YLD Reaches Out for Law Week 2013

Lisa Lee (from left), Lauren Tabas, Salvatore Filippello and Caitlin Donnelly participated in the trial of Goldilocks on May 3 before Common Pleas Court Judge Idee C. Fox (center) for Philadelphia elementary school students. The students heard testimony from Goldilocks and the three bears and decided on the verdict. Student jurors also heard the cases involving Jack of Jack and the Beanstalk fame and the Three Little Pigs. Chancellor-Elect William P. Fedullo (right) offers advice at the YLD’s Legal Advice Live! program at the Free Library Branch at 1935 Shunk St. on April 29. Volunteer attorneys also offered advice at the Central Branch at 1901 Vine St., 600 W. Girard Ave. and 5543 Haverford Ave.

New RX Program Coming in January

The Philadelphia Bar Association, through a partnership with USI Affinity, is rolling out the “Philadelphia Bar Association Clear Options Rx.” The Clear Options Rx program has been a year in development and has been designed to help firms save money by taking control of their prescription drug program. The program takes effect Jan. 1, 2014.

In February 2012 the Long Range Planning Committee set out to bring the members of the Philadelphia Bar Association a unique benefits offering that would help firms with their benefits program in the eve of the Affordable Care Act.

continued on page 3

Chief Judge Tucker to Speak at Federal Bench-Bar

By Jeff Lyons

New U.S. District Court Chief Judge Petrese B. Tucker will discuss the state of the court and nationally known criminal defense attorney Theodore “Ted” Simon will present keynote remarks at the Federal Bench-Bar Conference on Friday, June 7 at The Rittenhouse Hotel. A total of 4 substantive CLE credits will be available at the program.

The 2013 Federal Bench-Bar Conference is a half-day educational event that is always eagerly anticipated by federal court practitioners and judges. Attendees will hear panel presentations by both judges and practitioners on topics of current interest in the Eastern District of Pennsylvania.

“This year’s Federal Bench-Bar is a must for both civil and criminal practitioners,” said Federal Courts Committee Chair Ann Thornton Field. “With information about the best practices in the courtrooms of the Eastern District of Pennsylvania and the annual state of the courts update, there will be something for everyone. Our luncheon speaker, Theodore “Ted” Simon, counsel for Amanda Knox, Don King and... continued on page 8
Civil Representation of the Indigent: Supporting Equal Access to Justice

This year, the country celebrates the 50th anniversary of *Gideon v. Wainwright*, which established a right to counsel in felony cases for defendants who are unable to afford an attorney. *Gideon* is a landmark case, one that forms the backbone of equal access to justice in criminal cases.

But few such *Gideon*-type rights have been recognized on the civil side, where basic human needs such as shelter, safety, health, sustenance and child custody are at stake.

Unfortunately, the promise of *Gideon* remains largely unfulfilled because of dramatic underfunding of the indigent defense system.

The demand has surged for civil legal representation on behalf of the poor, whose ranks have swelled following one of the worst recessions in the nation’s history.

Recently, the Philadelphia Bar received a grant from the American Bar Association’s Civil Justice Fund for Justice and Education as part of the ABAs Access to Justice Commission Expansion Project.

The funding is being used to help support the formation and the ongoing efforts of a broad-based statewide Civil Legal Justice Coalition, which includes the Philadelphia Bar Association, the Pennsylvania Bar Association, Allegheny County Bar Association and other key stakeholders to work collaboratively on improving access to justice.

This includes planning a series of statewide public hearings to generate greater public awareness and understanding of the civil justice gap crisis, and to identify recommendations for various solutions to close the justice gap. The coalition also will be conducting a series of statewide strategic planning meetings to further explore steps that may be taken to improve access to justice.

We’re pleased to have the support of Pennsylvania Supreme Court Chief Justice Ronald D. Castille in this effort, who serves as honorary chair of the Coalition. Likewise, we are grateful to Pennsylvania Senate Judiciary Committee Chairman Stewart J. Greenleaf (R-Montgomery, Bucks) for creating a forum for these vital issues to be discussed through a series of three public hearings held under the auspices of the Senate Judiciary Committee.

The first hearing, held in Harrisburg on May 7, featured dramatic testimony from low-income Pennsylvanians and the lawyers who have helped them, as well as business and community leaders including Pennsylvania Bar Association President Thomas G. Wilkinson Jr. and Dauphin County Court of Common Pleas Judge Edward F. Chacker and Ellen Rosen Rogoff.

Former U.S. Attorney Peter F. Vaira will moderate the panel “Making an Effective Sentencing Hearing Presentation” featuring U.S. District Court Judge Mary A. McLaughlin, Michael J. Engle, Ann C. Flannery and Peter E. Schenck.

Bankruptcy Court Chief Judge Eric L. Frank and Clerk of Court Michael E. Kunz will also report on the state of the courts. The program wraps up with lunch and Simon’s remarks. Registration and breakfast begin at 8:15 a.m. at The Rittenhouse Hotel, 210 W. Rittenhouse Square.

By Kathleen Wilkinson

The demand has surged for civil legal representation on behalf of the poor, whose ranks have swelled following one of the worst recessions in the nation’s history.
Proposed Rule Changes Make Discovery Proportional

By Benjamin F. Johns

U.S. District Court Judge Gene E.K. Pratter offered a unique perspective on proposed changes to the Federal Rules of Civil Procedure from her work as a member of the Advisory Committee on Civil Rules at the May 15 meeting of the Federal Courts Committee.

Judge Pratter, along with Christopher P. Dolotosky and Gregg H. Kanter, explained that the need for changes to certain rules was first identified about four years ago when practitioners and judges alike complained about the high costs and lengthy delays often associated with cases in federal courts. This led to the Advisory Committee sponsoring the Duke Litigation Conference in 2010, at which judges and practitioners convened to discuss how the rules could be modified to better account for these issues. This ultimately resulted in a set of proposed rule changes, which were first published in January 2013.

The proposed new Federal Rules are designed to make discovery proportional to the nature of the case. Under the proposal, the “reasonably calculated” language in Rule 26’s description of what is considered discoverable will be eliminated. Under the new Rule 26, the scope of discovery will be determined by reference to a multi-factor inquiry that is designed to ensure that the discovery is “proportional” to the needs of the case. These factors include the amount in controversy, importance of the issues, resources of the parties, importance of the discovery, and whether the burden of the discovery outweighs its likely benefit.

District courts will be required to limit discovery to the extent that it is outside of this “proportional” scope. The new rule will retain the provision that information need not be admissible in evidence to be discoverable.

The new rules will also alter several of the presumptive discovery limitations in the Federal Rules of Civil Procedure. Specifically, the new rules would reduce the presumptive limit on depositions from 10 to five; reduce the time limit for depositions from seven hours to six; reduce the number of interrogatories from 25 to 15, and limit parties to 25 requests to admit (there is currently no numerical limit in Rule 36). In an effort to speed cases along from the outset, the time period to serve the complaint will be shortened, and Rule 16 will be amended to call for the faster issuance of an initial scheduling order.

Finally, Rule 37(e), which relates to the ability to obtain sanctions for the non-preservation of electronically stored information, will be amended in two respects. First, it will be expanded to cover all “discoverable information,” not just ESI. Second, the new rule would indicate that obtaining an adverse-inference jury instruction as a sanction for non-preservation of this discoverable information requires a showing of willfulness or bad faith. That will resolve a current circuit split over whether willfulness or ordinary negligence is the proper standard for obtaining such an inference. The panel suggested that practitioners make sure to update their preservation letters once this new rule takes effect.

These changes remain proposals. They were approved by the Advisory Committee in April 2013, and have been sent to the Committee on Rules of Practice and Procedure. Judge Pratter noted that the Advisory Committee intends to hold three additional hearings on the rules between now and February. The U.S. Supreme Court will ultimately need to approve these changes before they become effective. This is not likely to occur until December 2015, at the earliest.

Benjamin F. Johns (BFJ@chimicles.com), an associate with Chimicles & Tikellis LLP, is an associate editor of the Philadelphia Bar Reporter.

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O’Connor, Rendell to Speak June 12

U.S. SUPREME COURT JUSTICE SANDRA DAY O’CONNOR (Ret.) will offer remarks when the award named in her honor is presented to Pennsylvania Superior Court Judge Anne E. Lazarus at the June 12 Quarterly Meeting and Luncheon. U.S. Court of Appeals Judge Marjorie O. Rendell, the 2004 recipient of the O’Connor Award, will deliver the Judge A. Leon Higginbotham Jr. Memorial Public Interest Lecture at the event.

