YLD Focuses on Civil Rights, 14th Amendment

Vincent N. Barbera, chair-elect, Young Lawyers Division; Chancellor Deborah R. Gross; Natalie Klyashtorny; Hon. Marlene F. Lachman, Philadelphia Court of Common Pleas; Joseph H. Evers, court administrator, First Judicial District; Hon. Sandra Mazer Moss (ret.), Board of Governors; Hon. Karen Shreeves-Johns, Philadelphia Court of Common Pleas; Melanie J. Foreman; Hon. Sheila Woods-Skipper, President Judge, Philadelphia Court of Common Pleas; Philadelphia Court of Common Pleas; Philadelphia City Councilman Kenyatta Johnson; and Matthew S. Olesh, chair, YLD; before the trials of Goldilocks, Big Bad Wolf and Jack (of beanstalk fame) at City Hall on May 5, culminating Law Week 2017.

Left: Robert W. Zimmerman speaks to 11th grade students at Freire Charter School during Lawyer in the Classroom, part of Law Week activities, on May 1. Right: Jeffrey N. Rosenthal (facing, left to right), Shabrei M. Parker and Brian P. Slough provide free counsel to clients at Legal Advice Live! at the Central Branch of the Free Library of Philadelphia on May 3.
Show your “Brotherly Love” with this Philadelphia Bar Summertime Special!

Share the benefits of membership with your colleagues. For Philadelphia Bar Association members who bring a “walk-in” non-member to a CLE program anytime from June 1 - Aug. 31, 2017 and if the non-member joins on the spot, you both receive a discount!*

When the non-member joins at the time of the CLE program:

The Philadelphia Bar Association member receives $25 off the tuition fee for the next CLE program taken between June 1 - Aug. 31, 2017.

Members will receive a coupon and when they are ready to choose their course and register, they will email Tara Phoenix at tphoenix@philabar.org with course title and date and payment can either be made with Tara via phone or at the door.

The non-member will receive $25 off their membership dues when they join on-the-spot, as well as receive the member pricing for the CLE program. (First year attorneys not eligible.)

*Members will bring the non-member as a “walk-in” and discounts are applied onsite when the non-member makes payment.

TO REGISTER Visit the CLE page at PhiladelphiaBar.org

For questions regarding Philadelphia Bar Association CLE, contact Director of Continuing Legal Education Tara D. Phoenix at 215-238-6349 or tphoenix@philabar.org.
I AM IN MY SIXTH MONTH AS Chancellor of this amazing organization and, honestly, I had no idea how vast the expansion of my knowledge of people, subjects and experiences would be. I had a few “first” experiences that have taken me out of my comfort zone. Change and challenge are wonderful learning experiences, so I thank you for these opportunities.

First and foremost of these firsts, is being in the public eye. Even though I am a litigator and have handled a number of high-profile cases, I have always refused to speak to the press. In a complete about-face, without any formal training, I have been interviewed on a wide range of topics, all of which are a priority for our Association. The inquiries included the protection of the judiciary, support of funding of legal aid nonprofit organizations, the district attorney and judicial candidate races, just to name a few. As many of you know, it is quite challenging to make sure the interview is not taken out of context nor led astray of the agreed topic of discussion.

Second, I went to Washington D.C. to lobby members of Congress on the importance and necessity to continue funding Legal Services Corporation at ABA Day on the Hill. There was record attendance this year and individuals from all 50 states. I met with seven different Pennsylvania representatives and members of their staff. It was truly overwhelming and exhausting at the same time. Arriving early in Washington that day, I was greeted by absolute calm and quiet as I walked past the Capitol. Within two hours of the opening session, I joined the electrifying environment of lobbyists promoting a diverse range of interests vying not only for hall space, but also congressional time. For the most part, I can smile and words of support. We will miss him.

