 SUB)
This timely video-encore CLE program will examine the cash bail system in Pennsylvania. There is a growing consensus that the cash bail system is broken, but how do we fix it? Panelists will illuminate these problems and offer guidance regarding the most promising strategies for reforming cash bail practices.

VIDEO ENCORE: The #MeToo Movement’s Impact on Litigation, Counseling and Training
Wed., 1/16/19 - 12 - 2 p.m. (1 SUB/1 ETH)
This practical video-encore program analyzes the real-life effects of the #MeToo movement as it relates to legal and administrative processes, the impact on employment litigation and juries in particular and the new influences on employer counseling and training. Panelists will also explore trends and future developments in this current political climate.

VIDEO ENCORE: Best Practices and Practical Tips for Establishing an Effective Pro Bono Program
Fri., 1/18/19 - 9:30 – 11 a.m. (1.5 SUB)
Building on key recommendations from the Philadelphia Bar Association’s 2017 Pro Bono Task Force Report, this CLE program will provide insights from the field and practical tips for establishing or strengthening a pro bono program in your legal practice setting. Attendees will come away from the session with real-world examples of successful pro bono programs (and the lessons learned in establishing them); sample pro bono policies and committee structures; and, if desired, a mentor to help them get started.

VIDEO ENCORE: Be the Judge, Be the Jury… Become an Arbitrator!
Wed., 1/23/19 - 12 - 3 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.

VIDEO ENCORE: What You Should Know About Pre-Dispute Arbitration in the Elder Law Setting
Thu., 1/24/19 - 12 - 1 p.m. (1.0 SUB)
In the role as adviser, fiduciary or guardian, it is important to understand what factors to consider and what action to take when presented with an agreement containing a Pre-Dispute Arbitration clause. This video-encore CLE program will address, among other issues, the effects of the pre-dispute arbitration clause on the rights of the person and legal recourse available to the person entering the contract, the impact of the Federal Arbitration Act on pre-dispute arbitration clauses in nursing home agreements and practical tips on what guardians, practitioners and family members should do if asked to agree to pre-dispute arbitration.

WCAIS Advice to Keep Judges Happy
Fri., 1/25/19 – 12:30 – 1:30 p.m. (1 SUB)
Hosted by the Workers’ Compensation Section
This lunchtime CLE program will educate practitioners representing workers and employers as to common mistakes made in the use of WCAIS, how to improve their WCAIS requests and submissions to judges to maximize the functionality of WCAIS, reduce the time spent by the judge considering the request or submission, and increase the chances of obtaining a faster answer or approval from the judge, thus ensuring that they have satisfied clients and happy judges.

VIDEO ENCORE: How to Properly Handle an Asylum Application and Case
Thu., 1/31/19 - 9 - 11 a.m. (1 SUB/1 ETH)
This practical video-encore program examines the basics of asylum law, including an introduction to asylum and its variations, including the legal standard for asylum and differences between asylum and refugee status, withholding, and CAT; the nuts and bolts of an asylum application, including how to fill out the form and what to include in an asylum application; the ethics of filing asylum cases, including frivolous cases; case law and much more.

VIDEO ENCORE: The Gift of the Magi: How to File Immigration Appeals, Especially in Federal Court
Thu., 1/31/19 - 12:30 – 2:30 p.m. (2 SUB)
With immigration laws constantly in flux, it’s more important than ever to keep up with the latest in the immigration landscape. This ever-evolving practice area highlights the need to provide clients with multifaceted strategies and solutions to complex circumstances. In this practical video-encore 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 capably compose motions.

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For questions regarding Philadelphia Bar Association CLE, contact Director of Continuing Legal Education Tara D. Phoenix at 215-238-6349 or tphoenix@philabar.org.
By Karen M. Maschke

“Know your case and stick to the issues” was the overarching sentiment by a panel of three appellate judges. The Appellate Courts Committee hosted “Am I in the Right Place? Tips on Whether to Appeal to the Pennsylvania Superior Court and Commonwealth Court, and How to Practice Once You Get There” on Nov. 7. Hon. Alice Beck Dubow, Committee cochair, and Hon. Maria McLaughlin of the Pennsylvania Superior Court; and Hon. Ellen H. Ceisler of the Pennsylvania Commonwealth Court; sat on the panel and discussed tips on practice in these courts.

In both the Superior and Commonwealth Courts, the judges noted the importance of briefs, and said that they do read them ahead of time. Judge Dubow gave pointers for briefing in the Superior Court that attorneys should keep in mind. She stated that, while oral argument is important, it is the briefs that will convince a judge whether to affirm or overturn the lower court. Attorneys should also remember that less is more, and that the appeal is all about the trial court opinion. Focus on the legal issues you believe the trial court got wrong without getting bogged down in the facts and extraneous material. The Superior Court affirms the trial court 80 percent of the time, so attorneys need to focus on the legal issues they believe the trial court got wrong when they appeal.