The 2013 O’Connor Award recipient, Judge Lazarus, was elected to Superior Court in 2009 and served as a judge on the Philadelphia Court of Common Pleas from 1991 to 2009. She also served as legal counsel to the Philadelphia Orphans Court before being voted onto the bench and practiced in the estates department at Ballard Spahr LLP.

The Sandra Day O’Connor Award is conferred annually on a woman attorney who has demonstrated superior legal talent, achieved significant legal accomplishments and has furthered the advancement of women in both the profession and the community.

Judge Rendell began her legal career at Duane, Morris & Heckscher, where she became the firm’s second woman partner. She was appointed to the U.S. District Court for the Eastern District of Pennsylvania in 1994 and the U.S. Court of Appeals for the Third Circuit in 1997. Judge Higginbotham was the first African American to serve on the U.S. District Court for the Eastern District of Pennsylvania. Judge Higginbotham also served as chief judge of the Third Circuit Court of Appeals. A legal and civic giant and scholar, he was a lifelong champion of individual rights, with a career that spanned nearly half a century.

Fifty-three new members of the Bar Association’s 50-, 60- and 70-Year Clubs will be honored at the June 12 Quarterly Meeting & Luncheon for their years of service to the bar. The following is a list of Year Club honorees for 2013:

50-Year Club
- Robert L. Arangio
- Jerome E. Bogatz
- Leonard J. Cooper
- Gerald Decker
- Judge Alfred J. DiBona Jr.
- Walter M. Dinda
- Alfred J. DiBona Jr.
- Walter M. Dinda
- Leonard J. Cooper
- Gerald Decker
- Judge Alfred J. DiBona Jr.
- Walter M. Dinda

60-Year Club
- Warren M. Ballard
- Robert F. Blanck
- Judge Edward J. Bradley
- Ralph W. Brenner
- Joseph P. Flanagan Jr.
- Joseph H. Foster
- Max Goldberg
- Maxwell P. Gorson
- Bernard Granor
- Bernad N. Katz
- Edward W. Madeira
- Domenic Mascianino Jr.
- George H. Nofer
- George J. Quaglia
- E. Gerald Riesenbach
- Lila G. Roomberg
- Richard J. Ruth
- Thomas B. Rutter
- Alan Schwartz
- David A. Silverstein
- Edward Stock
- Judge Carolyn E. Temin
- Peter E. Vaira

70-Year Club
- Herbert Brener

Remarks on behalf of the 50-Year Club will be made by Lila G. Roomberg, 2000 O’Connor Award recipient. The June 12 Quarterly Meeting will be held at the Hyatt at The Bellevue, Broad and Walnut streets, beginning at 12 p.m. Purchase tickets online at philadelphiabar.org.

WOMEN’S RIGHTS COMMITTEE

Interbranch Commission’s First 10 Years Examined

By Lauren A. Streb

Established in January 2003, the Pennsylvania Interbranch Commission for Gender, Racial & Ethnic Fairness is a unique intergovernmental group that is responsible for addressing inequalities and securing fairness and equal justice in Pennsylvania’s court system.

The Women’s Rights Committee sponsored a CLE program on May 7 that discussed the Commission’s work in its first 10 years. The featured panelists were Doris A. Smith-Ribner, former judge of the Pennsylvania Commonwealth Court; Helen Casale of Hanley Aronchick Segal Pudlin & Schiller; Roberta Liebenberg of Fine, Kaplan and Black, R.P.C.; and Lynn A. Marks, executive director of Pennsylvania for Modern Courts. The CLE was moderated by Maria A. Fedey of Pepper Hamilton LLP. Liebenberg and Marks are co-chairs of the Commission. Casale is currently on the Commission while Smith-Ribner is a former member of the Commission.

The Commission has six committees focusing on criminal justice, domestic violence and sexual assault victims, equal opportunity and diversity, LGBT rights, interpreter services, and jury services. The CLE program addressed inequalities within Pennsylvania’s justice system and highlighted the different policies and procedures the Commission is using to tackle those inequalities.

Judge Ribner discussed the role of the Equal Opportunity and Diversity Committee, whose main priority is increasing diversity in court employment and appointments. In 2008, the Committee successfully lobbied the Pennsylvania Supreme Court to adopt the Policy on Non-Discrimination and Equal Employment Opportunity. Judge Ribner explained that the policy protects all individuals against discrimination and harassment in court proceedings directly to reader to link this resource.

Web Check

Visit philadelphiabar.org to register for this Bar Association event.

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You can watch the number of followers every day, and communicate. With social media, for instance on Twitter, also featured KYW NewsRadio anchor Wally Kennedy, the panel form of media is essential to self promote. It’s effective today that brand-extension by being a guest in any outlet. Once involved, be sure to consider the perception source, and extend yourself to media outlets. Once involved, be sure to consider the perception you will be giving, in the way you both look (dressing professionally) and speak. Not only can you answer questions, but be prepared to deliver your message.

If you are asked a question that you cannot talk about, instead of saying “no comment,” which can be off-putting to both reporters and viewers, be prepared with an answer of why you cannot talk about it; i.e. “I’d love to answer, but here’s why I cannot comment during trial...” Also be sure to respond to any media inquiries very quickly. It is advised that within 15 minutes of a media request, answer back to the reporter.

Panelists reminded attendees that honesty is always the best policy; if you know the answer give it, if you don’t feel comfortable talking about a topic, say that. When giving an interview, always be in the moment, and be part of the discussion without getting sidetracked. Media and interviews are all about relationship building, and are a great way to advance yourself while also informing the public.

Annie M. Kelley (anniemkelley@gmail.com), a judicial clerk to Philadelphia Court of Common Pleas Judge Albert J. Snite Jr., is an associate editor of the Philadelphia Bar Reporter.
Von Seldeneck: Take Risks to Advance Career

By Lauren Strebel

“You’re not going to get any hits if you don’t swing.” Diversified Search founder, chair and CEO Judith von Seldeneck advised at the May 13 Chancellor’s Leadership Institute.

Von Seldeneck, a founder of the Forum of Executive Women, said she was born with ambition. She is always willing to work hard and take risks and urged those in the audience to do the same.

Chancellor Kathleen D. Wilkinson called her one of the “first women business leaders that we could look up to.”

Von Seldeneck grew up in the South in the 1950s. “I was a tomboy, and I played sports, and I never had a doll in my life” she admitted. After she graduated from the University of North Carolina, while most of her friends went to Atlanta “to look for husbands,” she went to Washington, D.C., and enrolled in law school at American University where she was one of two women in the whole class.

She stayed at American for about a year and a half before leaving to be personal secretary to Vice President Walter Mondale. Though she regrets not finishing law school, she attributes her time “step[ping] out and fetch[ing]” for powerful people, presidents, civil rights activists and movie stars as the foundation of her strong character. Some lessons she learned from her mentor include how to manage time efficiently, work hard, speak out passionately and the importance of maintaining good health. She believed through it all and the importance of maintaining good health. She believed through it all.

Had it been a different era, von Seldeneck would have run for office herself. Instead, she started a business finding professional jobs for women and minorities. At the time she said people thought it was just a hobby, and that it took a while for people to take her seriously. Diversified Search is now one of the top executive search firms in the United States.

Von Seldeneck explained that it took her a long time to climb her mountain. “You have to make choices and sacrifices along the way.” One of her major sacrifices was time spent with her two children. Her family had a live-in nanny who became a second mother to her children. Von Seldeneck said if you want to be successful, you have to get comfortable with asking people to help out along the way.

She said “honesty and integrity really have to be your strengths.” In addition, she said “it’s important to be noticed.” Von Seldeneck explained that it took her a long time to climb her mountain. She encouraged the women in the room to work hard and take risks and urged those in the audience to do the same.

When dealing with the disparity between men and women and advancing in the workforce, von Seldeneck said “first, you really have to do a good job, and make sure that it is being recognized.” When it comes to yearly reviews, if you feel like there are disparities within your peer group, make sure that you have facts to back it up. One subtle way to get the word out that you are doing a good job: have a colleague endorse your skills. Ultimately, be careful with how you go about it “but don’t expect it to just happen.”

Responding to a question about managing such a busy lifestyle, von Seldeneck described how she “checks in” with herself. That can be as simple as having a conversation with yourself in the mirror. Ask yourself whether you are happy with what is going on or not.