Chancellor Peter Hearn. Peter continued to stay involved in the Association long after his 1989 Chancellorship, and always with a great friend, supporter and leader this month with the passing of Chancellor Peter Hearn. Peter continued to stay involved in the Association long after his 1989 Chancellorship, and always with a unique training of organization and, honestly, a dearth in our presence on The Hill. Lawyers provide a unique source of insight and information, along with a unique training of our minds from rigorous law school education that brings a depth of inquiry and inquisitiveness.

Third, I have had the immense pleasure of hosting a record number of “signature events.” We have had numerous Chancellor’s Forums including a one-year CLE birthday celebration featuring a program on cybersecurity; District Attorney, Superior Court of Pennsylvania and Commonwealth Court of Pennsylvania Candidate Forums; and a Law School Dean Forum. We celebrated the Philadelphia-Lyon Twinning Relationship 20th Anniversary and hosted the ground-breaking Take Action Philly (“TAP”) Convening on Immigration. As a result of TAP: Immigration, we held a number of CLE trainings for citizenship naturalization, which led to our volunteer attorneys participating in screening clinics and a citizenship clinic. The clinics will continue throughout the year. These signature events are in addition to our standard, yet exceptional, section, committee, and division meetings and our CLE programming. I thank you for your attendance and engagement.

However, there is so much more to do and for which we need your support. The next TAP Convening will be on Medicaid funding decreases, that will have a greater effect on seniors, those with disabilities and the young, and I will address how we as lawyers can help. More information is below.

And finally, I want to recognize that the Association lost a great friend, supporter and leader this month with the passing of Chancellor Peter Hearn. Peter continued to stay involved in the Association long after his 1989 Chancellorship, and always with a smile and words of support. We will miss him.

Deborah R. Gross (dgross@kcr-law.com), of counsel to Kaufman, Coren & Ress, P.C., is Chancellor of the Philadelphia Bar Association.
ETHICS AND MALPRACTICE AVOIDANCE
Thu., 6/8/17 – 4:00 – 6:15 p.m. (2 ETH)
Networking wine and cheese reception immediately following the program.
Hosted by the Insurance Programs Committee - Sponsored by USI Affinity
This 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 USI Affinity. The discount does not apply to part-time
policies.

2017 FEDERAL BENCH-BAR CONFERENCE
Fri., 6/9/17 – 9:00 a.m. – 1:15 p.m. (3.5 Total credits - 2.5 SUB/1 ETH)
Hosted by the Federal Courts Committee
This half-day annual conference offers in-depth CLE discussions on legal and practice
topics important to the federal court practice community in the Eastern District of
Pennsylvania. The following topics will be addressed this year: How International
Law and Litigation Abroad Impact Litigation in the E.D.PA, How to Defend a Party
With Potential Civil and Criminal Liability, Practice Tips From Magistrate Judges
of the E.D.PA, Reports on the State of the Courts and Promoting Justice and Equity:
Addressing Implicit Bias, Racial Anxiety and Stereotyping in the Courtroom. This
conference is historically attended by the many federal practice leaders and members of
the judiciary of the Eastern District of Pennsylvania and offers an excellent opportunity
for education and networking.

LEGAL REMEDIES FOR WORKERS WITH DISABILITIES
Fri., 6/9/17 – 12:30 – 2:30 p.m. (2 SUB)
Hosted by the Workers’ Compensation Section
In this CLE program, practitioners will review the intersection of various practice areas,
including workers’ compensation, social security and civil rights with the Americans with
Disabilities Act. Tips and focus points will be examined from both sides of the bar.

EFFECTIVELY REPRESENTING LIMITED-ENGLISH-PROFICIENT (LEP)
CLIENTS IN FAMILY COURT
Mon., 6/12/17 – 12:00 – 1:30 p.m. (1.5 SUB)
Hosted by the Family Law Section
This CLE program, designed for family law practitioners, will cover court and legal
requirements for the use of interpreters, best practices to follow during hearings, and
tips for working with LEP clients using interpreters. The presentation will explore
applicable law and regulations, how to identify competent interpreters and the attorney’s
responsibility for using interpreters when representing limited LEP clients.