Unlike the Superior Court, the Commonwealth Court has jurisdiction over government work, administrative agency work, appeals from local government agencies and the like. This court deals heavily with statutes and regulations. When briefing in the Commonwealth Court, Judge Ceisler asked that attorneys give judges the language or the title of a statute or regulation, not just the citation number. The same goes for the use of acronyms and initials. Make the judges’ lives easier, and be clear about what and who you are referring to rather than making them refer to other sections of your brief or constantly look up citations.

When it comes to oral argument, the panel advised that, as judges, they are well prepared. They have read the briefs, they know what questions they have and they pay attention when you argue. The judges discussed their pet peeves, which included attorneys not being prepared and not having

continued on page 17
PHILADELPHIA BAR ASSOCIATION CLE - IMMIGRATION LAW COMMITTEE

Handling Asylum Cases, Tips for Any Attorney

By Karen M. Maschke

ONLY 1 IN 10 INDIVIDUALS WHO APPLY for asylum without representation have it granted, perhaps suggesting that there is a serious need for attorneys to take these cases, even if they do not practice in immigration law. Teaching attorneys about this process and how to complete the application for asylum was the goal for the CLE presented by the Immigration Law Committee, “How to Properly Handle an Asylum Application and Case” on Nov. 15. Panelists were Jack J. Herzig of the Law Offices of Jack Herzig, Anna Paciorek, partner at Sweet & Paciorek, LLC; and Emma Tuohy of Landau, Hess, Simon & Choi.

The panelists presented the basics on handling asylum claims and provided some technical guidance on handling these claims for attorneys who want to be able to act and help asylees in our community. Wendy Caster Hess, 2018 cochair of the Committee, moderated the program.

The panelists discussed the large amount of misinformation out there about what an asylee is, and how to apply for asylum. A refugee is a person outside his or her country of nationality who is unable or unwilling to return to his or her country due to persecution or a well-founded fear of persecution. An asylee is defined as a person who meets the definition of refugee and who is already present in the United States, or who is seeking admission at a port of entry. The difference here is that an asylee must already be in the U.S. While many people complain about people coming to the U.S. illegally, saying that they should apply for asylum and then come here legally, the fact is that you cannot apply for asylum until you are already here, so they are doing this the “proper” way, the panelists said.

Individuals must apply for asylum within a year of coming to the U.S., though there are exceptions for extraordinary circumstances and changed conditions. Additionally, the one-year deadline does not apply to children until they turn 18.

The asylum application, form I-589, is a 12-page form that must be completed prior to the asylum interview. When applying for asylum, applicants must specifically state their basis for seeking it, whether it be race, religion, nationality, political opinion, membership in a social group or torture convention. Specifics are required for any harm or mistreatment the applicant or the applicant’s family has experienced or of the applicant’s fear of returning to their home country. Attorney ethics play a large role in handling these cases and assisting individuals with their asylum applications, as you must ensure that everything your client claims and places in their application is true. It is difficult, and sometimes even impossible, to obtain corroboration and documentation to support your client’s claims, but the panelists recommended making all efforts possible, and documenting your efforts for the court.

The panelists said there are many adults and children in our community who are seeking asylum and who would benefit from attorneys taking on their cases pro bono. While it is a technical process, they said there is plenty of support and guidance for attorneys who wish to take on these cases, and help those who need it.

PHILADELPHIA BAR ASSOCIATION CLE

Changes to Philadelphia's Cash Bail System

By Leah Cilo

The Pennsylvania Code defines bail as the security or other guarantee that is given for the release of a person that is conditioned upon a written undertaking to ensure that the person will appear when required and comply with all conditions set forth in the bail bond. Out of that definition, which does not mention cash or the danger that an individual might pose to the community, Philadelphia has created a bail system that has been scrutinized and recently reformed.

The Criminal Justice Section and the Civil Rights Committee co-presented a CLE on Nov. 19, planned by Diane T. Zilka, that explored the changes in the cash bail system that District Attorney Larry Krasner has initiated since taking office in 2018. The panelists were Susan M. Lin, 2018 cochair of the Criminal Justice Section; Dana Bazelon, Philadelphia District Attorney’s Office; Mark E. Houldin, policy director for the Defender Association of Philadelphia; Maia Jachimowicz, board president of the Philadelphia Bail Fund; Veronica Rex, organizer for the Philadelphia Community Bail Fund; and Nyssa Taylor, criminal justice policy counsel at ACLU of Pennsylvania.

Outlining a constitutional context, Houldin said that even though the Supreme Court stated in United States v. Salerno that “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the policy system that was created around this tenant was allowed, beginning in the 1960s and 1970s, to be used to effectively hold people deemed “dangerous” and exceptions slowly swallowed the rule of limitation. He went on to say that during the following decades, the system was not challenged legally or socially, and it reached an “out-of-control” status in the 21st century in acute need of reform.

Taylor gave a frontline account of how this out-of-control bail system plays out institutionally. Hearings, with an average time of two minutes, deciding a person’s liberty are held in the basement of the Juanita Kidd Stout Center for Criminal Justice via a grainy video feed. At times, the parties have difficulty hearing each other. It is a scary system, but she said it does speed up the bail process, and time is

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Focus on Carbon Pricing as Solution to Climate Change

By Yolanda F. Pagano and Stephen G. Harvey

On Oct. 8, 2018, the United Nations panel charged with tracking climate change issued a special report that dominated headlines for days. It painted a far direr picture of the immediate consequences of climate change than previously thought, and noted that avoiding the damage would require transforming the world economy at a speed and scale that has “no documented historic precedent.”