Lauren A. Strebel (lauren.a.strebel@gmail.com) is a student at Earlham School of Law at Drexel University.

Equal Access Testimony

Samuel W. Milkes, executive director of the Pennsylvania Legal Aid Network, Inc., testifies at a Pennsylvania Senate Judiciary Committee public hearing, “Civil Legal Representation of the Indigent: Have We Achieved Equal Access to Justice?” on May 7 in Harrisburg. Additional testimony was presented by low-income Pennsylvanians and the lawyers who help them along with community and business leaders and judges.

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Prescription Program
continued from page 1

Through this evaluation it became apparent that the area of benefits that the Bar Association could focus on should be prescription drugs. The committee then spent the next six months exploring different types of arrangements and chose the Clear Options Rx program because it afforded the ability to leverage the size of the Bar Association for better pricing while allowing each firm the flexibility to design their own plans and not need to share risk with other members. Due to the complex nature of the health reform, this program has been focused on firms with more than 50 enrolled employees.

The Philadelphia Bar Association and USI Affinity are partnering with Envision on the Clear Options Rx program. Envision is one of the fastest growing and most highly rated pharmacy benefit management (PBM) companies in the nation. Their vision is to positively impact accessibility and lower the cost of healthcare by delivering high-quality pharmacy benefits with transparent pricing. They have a PBM business model that differs significantly from spread-based, traditional PBM competitors.

Clear Options Rx enables members unprecedented plan access and customization capabilities, exceptional pharmacy benefits and the lowest possible net costs. Their pure pass-through pricing model strongly outpaces traditional PBMs, and a contractual guarantee to pass back 100 percent of manufacturers’ rebates to the sponsor at the point of sale. With a network of 65,000 pharmacies, plan design flexibility and audit capability to the individual claim, the Clear Options Rx program allows Philadelphia Bar Association members the ability to take control of their benefits program.

The Philadelphia Bar Association, USI Affinity and Envision are committed to providing significant pharmacy benefit savings, excellent management and superior customer service while providing clarity, integrity and accountability in pricing, discounts and claims management.

Brian McLaughlin (Brian.Mclaughlin@usiaffinity.com) is vice president of USI Affinity’s Benefit Solutions Group. For more information about insurance and benefits options for Philadelphia Bar members, visit http://www.myhealthinurance.com/philadelphia.

For more than 75 years, the divisions of USI Affinity have developed, marketed and administered insurance and financial programs that offer affinity clients and their members unique advantages in coverage, price and service. As the endorsed broker of the Philadelphia Bar Association and more than 30 other state and local bar associations and with more than 30,000 attorneys insured, USI Affinity has the experience and know-how to navigate the marketplace and offer’s members the access, advice and advocacy they need to save money, prepare for Health Care Reform.

Doctor Discusses Common Workplace Exposures

By Regina M. Parker

Workplace safety is essential for providing a safe working environment in which employees can work with minimal risk to their health. The reality is that workplace accidents can cause injuries and death. Preventing these accidents requires the effort of both the employer and employee to adopt and follow safety protocols. Dr. Michael Greenberg, a tenured professor of emergency medicine and a professor of public health at Drexel University College of Medicine, discussed common workplace exposures during the May 10 Workers’ Compensation Section CLE program “Lethal Occupational Exposures in Workers’ Compensation Claims.”

Dr. Greenberg explained that while chemical exposures often occur in the workplace, they are rarely of a magnitude that kills. However, a percentage of occupational exposures do result in death of workers each year. In 1994, 6.8 million non-fatal illnesses and injuries were reported in private industry in the U.S. The true number far exceeds 6.8 million. Annually, more than 6,000 deaths occur on the job and one-third of these are due to motor vehicle accidents and homicides. The majority of these acute events are initially evaluated in the emergency department, Dr. Greenberg said. He explained that given these numbers, he would like to see additional training for ER physicians in the area of treating and responding to occupational injuries. He pointed out that in 1987 the editorial “Occupational Medicine: Where Do We Get the Training?” appeared in the Annals of Emergency Medicine and acknowledged that ER physicians may not have sufficient training to specifically address occupational exposures.

The mechanisms of exposures involving occupational injuries include inhalation, dermal or ingestion. It is important for the ER physicians to be properly equipped to deal with these exposures. Dr. Greenberg stated that workers deaths each year include 30 deaths from heartstroke, 30 deaths from carbon monoxide poisoning, 15 deaths by lightning, 10 deaths by exploding tires, 10 deaths in manure pits/sewers, eight deaths after being burned by hot water or steam, and four deaths from allergic reactions to bee stings.

Dr. Greenberg explained that numerous conditions qualify as occupational disease, including chemical poisoning such as exposure to asbestos or silica dust that can cause lung injuries or cancer. Immersion injuries can result from people falling into acid, manure pits, alcohols and other fluids including acids. In many instances, resuscitation is often difficult. Potential lethal inhalation exposures include carbon monoxide poisoning which is the leading cause of occupational toxic death, Dr. Greenberg said. Dermal exposure includes exposure to chemicals or acids. Lethal exposures also include diseases that can be contracted from exposure to other individuals, for instance, public safety employees may be exposed to tuberculosis or hepatitis or other blood-borne illnesses in the course of their employment. Also included are occupational hazards for house and industrial cleaners. Mixing cleaning agents, such as bleach and ammonia, can be extremely irritating to the lungs.

Dr. Greenberg encouraged employers to use a combination of safety training and safety protocols to prevent as many employee injuries as possible. The U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) provides resources for managing safety and preventing specific injuries and illnesses. A safe workplace benefits both the employee and the employer.

Envision are committed to providing significant pharmacy benefit savings, excellent management and superior customer service while providing clarity, integrity and accountability in pricing, discounts and claims management.

Brian McLaughlin (Brian.Mclaughlin@usiaffinity.com) is vice president of USI Affinity’s Benefit Solutions Group. For more information about insurance and benefits options for Philadelphia Bar members, visit http://www.myhealthinurance.com/philadelphia.

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The second hearing was held May 23 at the Philadelphia Bar Association, with introductory remarks by Chief Justice Castille and testimony by me and other key stakeholders including members of our local judiciary.

The third hearing will be scheduled in Pittsburgh. Because of these important hearings, our state lawmakers and the public are learning much more about the difficulties many face in achieving access to justice. They are hearing a broad range of perspectives on the consequences of the inability to retain counsel on families, such as loss of jobs, breakdown in family integrity and economic disruption.

State and national studies estimate that a staggering 80 percent of critical legal needs of low-income people go unmet due to grossly insufficient funding and support.

State and national studies estimate that a staggering 80 percent of critical legal needs of low-income people go unmet due to grossly insufficient funding and support.

Our goals also include highlighting the broader impact of the lack of counsel on communities and economies – both locally and statewide. We hope to educate the broadest possible audience about these issues, and the social and economic benefits of expanding access to justice to everyone in the community.

Fairness and access to justice are essential to preserving public faith in the judicial system as well as, fundamentally, the rule of law.

As we celebrate the 50th anniversary of the Gideon decision, we are delighted to have this support to move forward a statewide effort to build access to justice for all on the civil side.

To learn more about this effort, and ways that you can help, visit the Civil Gideon Corner at the Bar Association website at philadelphiabar.org.

Kathleen D. Wilkinson (Kathleen.Wilkinson@wilsonelser.com), a partner with Wilson Elser Moskowitz Edelman & Dicker, is Chancellor of the Philadelphia Bar Association.
Bar Foundation Golf & Tennis Classic June 24

The 25th Annual Philadelphia Bar Foundation Golf & Tennis Classic will be held Monday, June 24 at Green Valley Country Club in Lafayette Hill, Pa. If you’re not a golfer or tennis player, you can join us afterward for an open bar surf-and-turf reception at Green Valley. Registration information is available at www.philaBarFoundation.org.

The mission of the Bar Foundation is to provide equal access to justice for all. As a practical matter, access to justice only exists when education, representation and advocacy combine to allow people to take full advantage of their legal rights. The Bar Foundation is a key provider of both resources and solutions with the greatest impact on this ambitious goal.

Through the awarding of annual grants, the Bar Foundation provides much-needed operational funding for more than 30 public interest law groups. Each grantee has a distinct mission, whether it be advocating for the homeless, protecting children in crisis, working with distressed homeowners to prevent foreclosure, protecting elders from abuse, preventing discrimination — the issues are countless. What these distinct groups have in common is the fight for access to justice. The Bar Foundation exists to support this common goal.

The annual Golf Classic raises substantial funds to meet our mission. The money raised at the Golf Classic goes directly into funding our legal service grantees.

Please join us in our mission.

Sponsors for the 2013 Golf & Tennis Classic include:

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Coast Guard Meeting

Philadelphia Bar Association Chancellor Kathleen D. Wilkinson and her husband, Thomas G. Wilkinson Jr., who recently completed a one-year term as president of the Pennsylvania Bar Association, met on May 17 with U.S. Coast Guard Commander Amy Kovac at Sector Delaware Bay to discuss the status of the Association’s Military Assistance Program (MAP) and plans for a September All Hands meeting with USCG personnel.

MAP provides pro bono assistance to active-duty military personnel and their families and post-9/11 veterans in specific areas. Also pictured at left is Lt. Jessica S. Thornton.

Family Law

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engagement should be entered into by the lawyer, not the client, to maintain privilege and confidentiality.

The goal of the valuation is to calculate the fair market value of the business for equitable distribution. Fair market value is defined as the price at which the business would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts.

To determine fair market value, valuation experts consider the factors set forth in Revenue Ruling 59-60, which are: nature of the business and the history of the enterprise from its inception; economic outlook in general and the condition and outlook of the specific industry in particular; book value of the stock and the financial condition of the business; earning capacity of the company; dividend-paying capacity; whether or not the enterprise has goodwill or other intangible value; sales of the stock and the size of the block of stock to be valued; market price of stocks of corporations engaged in the same or a similar business having their stocks actively traded in a free and open market, either on an exchange or over-the-counter.

Valuation experts adjust earnings on a business balance sheet by removing or reassessing unusual and non-recurring items to ascertain the business’ true economic condition. Some typical items that are adjusted are non-operating expenses, perks paid to or on behalf of the owner, related party transactions that are not reflective of actual market expenses, and overcompensation to the owner or a relative.

Finally, the expert must select a methodology to determine a value. The most common business valuation methods are the income approach, the market approach and the asset approach. The income approach values the income stream of the business. This method uses discount rates and capitalization rates. The market approach uses comparable sales and transactions to decide value. Either a national register of similarly sold businesses is used as resource; or, prior sales of the subject business are used to ascertain its value. The asset approach calculates the net of the business assets and liabilities. This method calculates the going concern of the business.

A common hybrid business valuation method is the excess earnings approach, which combines the asset and income methodologies. This hybrid applies a capitalization rate to the excess earnings of the business to determine the business value. Once the value of the business is determined, under Balicki v. Balicki, 4 A.3d 654 (Pa. Super. 2010), tax consequences must be analyzed and applied to the assessment to finalize the expert business valuation report.

Julia Swain (JSwain@foxrothschild.com), a partner with Fox Rothschild LLP, is an associate editor of the Philadelphia Bar Reporter.
Earn 7 Credits From 22 CLE Programs

By Jeff Lyons

Twenty-two CLE seminars offering as many as 7 CLE credits will be available at the Bench-Bar & Annual Conference on Oct. 4-5 at Revel in Atlantic City, N.J., including a law practice management track.

The State Civil Litigation Section will present “Professionalsm and Civility: Is Civility Still the Rule in Civil Litigation Today?” This year, Chancellor Kathleen D. Wilkinson has promoted civility as one of the cornerstones of the Philadelphia Bar Association. This program will focus on the impacts of social media, texting, blogging, reality TV, Facebook, Twitter, electronic media, electronic discovery and e-filing on the civil court system. These tools have played a role in altering the discourse between lawyers, clients, judges, users of the court system, witnesses, courts staff and jurors, and have materially changed how lawyers and judges handle civil lawsuits.

Panelists are U.S. District Court Judge C. Darnell Jones II, Philadelphia Court of Common Pleas Judges D. Webster Keogh and Lisa M. Rau, and Butler Buchanan III (course planner). The moderator is Chancellor Kathleen D. Wilkinson, also a course planner.

“Moving or Staying – Custody Relocation Practice in the First Judicial District” will be offered by the Family Law Section. In today’s mobile society, parents have greater relocation opportunities for a variety of reasons including work, family, new spouse and health. When children of separated or divorced parents are involved, settlement is often difficult or impossible because the non-relocating parent can’t conceive of the child moving away. This program will explore the nuances of local practice in the First Judicial District for custody relocation matters. It not only will provide insight on strategies in relocation cases, but will offer perspectives from the appellate and trial courts and from experienced trial lawyers. The moderator is David S. Raster and panelists are Pennsylvania Superior Court Judge Susan P. Ganntman, Philadelphia Court of Common Pleas Judges Barbara A. Joseph and Maria McLaughlin, and Stephen J. Anderer.

The Diversity in the Profession Committee will present “Best Practices for the Retention and Advancement of Women and Attorneys of Color in the Legal Profession: Overcoming the Challenges.” Despite the focus on increasing diversity and inclusion in the legal profession, nationwide, women account for 19.91 percent of law firm partners and 45.05 percent of associates. Minorities account for 6.71 percent of partners and 20.32 percent of associates. The retention and advancement of women and attorneys of color is critically important. Our distinguished panel will discuss studies that reveal that women and attorneys of color lack access to meaningful work assignments, mentoring relationships, and business and professional development opportunities. Panelists are former Chancellor Jane L. Dalton, Sophia Lee and Scott W. Reid. The moderator is former Chancellor Rudolph Garcia.

The first of the Law Practice Management seminars to be offered is “Cloud Security and Cloud Computing: How to Protect Files Stories in the Cloud and Fulfill Your Ethical Duties.” Cloud computing is becoming commonplace, and lawyers need to understand how the technology works, what ethical obligations are implicated when storing client files in the cloud, and how to protect clients and themselves when entering into agreements with cloud providers. The panel will discuss practical, legal and ethical concerns raised by cloud computing. The moderator is Daniel J. Siegel and panelists are Michael D. Ecker and Mary F. Platt. Course planners are Jeffrey Campolongo and Gina Futia Rubeil.

Conference Schedule

**Friday, Oct. 4**

9:30 a.m. .......................................................... Registration and Meet Our Sponsors

Come down early to meet our valued sponsors who have made this year’s Bench-Bar & Annual Conference possible. Also, we invite you to visit each of our sponsors throughout the conference to get your “Passport” stamped to enter a raffle to win an iPad Mini!

11:30 a.m. .......................................................... Doors open for lunch

12 p.m. ............................................................ Opening Lunch and plenary session

1:45 p.m. ............................................................ Break

2 p.m. ............................................................ CLE seminars

• **Professionalism and Civility: Is Civility Still the Rule in Civil Litigation Today?**

• **Moving or Staying – Custody Relocation Practice in the First Judicial District**

• **Best Practices for the Retention and Advancement of Women and Attorneys of Color in the Legal Profession: Overcoming the Challenges**

• **Cyber Security and Cloud Computing: How to Protect Files Stored in the Cloud and Fulfill Your Ethical Duties**

3 p.m. ............................................................ Break

4:15 p.m. .......................................................... CLE seminars

• **The First Judicial District: Looking Backward and Forward – Where We Were and Where We Are Going**

• **Gideon 50 Years Later: Promises Yet to Keep**

• **The Anatomy of the Lynn Trial**

• **Websites, Blogging and Social Networking: The Rules of Engagement**

5 – 10 p.m. ..................................................... Reception

11 a.m. ............................................................ **CLE seminars**

• **To Jail Or Not To Jail: That Is Our Question**

• **Building on Gideon’s Legacy: Civil Access to Legal Justice**

• **One Year Later: The eDiscovery Amendments to the Pennsylvania Rules of Civil Procedure**

• **Creating and Managing Law Firm Budgets, Office Space, Clients and Loans**

8:30 a.m. .......................................................... Breakfast, Avoiding Legal Malpractice seminar

9:45 a.m. .......................................................... CLE seminars

• **Dealing With Difficult Clients: How To Recognize, Communicate With and Manage Different Types Of Problem Clients**

• **In or Out – Add-Backs, Cash Flow and Hidden Income**

• **Best Practices in Pre-Trial Litigation in the Philadelphia Court of Common Pleas**

• **Technology Tips for Managing Your Practice: From Desktop to Mobile**

10:45 a.m. ........................................................ Break and hotel check-out

11 a.m. .......................................................... CLE seminars

12 p.m. .......................................................... Lunch and Closing Plenary

Saturday, Oct. 5

8:30 a.m. .......................................................... CLE seminars

• **State of the Courts featuring:**

  Pennsylvania Superior Court President Judge Correale F. Stevens

  Pennsylvania Commonwealth Court President Judge Dante Pellegrini

  Philadelphia Common Pleas Court President Judge Pamela Pryor Dembe

  Philadelphia Municipal Court President Judge Marsha H. Neifield

“The First Judicial District: Looking Backward and Forward – Where We Were and Where We Are Going,” presented by the State Civil Litigation Section, will address the evolution of Philadelphia Courts starting with Day Forward and Day Backward programs, its record of efficiency, and recent developments. Panelists will also address the importance of having a jury trial. The

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moderator for this program is Michael F. Barrett and panelists are Philadelphia Court of Common Pleas Judges William J. Manfredi, George Overton and Karen Shreeves-Johns, Robert J. Casey, Court Administrator Joseph Evers and Chancellor-Elect William P. Fedullo.