Alarm bells like this have been ringing for years, but now they are getting louder and closer. They force us to ask: what can be done to avert catastrophic climate disruption?

That was the subject of a CLE cohosted by the Philadelphia Bar Association Environmental and Energy Law Committee, A Call to the Bar: Lawyers for Common Sense on Climate and the Pennsylvania Environmental Council on Nov. 28.

The program began with remarks by Professor Amy Sinden, of Temple University School of Law, who traced the history of efforts to get climate change under control through law, beginning with the United Nations Framework Convention on Climate Change in 1992 and continuing to the present with the Trump administration’s failure to provide leadership on climate change.

Yolanda F. Pagano, senior manager of global sustainability at Keystone Foods, said that “putting a price on carbon” means requiring the sellers of energy sources that pollute the atmosphere, like coal, by emitting greenhouse gases, like carbon dioxide, to include in the price of the energy source the cost of the environmental harm. This would reduce demand for energy sources that pollute, and make sources that do not pollute (like renewable energy, such as wind, solar or nuclear) more economically attractive. These carbon pricing laws are held back not by technical or economic feasibility, but by lack of political support.

The authority to protect the environment under Article 1 Section 27 of the Pennsylvania Constitution, was discussed by Professor John C. Dernbach of the Widener University Commonwealth School of Law. He said that Section 27 provides ample authority for Pennsylvania to protect citizens’ rights to a stable climate by adopting an effective carbon pricing law.

The panel introduced a specific carbon pricing law for Pennsylvania, based on a petition filed with the Department of Environmental Protection by the Clean Air Council and others on Nov. 27.

Joseph Otis Minott, chief counsel of the Clean Air Council, and Robert B. McKinstry Jr., who drafted the petition and proposed regulation, presented the proposed law. The proposal calls for an economy-wide auction-cap-and-trade program in Pennsylvania. Modeled on a successful California law, the program would create substantial revenue for the Commonwealth (in excess of $1 billion annually) while substantially reducing greenhouse gas emissions.

The panelists, led by Davitt B. Woodwell, president of the Pennsylvania Environmental Council, highlighted the need for carbon pricing laws. Pennsylvania can help show the way through the enactment of the cap-and-trade program proposed by the Clean Air Council. It would reduce greenhouse gas emissions in Pennsylvania, while raising significant revenue for the Commonwealth. It could also help to create the political will for a national carbon-pricing law to fight climate change.

Yolanda Pagano is also the director of A Call to the Bar: Lawyers for Common Sense on Climate Change, and Stephen G. Harvey (steve@steveharveylaw.com), owner of Steve Harvey Law, is a cochair of the Environmental and Energy Law Committee.

New Incentives to Invest in Distressed Communities

By Ernest D. Holtzheimer

“Qualified Opportunity Zones” were introduced just one year ago by the 2017 tax reform, the Tax Cuts and Jobs Act, creating a significant new income tax incentive for taxpayers to make investments in designated economically distressed communities. Each community was nominated by their respective state and certified by the Department of the Treasury as one of approximately 8,700 Qualified Opportunity Zones, nationwide. The new tax provisions, Internal Revenue Code Sections 1400Z-1 and 1400Z-2, provide for a deferral of capital gains realized on sales of capital assets, such as securities or precious metals, where an amount equal to such gain is reinvested in a “Qualified Opportunity Fund” within 180 days after the sale. The taxpayer may invest the return of principal as well as the recognized capital gain, but only the portion of the investment attributable to the capital gain will be eligible for the exemption from tax on further appreciation. The Tax Section hosted a CLE titled “Fundamentals in Investing in Qualified Opportunity Zones” on Nov. 30, featuring presenters Philip Karter, a shareholder at Chamberlain, Hrdlicka, White, Williams & Aughtry, and Dean V. Krishna, tax counsel at Stradley Ronon Stevens & Young, LLP. On the heels of new guidance recently issued by the Internal Revenue Service, the two speakers provided tax, business and real estate lawyers with a fundamental understanding of the law and opportunities available through investments in Qualified Opportunity Zones.

In addition to the tax advantages achieved through deferral, certain amounts of the capital gains tax attributable to the reinvested money may also be permanently exempted from tax if the investment in the fund is held for longer...
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Rochelle M. Fedullo
Wilson Elser Moskowitz Edelman & Dicker LLP
Two Commerce Square
2001 Market St., Suite 3100
Philadelphia, PA 19103
(215) 606-3917
rochelle.fedullo@wilsonelser.com

ASSISTANT TREASURER
Ira S. Lefton
ilefton@eckertseamans.com
(215) 851-8430
Philadelphia, PA 19102
50 S. 16th St., 22nd Floor
Two Liberty Place
Eckert Seamans Cherin & Mellott, LLC