The Criminal Justice Section, Public Interest Section, Civil Gideon and Access to Justice Task Force and Young Lawyers Division have teamed up for the seminar “Gideon 50 Years Later: Promises Yet to Keep.” This year we commemorate the 50th Anniversary of the seminal case that established a right to counsel for criminal defendants, Gideon v. Wainwright. This panel will explore whether publicly funded criminal defense attorneys are able to provide the effective representation of counsel mandated by Gideon and the Constitution, and it will examine what can be done to improve criminal defense services and how Gideon can be used to expand access to justice for indigent people in need of civil legal assistance. The moderator is Marissa Bluestine and panelists are Deputy Mayor Everett Gillison, Troy H. Wilson and Ellen T. Greenlee.

In “The Anatomy of the Lynn Trial,” attorney Jeffrey M. Lindy will address what it’s like to deal with a case that garners national and international press regularly and regional press daily. We will discuss how that volume of attention affects what happens in court and to your client. Learn how to deal with the press and advocate for your client effectively in high-profile situations.

Communicating and marketing via the Internet has it benefits and pitfalls. Today’s tech-savvy lawyers and legal marketers are engaging online at a rapid pace. Understanding the rules of engagement is critical to success. Panelists in the Law Practice Management Committee seminar “Websites, Blogging and Social Networking: The Rules of Engagement” will discuss the rules of online communications from an ethical and practical perspective. Panelists are Brian P. Flaherty, Gina Furia Rubel and Royce Smith.

In “Dissecting Expert Cross Examinations,” Philadelphia Court of Common Pleas Judge Mark I. Bernstein and Larry Bendesky will dissect video of actual courtroom testimony to reveal what makes cross-examination effective and devastating. Using their vast library of video cross-examinations performed by the original attorneys, basic and advanced techniques of preparation, approach, technique, and execution of cross examination will be discussed in detail.

The Women in the Profession Committee’s “Attorneys and Couples-At-Law: Navigating the Ethical & Personal Dilemma” will focus on lawyers married to lawyers, judges married to lawyers and ethical and personal dilemmas. It will incorporate the very busy personal and professional lives of these well-known judges and lawyers, coupled with discussion of judicial canons and Rules of Professional Responsibility.


“Workers Compensation Primer for Civil Litigators, Including Subrogation and Indemnification” will discuss the basics of workers compensation and outline the issues and pitfalls to look for when there is a plaintiff who is receiving benefits or has made a claim for benefits. We will discuss the interaction of the Workers Compensation Act with other types of litigation and the complex issues of subrogation and indemnification as it relates to workers compensation. Panelists for this Workers’ Compensation Section program are Joe Vaughan and Aaron Friedmann.

Panelists in the Law Practice Management Committee program “Not Just Lip Service: Creating a Diverse and Inclusive Law Practice” will provide “best practices” to create a diverse and inclusive law practice. Learn about the importance of defining diversity broadly and understanding the “business case for diversity.” The discussion will focus on concrete steps to eliminate bias from business development, client relationship management and procurement. The moderator is Bar Association Director of Diversity Naomi K. McLaurin and panelists are former Chancellor Francis P. Devine, Roberta D. Liebenberg and Roberta Jacobs-Meadway.

The newly revamped program “Avoiding Legal Malpractice” will address loss control issues including: the importance of letters of engagement, and disengagement; fee agreements and delineating the scope of representation; avoiding conflicts of interests; the practice of “dabbling” and its high correlation with malpractice claims, as well as new compliance issues raised for attorneys under the HITECH HIPAA regulations. Members who take this program will be entitled to a 7.5 percent risk control credit on their premiums for two years. Panelists are Carl H. Delacato Jr., former Chancellor Sayde J. Ladov, Wesley R. Payne IV, Michael Barrett (director, Risk Control and Professional Services - Lawyers, CNA Insurance) and Gina Sage (Client Executive/Association Relations), USI Affinity. The program is sponsored by the Professional Responsibility and Insurance Programs Committees.

The Criminal Justice Section session “To Jail Or Not To Jail: That Is Our Question” will provide an overview and update of all available jail and prison alternatives, pre- and post-trial. Our expert panelists will also provide an update on substantive sentencing law. Panelists are Byron C. Cotter, Ida A. Fruchter and Thomas J. Jones.

The State Civil Litigation Committee panel “Building on Gideon’s Legacy: Civil Access to Legal Justice” examines whether there should be a right to counsel for the indigent in civil cases where basic human rights are at stake. This panel will discuss expanding access to justice, funding realities and strategies, and the Civil Right to Counsel to offer a national perspective. In Gideon v. Wainwright, the right to counsel for the indigent in criminal cases was established 50 years ago, but no right to Civil Gideon has been recognized in Philadelphia. Panelists include leaders who provided testimony in the state-wide hearings. The moderator is Karen C. Buck and panelists are Philadelphia Court of Common Pleas Judge Annette M. Rizzo, Catherine C. Carr and Samuel W. Milkes.

The eDiscovery amendments to the Pennsylvania Rules of Civil Procedure took effect Aug. 1, 2012. In “One Year Later: The eDiscovery Amendments to the Pennsylvania Rules of Civil Procedure” from the Business Litigation Committee, we will examine the impact that the eDiscovery amendments are having on discovery practice in Pennsylvania state courts. We will also focus on the differences between Pennsylvania Rules governing eDiscovery and their federal counterparts, the similarities between the two sets of Rules, and discuss practical guidance for litigators. Moderator Benjamín R. Barnett will be joined by panelists including Philadelphia Court of Common Pleas Judge Patricia A. McNerney, Elizabeth Asali and Philip N. Yennella.

In “Creating and Managing Law Firm Budgets, Office Space, Clients and Loans,” panelists will discuss the overall business effectiveness and organizational structure of various sized law firm in relation to today’s competitive market. The panelists will discuss the following, among other topics:

- Assess your current loans, budgetary concerns, and attorney accounts as they continued from page 12
relate to your firm’s profitability and the Rules of Professional Responsibility;
- Evaluate your client base and practice areas as they relate to competency and profitability; as well as;
- Consideration of issues related to options for office space, etc.

Panelists for this Law Practice Management Committee seminar are Jeffrey Campolongo, Maureen Farrell and May Mon Post.

The Young Lawyers Division will present “Dealing With Difficult Clients: How To Recognize, Communicate With And Manage Different Types Of Problem Clients.” Let’s face it – sometimes it’s difficult dealing with clients and if you practice in an area where emotions run high, you may regularly handle difficult clients. Participants in this CLE will gain valuable knowledge of the psychology, skills and resolution strategies effective in handling truly “difficult” or “high conflict” clients and client situations. We will also address some of the ethical issues of dealing with difficult clients, including managing clients with whom you have personal ties, those with mental health issues, and situations where conflicts develop between you and the client. Panelists are Philadelphia Court of Common Pleas Judge Marlene F. Lachman, Michael B. Hayes, David Koller and David DeVMatteo.

Income derived from a sole proprietorship, professional practice, family business, partnership, corporation and limited liability company will be scrutinized by the Family Court much more closely than W-2 wages. Although support guidelines may be easy to utilize, calculating the correct income level of the parties for support calculations can pose significant challenges. The focus of the Family Law Section program “In or Out – Add-Backs, Cash Flow and Hidden Income” will include an analysis of add-backs to income and uncovering hidden income – both of which enhance a party’s cash flow and, in turn, increase net monthly income available for support. Panelists are Erie County Court of Common Pleas Judge Stephanie Dimitrowich, Philadelphia Court of Common Pleas Judge Doris A. Peckhurow, Michael E. Fingerman and G. Daniel Jones, C.P.A. The moderator is Mary T. Vidas.

“Best Practices in Pre-trial Litigation in the Philadelphia Court of Common Pleas” offers a unique opportunity to hear from our Court of Common Pleas judges who will discuss best practices and their personal preferences. You will gain practical insight into the procedures and practices you should follow when appearing before them. They will answer your questions on procedural issues and share advice that will help make your appearances before them run smoothly. The moderator is Maria A. Feeley and panelists are Philadelphia Court of Common Pleas Judges Ellen H. Geisler, Barry I. Djerassi, and Idee C. Fox.

“Technology Tips for Managing Your Practice: From Desktop to Mobile” panelists will guide you through a virtual web of information and explore the multitude of tech challenges confronting attorneys across all platforms whether it’s a handheld or mobile device (Droid, iPhone, Blackberry); office computer; tablet; or home system. Don’t have your head stuck in the sand; manage your practice more effectively. Panelists are Christiane Schuman Campbell, Jeffrey Campolongo, former Chancellor Rudolph Garcia and Gilbert J. Marquez.

The 2013 Bench-Bar & Annual Conference concludes with a state of the court presentation from the president judges of Pennsylvania’s courts. Confirmed speakers are Pennsylvania Superior Court President Judge Correale F. Stevens, Commonwealth Court President Judge Dante R. Pellegrini, Philadelphia Court of Common Pleas President Judge Pamela P. Dembe and Philadelphia Municipal Court President Judge Marsha H. Neifeld.
Annual 5K Raises $100,000 for Support Center

Jossi Fritz-Mauer (558) was the first runner to cross the finish line in the 34th Annual Philadelphia Bar Association 5K Run/Walk on May 19 along a soggy Martin Luther King Jr. Drive. With nearly 1,600 people registered, more than 1,300 people finished the annual race to benefit the Support Center for Child Advocates. Sean T. Daly (155) was the first to finish in the Bar Association division of the race while Heather Hoechst (204) was the first woman to finish. Runners also donated unwanted running shoes to ShoeBox Recycling’s SoleMate program. For a complete list of finishers, visit philadelphiabar.org.

U.S. Attorney Zane Memeger (left photo, from left) and Joseph A. Sullivan cool down after the race. Children (above) line up for the start of the Buchanan Ingersoll & Rooney Kids’ Dash with Frank Cervone, executive director of the Support Center for Child Advocates.
Leadership Institute hosted the wonderful panel “Young, Diverse and Gifted: The Next Generation of Legal Leaders,” which featured some of the bright young diverse leaders we have in Philadelphia today. The panelists had wonderful stories of how the Bar Association and affinity bars had assisted them and, as Kevin Harden Jr. stated during that panel, that they can serve as a catapult or trampoline for diverse attorneys as they begin their careers. The panelists’ stories offered an inspiration and a reminder of the challenges and often non-traditional career paths taken by these diverse attorneys to achieving success in the legal profession.

We often find corporations and law firms that are more than willing to contribute to diversity-related causes, and it certainly is important to keep the dialogue going. It often seems that diversity plans focus on a sort of photo-op diversity, which is happening without much more business rationale for diversity, if we can discover more and more business rationales for diversity, I think we will see faster progress.

But the importance of these accomplishments is often lost if a student does not understand the legal business.

The Bar Association is committed to promoting diversity and I hope you will join us on June 13 for our Summer Diversity Reception at The Franklin Institute. During the event we will honor our five YLD Diversity Scholarship winners. The scholarship recipients are Talik Brooks, Rutgers Camden School of Law; Chintan Desai, Rutgers Camden School of Law; Kenisha Marks, Temple University Beasley School of Law; Renata Sobral, Temple University Beasley School of Law; and Rebecca Song, Temple University Beasley School of Law.

Aneesh A. Mehta (amehta@vklaw.com), an associate with Volpe and Koonig, P.C., is chair of the Young Lawyers Division.

Esuga Abaya (above, from left), Nipun J. Patel, Squire J. Servance, Roy Prather III, Philip D. Amoa, Marcel S. Pratt and Nathaniel L. Koonce II were among the attorneys who spoke to students at Friere Charter School on April 30. They discussed careers in the law as well as the Gideon v. Wainwright decision. Attorneys visited classrooms across the city to talk about the law during Law Week, from April 29 to May 3.
YLD Serves the City at Law Week Events

YLD Executive Committee members (above, from left) Andrew Kornblau and Jennifer Russell join Edward F. Chacker Essay Contest winner Babar Ahmed of Father Judge High School, Sheila Chacker and former Chancellor Edward F. Chacker, sponsors of the contest. Ahmed read his winning essay at a May 1 naturalization ceremony at the U.S. Courthouse. Young jurors (right) prepare for the Goldilocks Trial at City Hall on May 3.

6ABC reporter and anchor Nydia Han (left) and Chancellor Kathleen D. Wilkinson (right) spoke at a May 1 naturalization ceremony officiated by U.S. District Court Judge Cynthia M. Rufe. Nearly 80 people from 29 nations took the oath of citizenship at the ceremony sponsored by the Philadelphia Bar Association.

YLD Chair Aneesh A. Mehta (from left), Board of Governors Pro Bono Chair Louis S. Rulli and Chancellor-Elect William P. Fedullo talked with high school students at the Lawyer for a Day program on May 3. Students shadowed attorneys into Philadelphia courtrooms and later leaned about the Gideon decision.

YLD Chair Aneesh A. Mehta (from left), Chair Elect Edward F. Beitz and Comedy Night Chair Jeffrey N. Rosenthal meet outside of Helium Comedy Club before the May 9 benefit for the Philadelphia Bar Foundation. More than $17,000 was raised for the Bar Foundation. The event included raffles for restaurant gift cards, Phillies tickets and an iPad Mini. Performers included Myq Kaplan, Lucas Menendez and Jim Ginty. Sponsors were Blank Rome LLP; Pepper Hamilton LLP; Volpe and Koenig, P.C.; Cozen O’Connor; Fox Rothschild LLP; Krasno, Krasno & O’Wudinjie; Chimicles & Tikellis LLP; Dilworth Paxson LLP; German, Gallagher & Murtagh, P.C.; Kohlsby, Gordon, Robin, Shore & Bezar; Landmark Legal Solutions; Martin LLC; Radwell International, Inc.; Salz, Mongeluzzi, Barrett & Bendesky, P.C.; Scarab Consulting; White and Williams LLP; Gay Chacker & Mintin, P.C.; Law Offices of Bernard M. Gross; Philadelphia Trial Lawyers Association; and Wilson Elser Moskowitz Edelman & Dicker LLP.
PNC Perspectives

Small Business Owners to Delay Hiring

By Jackie B. Lessman

What did you learn about business owners’ appetites for hiring employees?

The Spring 2013 findings from the semi-annual survey, which began in 2005, show only one in seven small businesses intends to add full-time employees during the next six months. Private sector job growth, especially among small businesses that do the lion’s share of hiring, is essential to sustaining the economic expansion. Only 15 percent expect to hire full-time employees, down from a year ago, while 8 percent plan to reduce full-time staff. Of those hiring, one in four intend to hire formerly laid-off employees or hire temporary staff for short-term needs. Do respondents feel that there is anything the federal government could do to improve business owners’ willingness or ability to hire more people? Only 41 percent think the federal government could take any actions that would positively influence their hiring plans. Reduced business regulations, increased infrastructure spending and reduced total federal spending are the preferred top three actions. What effect does the American Taxpayer Relief Act seem to have on these businesses? Survey results showed that 58 percent plan to spend on capital investments in the next six months, the same as last fall, but down from 70 percent last spring. Technology equipment remains the top priority, with other types of business equipment a distant second. Just one in eight will probably/definitely take out a new loan or line of credit in the next six months. Are the business owners feeling better or worse about their own companies compared to previous surveys? Those business owners surveyed are slightly more optimistic about their own company. Just over a quarter of them are optimistic about their own prospects during the next six months, up from 23 percent last fall, but trailing the 28 percent from one year ago. Correspondingly, just one in eight are pessimistic, which is down from 21 percent in the fall and 17 percent last spring. What is their general outlook on the U.S. and local economy? The Spring 2013 survey showed optimism is up and pessimism is down about U.S. economic prospects compared to the fall and spring surveys of 2012. Sentiment about the local economy’s prospects is also slightly more optimistic. Regarding the global economy’s prospects, however, optimism is now slightly greater than pessimism, a significant turnaround from the fall 2012 survey.