SECRETARY
Jennifer S. Coatsworth
mcoatsworth@margolisedelstein.com
(215) 931-5836
Philadelphia, PA 19106
Suite 400E
170 S. Independence Mall W.
The Curtis Center
Margolis Edelstein

ASSISTANT SECRETARY
Ira S. Lefton
ilefton@eckertseamans.com
(215) 851-8430
Philadelphia, PA 19102
50 S. 16th St., 22nd Floor
Eckert Seamans Cherin & Mellott, LLC

ASSISTANT TREASURER
Matthew S. Olesh
molesh@chamberlainlaw.com
610-772-2313
Philadelphia, PA 19102

CHAIR
Amber M. Racine
Raynes Lawn Hehmeyer
1845 Walnut St., 20th Floor
Philadelphia, PA 19103
(215) 568-6190
amracine@raynesmccarty.com

VICE CHAIR
Nicholas S. Kamau
Gay & Chacker, PC
1731 Spring Garden St.
Philadelphia, PA 19130
(215) 567-7995
nicholas@gayandchacker.com

COUNSEL
Lawrence J. Beaser
Blank Rome LLP
One Logan Square
130 N. 18th St.
Philadelphia, PA 19103
(215) 569-5510
beaser@blankrome.com

PARLIAMENTARIAN
Jacqueline G. Segal
Fox Rothschild LLP
2000 Market St., 20th Floor
Philadelphia, PA 19103
(215) 299-2011
jsegal@foxrothschild.com

CHANCELLOR’S CABINET

ADDITIONS

Mark Alan Arenchick
Special Advisor to the Chancellor
Hangley Arenchick Segal Pudlin & Schiller
One Logan Square
130 N. 18th St.
Philadelphia, PA 19103
(215) 496-7002
maronchick@hangley.com

Priscilla Jimenez
Community Outreach and Engagement Advisor
Kline & Specter, P.C.
1525 Locust St., 19th Floor
Philadelphia, PA 19102
(215) 772-1000
priscilla.jimenez@klinespecter.com

Hon. Sandra M. Moss (Ret.)
Judicial Liaison and Advisor
Dispute Resolution Institute
Two Logan Square
18th & Arch streets, Suite 660
Philadelphia, PA 19103
(215) 888-1155
smoss@adrdr.com

Louis S. Rulti
Access to Justice Advisor
Practice Professor of Law
University of Pennsylvania Law School
3400 Chestnut Street
Philadelphia, PA 19104
(215) 898-3203
frulli@law.upenn.edu

BOARD OF GOVERNORS

Benjamin R. Barnett
Dechert LLP
Cira Centre
2929 Arch St.
Philadelphia, PA 19104
(215) 994-2887
ben.barnett@dechert.com

James F. Berardinelli
James F. Berardinelli, LLC
1600 Locust St.
Philadelphia, PA 19103
(215) 360-2815
james@berardinellilaw.com

Meghan E. Claiborne
City of Philadelphia Law Department
1515 Arch St.
Philadelphia, PA 19102
(215) 683-5002
meghan.claiborne@phila.gov

Diane Penneys Edelman
Villanova University School of Law
299 N. Spring Mill Road
Villanova, PA 19085
(610) 519-7047
edelman@law.villanova.edu

Lawrence S. Felzer
SeniorLaw Center
Two Penn Center
1500 JFK Blvd., Suite 1501
Philadelphia, PA 19102
(215) 988-1244
lfelzer@seniorlawcenter.org

Francesca A. Iacovangelo
McCann & Wall, LLC
1500 JFK Blvd., Suite 1110
Philadelphia, PA 19102
(215) 515-7644
fiacovangelo@mccannwallinjurylaw.com

Katayun J. Jaffari
Ballard Spahr LLP
1735 Market St., 51st Floor
Philadelphia, PA 19103
(215) 864-8475
jaffarik@ballardspahr.com

Nicholas S. Kamau
Gay & Chacker, PC
1731 Spring Garden St.
Philadelphia, PA 19103
(215) 568-7995
nicholas@gayandchacker.com

Susan M. Lin
Kairys, Rudowsky, Messing, Feinberg & Lin LLP
The Cast Iron Building
718 Arch St., Suite 501 S.
Philadelphia, PA 19106
(215) 925-4400
slin@krlawphila.com

Neil C. Maskeri
Young Basile Hanlon & MacFarlane P.C.
1835 Market St., Suite 2710
Philadelphia, PA 19103
(248) 687-5775
maskeri@youngbasile.com

Hon. Sandra M. Moss (Ret.)
Dispute Resolution Institute
Two Logan Square, 6th Floor
18th & Arch streets
Philadelphia, PA 19103
(215) 656-4374
smoss@adrdr.com

Maureen M. Olives
Philadelphia Legal Assistance
718 Arch St., Suite 300N
Philadelphia, PA 19106
(215) 981-3800
molives@philalegal.org

Dino Privitera
Privitera & Hurley LLC
1518 Walnut St., Suite 905
Philadelphia, PA 19102
(215) 299-1299
dino@priviterahurley.com

Amber M. Racine
Raynes Lawn Hehmeyer
1845 Walnut St., 20th Floor
Philadelphia, PA 19103
(215) 568-6190
amracine@raynesmccarty.com