Methodology: The PNC Economic Outlook survey was conducted between Jan. 21 to Feb. 15, 2013, by telephone within the United States among 1,718 owners or senior decision-makers of small and mid-sized businesses with annual revenues of $100,000 to $250 million. The results given in this release are based on interviews with 559 businesses nationally, while the remaining interviews were conducted among businesses within the states of Alabama, Florida, Georgia, Illinois, Indiana, Michigan, North Carolina, Ohio and Pennsylvania. Sampling error for the national results is +/-3.1 percent at the 95 percent confidence level. This survey was conducted by Artemis Strategy Group (www.artemisGL.com), a communications strategy research firm specializing in brand positioning and policy issues. The firm, headquartered in Washington, D.C., provides communications research and consulting to a range of public and private sector clients.

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By Jackie B. Lessman, CFP®

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Bar Foundation

Engagement, Ownership, Responsibility

By Deborah R. Gross

Corporate support for the Philadelphia Bar Foundation and the public interest legal services community is not only a critical component for success, but also, very much appreciated and welcomed. At the May Foundation Board meeting, Marsha Cohen, executive director at the Homeless Advocacy Project (HAP), spoke about the wonderful partnership between staff from the PECO/Exelon Legal Department and HAP to assist members of the community who needed to obtain copies of their birth certificates in order to acquire the necessary state-issued photo identification cards required to obtain medical and welfare assistance and insurance, subsidized housing, as well as to register to vote. These birth certificate legal clinics have been held at PECO’s Market Street headquarters and in shelters throughout the city. At one session, 200 HAP clients applied for birth certificates. Since the first clinic in 2006, there have been 10 PECO/Exelon legal clinics.

I recently spoke with Romulo (Romy) Diaz, general counsel for PECO, about PECO’s corporate involvement in the nonprofit community. Romy and other staff from his office have also teamed up with SeniorLAW Center staff and attorneys from outside counsel firms to provide Hispanic senior clinics. “The expectation is that our key managers will serve as talent resources for nonprofits in the community.” Romy explained. He himself is involved in several nonprofit boards in the region. As a result of these company policies, Exelon/PECO has contributed money and talent over the past several years to a large number of nonprofits in the region, including several of the Bar Foundation’s grantee agencies, for example, HAP, SeniorLAW Center, Philadelphia VIP, Support Center for Child Advocates and PILCOP. “The teamwork among corporate legal staff, nonprofit staff and outside counsel is impressive,” he said.

In addition to providing significant pro bono support, corporations in the Philadelphia area have given financially as well. Last year, for example, PECO made a significant corporate contribution to the Bar Foundation’s 2012 Access to Justice Campaign and the Andrew Hamilton Gala. PECO joined the Philadelphia Bar Foundation’s other wonderful 2012 corporate sponsors such as USI Affinity, Navigant and LexisNexis/Reed Technolgy and Information Services, Inc. Romy sees a real need from the corporate sector for the corporate community’s engagement. “My experience is that corporate leaders in the region recognize that they must invest in community organizations, including the Bar Foundation, because without such investment, the needs of many of our customers will remain unmet.”

As I discussed in an earlier article, the positive economic impact of legal aid services goes far beyond the immediate benefit to the clients who are served. In a study that examined legal aid supported by Interest On Lawyer Trust Account (IOLTA) funding in Pennsylvania, the total economic impact of legal aid was found to be more than four times the amount IOLTA funding over the five-year period covered by the report. According to Al Azen, former executive director of the Pennsylvania IOLTA, “The economic impact was derived from a combination of federal benefits awarded to legal aid clients, savings in emergency shelter costs, savings in costs related to domestic violence victims, and savings from low-income utility customers.” This finding is supported by numerous other studies throughout this country, including a task force established by New York’s Chief Judge Jonathan Lippman that had the benefit of pro bono independent analysis from NERA, Navigant and Cornerstone consultants.

Recalling the first time he spoke to the Philadelphia Bar Association (when he was Philadelphia city solicitor), Romy told me, “I remember that I told them I was proud to call myself a Philadelphia lawyer, because there is such a strong sense of community among Philadelphia lawyers.” This is exactly why each and every one of us, as lawyers, as individuals, as law firms, as businesses and as corporations should remember that law is a higher calling; we have an obligation to take care of those in need, and in particular, those who cannot afford access to justice to protect their basic rights and freedoms.

As we begin celebrating the 50th anniversary of the Philadelphia Bar Foundation, we need your financial contributions to continue to provide predictable and secure funding in these unpredictable times. Our goal is to raise $5 million by Dec. 31, 2014, and you will hear in my next few columns how this can be achieved with your help! You don’t even need to wait for me or my fellow trustees to contact you, call me at 215-561-3600 to join our initiative!

Deborah R. Gross (debbie@bernardmgross.com) of the Law Offices of Bernard M. Gross, P.C., is president of the Philadelphia Bar Foundation.

Why I Give...

“There is so much need, and PECO’s corporate giving demonstrates its commitment to Philadelphia and the region. I believe that corporate giving is a winning formula for the business community, the Bar Foundation and the organizations that the Foundation supports. In addition, the commitment of Philadelphia’s legal community to charitable endeavors is truly inspirational and I love being an active member of that community.”
HEALTH CARE REFORM UPDATE FROM USI AFFINITY

Additional Info on Exchange Notices, HSA Limits

By Brian McLaughlin

There are two important things to focus on this month – additional information on the Exchange Notices that were delayed earlier this year and the new limits for Health Savings Accounts.

The Affordable Care Act creates a new Fair Labor Standards Act (FLSA) section that requires employers to provide each employee at the time of hiring, as well as current employees, a written notice that includes information regarding the new Health Insurance Marketplace. Earlier materials referred to this notice as the “Exchange Notice,” however, it is now referred to as the “Notice of Coverage Options.”

All employers subject to the FLSA are required to provide the Notice of Coverage Options, regardless of whether a health plan is offered by the employer. Employers subject to the FLSA include employers that employ one or more employees who are engaged in, or produce goods for, interstate commerce. For most firms, a test of not less than $500,000 in annual dollar volume of business applies. Other entities covered by the FLSA and subject to this notification requirement include hospitals, schools, federal, state and local governments. Employers will need to determine if they are subject to the FLSA. General guidance relating to the applicability of the FLSA (which includes an internet compliance assistance tool to determine applicability of the FLSA) can be found through the Department of Labor’s Wage and Hour Division (www.dol.gov/elaws/esa/flsa/scope/ screen24.asp).

It is important to note that employers must provide the Notice of Coverage Options, insurance carriers and third-party administrators of group health plans are not responsible for providing the Notice on behalf of an employer. The Notice must be provided to each employee, regardless of plan enrollment status or of part-time or full-time status. Employers are not required to provide the Notice to spouses or dependents who are not employees.

For new hires, employers must provide the notice to each new employee at the time of hiring beginning Oct. 1, 2013. For 2014, the DOL will consider a Notice to be provided at the time of hiring if the notice is provided within 14 days of an employee’s start date. For employees who are current employees prior to Oct. 1, 2013, employers must provide the notice no later than Oct. 1, 2013. The notice is required to be provided automatically, free of charge.

The notice is required to be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail, but also may be provided electronically if the requirements of the DOL’s electronic disclosure safe harbor are met.

The notice must inform employers of the existence of a new Marketplace, as well as contact information and a description of the services provided by a marketplace. The notice must also inform the employee that the employee may be eligible for a premium tax credit if the employee purchases a qualified health plan through the marketplace. Additionally, the notice must include a statement informing the employee that if the employee purchases a qualified health plan through the marketplace, the employee may lose the employer contribution, if any, to any health benefits plan offered by the employer and that all or a portion of such contribution may be excludable from income for federal income tax purposes.

With the Exchange Notice the DOL also updated the model COBRA Notice. Some qualified beneficiaries may want to consider and compare health coverage alternatives to COBRA continuation coverage that are available through the marketplace. The DOL’s model COBRA election notice has been revised to help make qualified beneficiaries aware of other coverage options available in the new marketplace.

The DOL provides two model notices that will satisfy this requirement. One notice applies to employers who offer a health plan to some or all employees. The other notice applies to employers that do not offer a health plan. Employers will need to complete Part B of the applicable notice with the requested information.

If the employer offers a health plan, the employer must provide some basic information about the health plan coverage, including who is eligible for coverage and whether the coverage satisfies minimum value and is intended to be affordable based upon employee wages. The model notices can be found on the DOL website.

The IRS has also released the 2014 limits for HASAs. The HSA contribution limits and high deductible health plan out-of-pocket maximums are up slightly over 2013. The HDHSP minimum required deductibles for a plan to be considered a “high deductible health plan,” or “HDHP” is still $1,250 for single coverage and $2,500 for family coverage (no change from 2013 levels).

The out-of-pocket maximums for HDHPs for 2014 will increase to $6,350 for single coverage and $12,700 for family coverage (2013 levels are $6,250 single/ $12,500 family). This limit is also important as it sets the maximum Out of Pocket for Health Care Reform Compliant plans in 2014.

Annual Individual Contribution Limit to the HSA on behalf of an individual increases slightly to $3,900 for an individual with single coverage and $6,550 for an individual with family coverage (2013 levels are $3,250 single/ $6,450 family). For those age 55 or older, the catch-up contributions will continue to be $1,000.

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Women’s Rights

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facilities and applies to personnel of the system, related staff, and court users. She encouraged everyone to read the policy and know their rights, specifically pointing out the prohibition against retaliation and the confidentiality provision.

Liebengron took on two topics: domestic violence and human trafficking. She explained that domestic violence victims often experience issues with obtaining court appearances and poor treatment by cops and court personnel. In response, the Commission has published “And Safety for All,” a manual for making courts safe for victims. She then spoke generally about the human trafficking issue. She noted that many times the victims are prosecuted for prostitution and the people responsible get off with nothing. In response, the Commission has launched a project to educate law enforcement and service workers on human trafficking. She also encouraged anyone in the audience interested in this cause to take on pro bono cases, educate themselves, and speak up about the issue.

Casal discussed the Gay, Lesbian, Bisexual and Transgender Rights Committee and its role in developing streamlined procedures for second-parent adoptions. Second-parent adoption is the process through which a person petitions the court to adopt the biological or adoptive child of his or her unmarried partner. The Pennsylvania Supreme Court approved second-parent adoptions in 2002 in In Re Adoption of R.B.F. & R.C.F. The Committee, after gathering data through surveys, found that there were varying procedures throughout the state, many of which were burdensome, expensive and time consuming. The Committee has drafted and submitted a proposed rule to Orphans Court in July 2012. The rule is still waiting for approval.

Marks discussed the Jury Service Committee’s mission to increase diversity and public participation on juries throughout Pennsylvania. Further, diversity issues arise because Pennsylvania has a law that bans anyone who has been convicted of a crime punishable by imprisonment for more than one year from serving on a jury. To expand the source list, the Committee successfully lobbied for Act 37, which established a statewide list of potential jurors from four state agency lists. She explained that some issues with participation stem from difficulty obtaining child or elder care, lack of clarity for potential jurors, and general inconvenience. The Commission published a report in 2007 with its recommendations.

The CLE ended with a brief discussion of the Criminal Justice Committee’s study on the issue of sentencing juveniles to life without parole and their future advocacy efforts to prohibit such sentencing.

Lauren A. Strobel (lauren.a.strobel@gmail.com) is a student at Earl Marriott School of Law at Drexel University.

Brian McLaughlin (Brian.Mclaughlin@usiaffinity.com) is vice president of USI Affinity Benefit Solutions Group. For more information about insurance and benefits options for Philadelphia Bar members, visit http://www.mybarinsurance.com/philadelphia

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Pro Bono Spotlight
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a heavily burdened court system to get around to your client’s case.

And then there’s the biggest battle that a wrongfully convicted individual faces: cynicism, both personal and institutional. There’s a scene in “The Shawshank Redemption” that reminds me of the attitude that many inmates have: a smirking, offhand certainty that an inmate’s presence in prison is confirmation of his hand certainty that he didn’t commit the crime that he was convicted of. Red responds, laughing, “You’re gonna fit right in. Everybody in here’s innocent, didn’t you know that?” I have seen this mentality in good people, good lawyers and good public servants. I admit that I used to share that mindset myself: a smirking, offhand certainty that an inmate’s presence in prison is confirmation of his guilt. It’s more comfortable to believe the criminal justice system doesn’t make mistakes. It’s an easier way to think. And it’s wrong.

For these reasons, an innocence case can mean endless sources of frustration for an attorney, on both a personal and professional level. The odds are stacked against you and often it is hard to see any light at the end of the tunnel. And then there’s your client, who has to muster a strength to endure and persevere that you cannot even imagine.

At the end of the day, though, it is always a fight worth fighting. There is no acceptable rate for wrongful convictions. It is hard work, but we believe it to be the worthiest work a lawyer can do.

Michael P Zabel (mzabel@cozen.com) is an associate in the litigation department of Cozen O’Connor.
Alan M. Feldman, co-managing partner at Feldman Shepherd Wohlgelernter Tanner Weinstock & Dodig LLP and a former Chancellor of the Philadelphia Bar Association, has been inducted as a Fellow into the International Academy of Trial Lawyers.

Katayun I. Jaffari, a partner with Ballard Spahr LLP has been named co-chair of the American Bar Association’s Task Force on Board Engagement on Sustainability and Social Responsibility Matters.

Henry Yampolsky, a senior associate at Galfand Berger, LLP, was a course planner and speaker for the Pennsylvania Bar Institute seminar “The Impact of Criminal Charges and Convictions on Employment Law,” part of PBI’s Employment Law Institute, on April 16-17.

Hope A. Comisky, a partner with Pepper Hamilton LLP, discussed the tough ethical questions that often arise during negotiations at the first session of a new series designed to educate in-house counsel on a variety of topics on May 2 in New York City.

Michael E. Bertin, a partner with Obermayer Rebmann Maxwell & Hippel LLP and chair of the Philadelphia Bar Association’s Family Law Section, was the keynote speaker at the Advanced Training for Family Mediators hosted by Good Shepherd Mediation Center.

Joseph R. Pozzuolo, senior shareholder with Pozzuolo Rodden, P.C., was a presenter of the Live LawLine webcast CLE/CPE seminar “The Negotiation and Documentation of Commercial Financing Documents Including the Use of Convertible Loans With Put and Call Options” in New York on May 15.

Tiffani L. McDonough, an associate with Obermayer Rebmann Maxwell & Hippel LLP, was a faculty member at the Pennsylvania Bar Institute’s 19th Annual Employment Law Institute CLE “Reasonable Accommodation and the Interactive Process 101.”

Dina Leytes, a senior associate with Griesing Law, was a faculty member at Pennsylvania Bar Institute’s 7th Annual Intellectual Property Law Institute on April 24-25.


James A. Rosenberg, of counsel to Fine- man Krekstein & Harris PC, and Thomas H. Tropp, a sole practitioner, were presented with the American Jewish Committee’s 2013 Human Relations Award on May 7.


Deborah Epstein Henry, founder and president of Law & Reorder, was the keynote speaker at a New Jersey Association for Justice program “Blueprinting Women for Success” in Atlantic City, N.J. on April 18. She was a speaker at the Meritas Annual Meeting program “Blueprinting” in Vancouver, British Columbia on April 25.

Marc P. Weingarten, a partner with Locks Law Firm, co-presented the CLE seminar “Anatomy of a Trial through a Lens” in Bryn Mawr, Pa., sponsored by Lightstream Communications.

Keith B. Joseph, an associate with Ballard Spahr LLP, was honored as Arts Volunteer of the Year by the Arts & Business Council of Greater Philadelphia on May 8.

C. Frederick Koenig, a founding shareholder of Volpe and Koenig, P.C., addressed a delegation from the Armathour, the only collective copyright management organization of authors’ rights and related rights in Armenia, and representatives from the Intellectual Property Agency in Armenia and the Ministry of Culture of Armenia on May 6 in New York City.

"People" highlights news of members’ awards, honors or appointments of a community or civic nature. Send information to Jeff Lyons, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 11th fl., Philadelphia, PA 19107-2955. Fax: (215) 238-1159. E-mail: reporter@philabar.org. Color photos are also welcome.
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