Alisha Rodriguez
Weir & Partners LLP
The Widener Building, 5th Floor
1339 Chestnut St.
Philadelphia, PA 19107
(215) 241-7782
arodriguez@weirpartners.com

Riley Ross
Mincey Fitzpatrick Ross, LLC
1500 John F. Kennedy Blvd.
Suite 1525
Philadelphia, PA 19102
(215) 587-7177
riley@minceyfitzross.com

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“Later-o’clock” is that illusory time when your plate is not so full and you can finally follow through on your plans to do more pro bono work. For years I was waiting until later-o’clock, and it was only after admitting my availability for a certain date to a team member at Philadelphia VIP, that I took a pro bono case I knew would make me stretch. I encourage those of you with similar sentiments to take this leap of faith.

Everything took on a new meaning as soon as I spoke with my client, Janet,* for the first time. My commitment to represent her in seeking primary physical custody of her 14-year-old son, John,* was no longer just one more thing on my endless to-do list.

John’s father had primary physical custody pursuant to a 2012 court order. The arrangement made sense at the time, but things took a terrible turn shortly thereafter. When he was not the target of verbal and emotional abuse by his father and stepmother, John was neglected altogether. Janet watched her youngest son go from an enthusiastic honor roll student to a withdrawn and, at times, aggressive young teen. Despite having joint legal custody, John’s father somehow managed to get Janet blacklisted at the school and refuse to engage with her productively in any way.

Unable to afford an attorney, Janet filed a petition to modify the custody order pro se in September 2017. She was steam-rolled by the father’s attorney at the subsequent mediation, and the Philadelphia Family Court master recommended maintaining the original order. The follow-up hearing before a judge was scheduled for almost a full excruciating year later. With guidance from VIP, but still acting pro se, Janet filed a motion for expedited relief. I became involved with her case shortly after.

After assessing case strategy, I suggested it might be in Janet’s best interest to withdraw the motion, and she agreed. Over the course of several conversations with the father’s attorney, the parties agreed to a stipulation entirely in Janet’s favor. The final court order was entered this past July.

Janet called me last week to share how much has changed in the last few months. John is doing well at his new school, his grades are up, and he is back to the happy boy his mom had not seen for so long. In a follow-up email, she wrote: “Having an experienced attorney like you on our side was the best thing that happened to us this year. [We] couldn’t be happier knowing the nightmare is over.”

VIP’s staff attorneys and case managers remain available to you and supportive throughout the case you take. They offer training materials and will connect you to a mentor with subject matter expertise. I had the chance to work with Lisa Shapson of Berner Klaw & Watson, a family law attorney, who was extraordinarily generous with her time and expertise.

Both as an attorney and a mother, I am so grateful for this experience. Working with Janet gave me a drive and purpose fundamentally different than what I derive from my day-to-day work, and reminded me that, as attorneys, we really do have the ability to make a difference where it counts. As a mother, I found Janet’s strength, perseverance and impenetrable composure inspiring. John is a lucky young man – I cannot wait to see what his future holds.

Sarah Sweeney (ssweeney@cozen.com) is an attorney at Cozen O’Connor.

*Names changed to protect privacy.
Compiled by David I. Grunfeld

2018-36T Attorney who began estate planning for clients who became difficult may withdraw from representation because there is no deadline or urgency, and may retain partial payment made if covered less than work performed.

2018-40T Referral fee may be paid in a criminal matter if overall fee not more than client should pay.

2018-50T Attorney holding settlement funds for client now in drug rehab may not release funds to client's father without client consent.

2018-76T Attorney is not engaging in unauthorized practice of law by representing Delaware resident in Pennsylvania accident, but cannot handle first party medical benefits claim against Delaware insurer.

2018-86T Non-licensed attorney who is law school graduate may advise victims of possible malpractice by attorney handling matter, learned during file review, because no confidentiality.

2018-88T Attorney against whom Protection from Abuse Order was entered should self-report it to the Disciplinary Board.

2018-93T Mentor/advisor from Lawyers Concerned about Lawyers cannot report lawyer with substance abuse problem - confidential under RPC 8.3(c).

2018-95T Disbarred attorney cannot receive W.C. payments unless earned pre-disbarment.

2018-103T Counsel for estate may notify beneficiaries directly where administrator died without any heir agreeing to be successor, and offer is made to purchase decedent's real estate.

2018-106T Attorney has no duty to file suit for client who disappeared two months before statute of limitations expired where counsel has no info about accident (and there is no police report) or names of potential defendants.

2018-110T Criminal defense lawyer moving to DA office must advise clients and give opportunity to confirm continued representation or obtain new counsel.

2018-142T Attorney who wants to complain about a non-lawyer practicing law in his building should contact the PA Attorney General office and not the Disciplinary Board.

2018-143T Attorney who saw damaging social media content from acquaintance plaintiff may report it to his (defendant) employer.

2018-146T Attorney on inactive or retired status may not accept referral fees unless matter referred while active.

2018-154T Attorney may provide copies of Power of Attorney for client victim for PCA.

2018-157T When advertising successful verdicts and settlements, should include appropriate disclaimers under PRPC 7.1.

2018-161T Attorney on inactive or retired status may not accept referral fees unless matter referred while active.

2018-167T When lawyer who was prior counsel for adverse party in open case joins firm of other party's counsel, must set up ethical screen and advise client.

2018-172T Retired attorney should so state on business cards so not to communicate inaccurately that attorney was still in practice.

2018-176T Attorney who did estate planning for both domestic partners and received confidential information cannot now represent one against the other in a divorce.

David I. Grunfeld (DGrunfeld@astorweiss.com) is of counsel to Astor Weiss Kaplan & Mandel, LLP.
Association a more diverse and inclusive environment. This includes generational diversity, she said. To demonstrate this commitment, Fedullo created a cabinet that includes attorneys of varied ages, and intentionally sought-after young talent who she strategically placed in leadership positions. I will be leading the new Community Outreach Committee established in 2019, as one of her appointments.

Fedullo promised to look at the needs of all Association members with fresh eyes and a clear vision. She concluded her remarks with a loving acknowledgement to her husband, 2014 Chancellor William P. Fedullo.

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Tong, a third-year law student at Villanova University Charles Widger School of Law, wrote the winning essay, “What’s in a Name?: Matal v. Tam & the Right to Own Disparaging Words,” which earned her $2,500 and publication of an excerpt of her essay in the Winter 2019 issue of The Philadelphia Lawyer.

After the luncheon break, 2018 Chancellor Platt introduced the recipient of the Justice William J. Brennan Jr. Distinguished Jurist Award, honoring a jurist whose accomplishments exemplify the ideals of the late Justice William J. Brennan Jr. and whose work has produced a “significant positive impact on the quality or administration of justice in Philadelphia.” This year’s recipient, former Justice James J. Fitzgerald III, Supreme Court of Pennsylvania, accepted the award with an inspiring speech, ending with “As long as we dedicate ourselves, and our profession, to finding justice for all, then justice will surely prevail.”

The recipients of the PNC Wealth Management Achievement Award, honoring Association members who have achieved significant accomplishments in improving the administration of justice through voluntary activities, were David I. Grunfeld, of counsel to Astor Weiss Kaplan & Mandel, LLP, and Ryan A. Hancock, of counsel to Willig, Williams & Davidson. Grunfeld thanked the Association and, in his remarks, encouraged everyone to become active participants in the Association’s various sections, committees and publications. He is a member of the editorial board of The Philadelphia Lawyer and former editor-in-chief of the Philadelphia Bar Reporter. Hancock was a co-founder of Philadelphia Lawyers for Social Equity, an organization that helps low-income Philadelphians overcome past criminal convictions through pro bono litigation. In his remarks, he gave an overview of how a criminal record is created at arrest and remains permanent, even if the person is found not guilty, unless expunged by a court order. After thanking his family, friends, and colleagues, he said “I will continue to fight, and I hope that you will join me.”

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

Justice Fitzgerald (top), Grunfeld (middle) and Hancock give acceptance remarks at the Annual Meeting and Luncheon at The Bellevue Hotel on Dec. 5.
is not recognized until Dec. 31, 2026, in a Qualified Opportunity Zone Fund eventual sale. Any taxable gain invested value of such property on the date of its basis of the property to the fair market benefit in the form of a step-up in the cost at least 10 years qualify for an additional held in a Qualified Opportunity Fund for percent, respectively). Investments that are than five or seven years (10 percent and 15 percent, respectively). Investments that are held in a Qualified Opportunity Fund for at least 10 years qualify for an additional benefit in the form of a step-up in the cost basis of the property to the fair market value of such property on the date of its eventual sale. Any taxable gain invested in a Qualified Opportunity Zone Fund is not recognized until Dec. 31, 2026, or until the interest in the fund is sold or exchanged, whichever comes first. While the tax incentives available to investors are relatively straightforward (aside from a few contradictions in the proposed regulations), the more challenging part of this area of law relates to the establishment and qualification of the funds, themselves. Broken down to their simplest forms, however, Qualified Opportunity Funds are an investment vehicle organized as an entity treated as a partnership or corporation for federal tax purposes, including limited liability compa-
Sections Celebrate 2018, Present Awards

Real Property Section

Left: 2018 Real Property Section Chair Jill Jenkins (right) and Judy F. Berkman, senior counsel, Regional Housing Legal Services (center), present Rasheedah Phillips, managing attorney at Community Legal Services, accepting on behalf of the Philadelphia Eviction Prevention Project, with the Section’s 2018 Good Deed Award at the Loews Philadelphia Hotel on Nov. 15. Right: Lawrence S. Rosenwald, of Lawrence S. Rosenwald, P.C., and Jenkins present Marjorie Stern Jacobs with the Section’s 2018 Harris Ominsky Award.

Young Lawyers Division

Top, left: 2018 Young Lawyers Division Financial Secretary Hillary N. Ladov presents Bethany R. Nikitenko, partner at McLaughlin & Lauricella, P.C., with the 2018 Craig M. Perry Community Service Award at Cinder Copper & Lace on Nov. 28. Top, right: 2018 YLD Treasurer Andre Jamar Webb presents Amber M. Racine, attorney at Raynes Lawn Hehmayer, with the 2018 F. Sean Peretta Service Award. Bottom, left: 2018 YLD Secretary Robert H. Bender Jr. presents Juff George, accepting on behalf of Exponent, with the 2018 Vision Award. Bottom, right: 2018 YLD Chair-Elect Michaella Tassinari recognizes 2018 YLD Chair Vincent N. Barbera for his year of service.

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2018 Section Celebrations
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Probate and Trust Law Section

Left: 2018 Probate and Trust Law Section Chair Rise P. Newman (center, left) with (left to right) 2018 Vice Chair Scott Small, 2018 Secretary Heike K. Sullivan, 2018 Chair-Elect Justin H. Brown and 2019 Secretary Kathryn H. Crary at the Courtyard Philadelphia Downtown on Nov. 29.

Workers’ Compensation Section

Right: 2018 Worker’s Compensation Section Cochairs Hon. Todd Seelig (center, right), Alexis C. Handrich (center), and Andrea C. Rock (second from right); and Section Charitable Events and Community Service Committee Cochairs Jennifer R. Etkin (second from left) and Deborah B. Richman; hold toy donations with U.S. Marines from Toys for Tots at the Down Town Club on Dec. 5.

Public Interest Section

Left: Robert C. Heim, partner at Dechert LLP, presents Marguerite C. Gualtieri, managing attorney at Support Center for Child Advocates, with the Public Interest Section’s Bending the Arc Award at the Drexel University Thomas R. Kline Institute of Trial Advocacy on Dec. 6. Right: Irwin Trauss, supervising attorney of the Consumer Housing Unit at Philadelphia Legal Assistance, presents Hon. Annette M. Rizzo (Ret.), neutral at JAMS, with the Section’s Honorable Louis H. Pollak Award.

Photos by Thomas E. Rogers, unless otherwise credited.
2018 Section Celebrations
continued from page 19

Family Law Section

Left: Family Law Section Chair Kristine L. Calalang and Frank Cervone, executive director of Support Center for Child Advocates (left), present Barry M. Kassel, supervising staff attorney at Support Center for Child Advocates, with the Section’s 2018 Herbert R. Weiman Sr. & Jr. Award at Maggiano’s Little Italy on Dec. 11.

Criminal Justice Section

Above, left: 2018 Criminal Justice Section Cochair Susan M. Lin recognizes 2017 Cochair James F. Berardinelli for his year of service at the Drexel University Thomas R. Kline Institute of Trial Advocacy on Dec. 12. Above, right: James A. Funt, partner at Greenblatt, Pierce, Funt & Flores, LLC (left) and Lin present (left to right) Hon. Patrick F. Dugan, President Judge, Philadelphia Municipal Court; Lesha Sanders; and Timothy Wynn; accepting on behalf of Philadelphia Veterans Court, with the Section’s 2018 Henry Czajkowski Award. Left: Hon. Charles A. Ehrlich, Philadelphia Court of Common Pleas (left), and Lin present Rita Schuman and Matt Schuman, accepting on behalf of the late Stuart H. Schuman, with Section’s 2018 Thurgood Marshall Award.

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2018 Section Celebrations
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Left: State Civil Litigation Section Co-chairs Michael T. van der Veen (left) and James P. Tolerico (second from left), and 2018 Section Treasurer and Liaison to the Young Lawyers Division Jordan L. Strokovsky, present Stanley Thompson, First Judicial District Complex Litigation Center, with the Section's 2018 Honorable Alex Bonavitacola Award at the Drexel University Thomas R. Kline Institute of Trial Advocacy on Dec. 18.

Last Call: The Philadelphia Lawyer Magazine
Accepting Submissions for Race and Law Issue

Deadline for submissions is Feb. 1.
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.

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QUICK BITES: MIXTO

Wash. West Classic Still Nails It

By James Zwolak

Our annual holiday group dinner with friends was organized last minute this year. Making an impromptu reservation for seven on a December Saturday evening was not easy, but Mixto was available.

Not that Mixto needed our business. Since this Cuban-Latin American fusion offspring of famous Hunting Park mainstay, Tierra Columbiana, opened 20 years ago at 12th and Pine streets, locals and tourists (we saw a few folks donning their Army-Navy gear) have consistently flocked to admire the luxurious Cuban décor, sip perfectly executed mojitos, and enjoy large portions of wonderfully prepared food.

As an early adopter of Mixto, I had only been once in the last 20 years this past summer. My bad. I made up for it on our current visit. For drinks, most of us plunged into the mandatory and sacred sangria-pitcher-and-mojito double-bill. I double fisted; the preparations and quality were top-notch and are highly recommended.

The apps were heavily ordered and all were excellent. The Trio de Ceviche of Tuna, Salmon and Shrimp (reasonably priced at $16) was fresh, tasty and enough for all of us to try. The homemade, slightly spicy guacamole, with cilantro, tomato, red onion and jalapeno with plantain chips, was shared and gone in five minutes. The Pulpo Salgado, served with fingerling potatoes over a bed of roasted garlic hummus and paprika, met my stringent, octopus-obsessed standards. The crunchy-fat pork goodness of Chicharrones de Cerdo with habanero salsa was awesome for the daring. My companion, Lola, had the Puerto Rican staple, Monfongo, with sautéed garlic and onions with an orange mojo sauce. She really appreciated Mixto’s efforts, and the entrée.

Mixto’s entrees do not stray far from the fusion classics, but they are all great. For meats (always accompanied with choices of red or black beans, and white or yellow rice), my wife had her perennial favorite, Ropa Vieja, a gorgeous flank steak in a sauté of onion, peppers, tomatoes and garlic. Mixto’s version, which pulls apart and melts in your mouth, is an awesome value at $19. I had the Chuletas de Cerdo, two healthy pan-seared pork chops served with tostones. It was satisfying at both dinner and breakfast the next morning. Nigel had the super-yummy Perlí Rostisado, a plump, roasted pork shoulder with potato cake, maduros and topped with tomatoes and red onions. The staff at Mixto went the extra mile to accommodate cilantro-allergic Judge Theresa with an entirely cilantro-free Vaca Frita, pan-seared crispy beef topped with sautéed garlic and onions with an orange mojo sauce. She really appreciated Mixto’s efforts, and the entrée.

For seafood, Rick had the pan-seared scallops over risotto with asparagus, mushrooms and artichokes, which he said was “small but flavorful.” Carmen loved the Arroz con Camarones, with succulent shrimp, saffron rice, olives and maduros. For desserts, we shared orders of the Flan de Leche and Flan de Coco and an order of Tres Leches. Again, there were no misses and all were great.

In the mercurial Center City dining scene, Mixto is not just surviving, but thriving. If you want a Latin-fusion meal in a gorgeous setting, you cannot beat its combination of price, ambiance, service and food quality. If it has been awhile, go back!

James Zwolak (james.zwolak@phila.gov) is a divisional deputy city solicitor in the City of Philadelphia Law Department.

QUICK TIP FROM USI AFFINITY

Surprise Attorney, Client Relationship & Malpractice

All attorneys know that the Rules of Professional Conduct prohibit conflicts of interest, yet conflict of interest claims often arise, despite an attorney’s efforts to avoid risky situations. This is often due to the “surprise attorney-client relationship” factor.

Proper Client Intake to Eliminate Improper Relationships

Not every attorney-client relationship begins in the traditional way, either by a client calling an attorney on the phone or coming to his office to inquire about legal services. More and more often, attorney-client relationship is implied, based on a pattern of communication between the attorney and another person.

This communication often begins with a legal question about a particular circumstance raised during a casual conversation at a social function, rather than through a formal letter of engagement or a retainer agreement. If the inquiry involves seeking and the subsequent rendering of legal advice, an attorney-client relationship may have been established, giving rise to a conflict of interest related to the confidential information received from an actual or potential client.

Identify Conflicts Sooner Rather Than Later

Many law firms have the mistaken belief that legal representation is permissible as long as the client consents, but this is not necessarily true. There are some conflicts that cannot be waived and to which clients cannot consent, even if they wish to do so – attorneys cannot represent both the plaintiff and the defendant in the same lawsuit, for example. Therefore, it is extremely important that this determination is made long before a lawyer agrees to provide representation.

Effective practice management involves a clear file-opening procedure that includes both a comprehensive client intake process along with the resolution of any potential conflicts of interest before representation is given. To accomplish this, an attorney must first properly identify the potential client before providing any legal advice, or a malpractice lawsuit may be waiting in the wings.

To learn more about how efficient client intake procedures can lower your firm’s risk of malpractice lawsuits, visit usiaffinity.com, or call (800) 265-2876.

For more information about insurance, visit the Philadelphia Bar Association’s Insurance Exchange at www.usiaffinityex.com/Philadelphia. For Lawyers’ Professional Liability and other business coverage, you can continue to visit the regular Philadelphia Bar Association Insurance Program website at www. philbainc.com/Philadelphia. If you’d like to talk to someone about insurance and benefits options for Philadelphia Bar Association members, call USI Affinity Benefit Specialists at 3-855-874-0067.

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Sheryl L. Axelrod, of The Axelrod Firm, PC, was inducted into The League for Entrepreneurial Women of Temple University Hall of Fame. She is the fourth person to receive this honor from Temple Law School (as opposed to honorees from other Temple University schools and colleges).

Kathleen D. Wilkinson, former Chancellor and partner at Wilson Elser Moskowitz Edelman and Dicker LLP, was honored with the second Pennsylvania Bar Association C. Dale McClain Quality of Life/Balance Award in Harrisburg, Pennsylvania on Nov. 15.

Leslie E. John, president of the Philadelphia Bar Foundation and partner at Ballard Spahr LLP, has been elected co-president of the Philadelphia Diversity Law Group.

Lauren M. Hoye, partner at Willig, Williams & Davidson, recently participated on a panel discussing the impact of the U.S. Supreme Court’s landmark decision in Janus v. AFSCME in Harrisburg, Pennsylvania on Dec. 4.

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