VIDEO ENCORE - THE FORENSIC FRUITS OF A LABOR
& EMPLOYMENT CLIENT
Tue., 6/13/17 – 9 – 11 a.m. (1 SUB/1 ETH)
Digital forensics has continually reinvented its tools and techniques to remain on the
cutting edge of technological advances. In much the same way, labor and employment
law has continually evolved as discovery requires the review of a variety of data and
potential evidentiary sources. As clients utilize social media messenger applications,
smartphones with encryption capabilities, cloud-based backup systems and a variety
of email platforms, it is necessary to remain abreast of how the rules of evidence and
evolving case law interact with a changing digital landscape. This video encore CLE
examines forensically defensible procedures for preserving data, employment law
evidentiary standards and obligations as related to digital evidence and real-world cases
and examples.

NAVIGATING THE ANTITRUST CARTEL LABYRINTH
Wed., 6/14/17 – 12:30 – 1:30 p.m. (1 SUB)
Hosted by the Antitrust Law Committee of the Business Law Section
Ten years after Twombly, is the pleading standard for a Sherman Act Section 1 cartel case
any clearer? This CLE program will tackle the approaches courts have taken in assessing
such evidence at the motion-to-dismiss stage to determine a conspiracy’s “plausibility”
as well as how practitioners can use guidance from courts in counseling clients and
formulating litigation strategies. The speakers will examine the Antitrust Criminal
Penalty Enhancement and Reform Act (ACPERA) and how it has impacted the early
stages of cartel litigation.

For questions regarding Philadelphia Bar Association CLE,
contact Director of Continuing Legal Education Tara D. Phoenix at 215-238-6349 or tphoenix@philabar.org.
misclassification. be classified as an independent contractor, as well as the penalties associated with
an overview of the various regulations and case law controlling whether a worker can
of the Department of Labor, and by the Internal Revenue Service. This CLE will present
law, determined under the Fair Labor Standards Act and the accompanying regulations
employment status is not determined by his/her title. A worker's status is a question of
Many employers classify some workers as independent contractors. However, a workers'
Hosted by the Labor & Employment Law Committee
Fri., 6/23/17 – 12 – 1 p.m. (1 SUB)
A Complicated Decision.
Classifying Workers - Employee or Independent Contractor?
Fri., 6/23/17 – 12 – 1 p.m. (1 SUB)
Hosted by the Labor & Employment Law Committee
Many employers classify some workers as independent contractors. However, a workers’
employment status is not determined by his/her title. A worker’s status is a question of
law, determined under the Fair Labor Standards Act and the accompanying regulations of
the Department of Labor, and by the Internal Revenue Service. This CLE will present
an overview of the various regulations and case law controlling whether a worker can
be classified as an independent contractor, as well as the penalties associated with
misclassification.

Chapter 7 Bankruptcy Practice
Mon., 6/19/17 – 3:00 – 6:15 p.m. (3 SUB)
Presented with the National Bar Association/Women Lawyers Division (NBA/WLD) and
the Consumer Bankruptcy Assistance Project (CRAP)
Many consumers feel as if they are drowning in debt. Bankruptcy is a means for debtors
to obtain a financial fresh start. There are several types of bankruptcies, each provided in
a separate chapter of the Bankruptcy Code, a federal statute. Proceedings under Chapter
7 involve surrendering most of the borrower’s nonexempt assets. This CLE program provides
a nuts-and-bolts explanation of the Chapter 7 process.

Nexus: Where the States Are and Where They Are Going
Wed., 6/21/17 – 12:30 – 2:30 p.m. (2 SUB)
Hosted by the Tax Section
In this lunchtime CLE program, featured speaker Holly Hyans will examine the issues in
state tax litigation as states seek to expand traditional notions of nexus and jurisdiction
over multistate businesses with little or no actual physical presence in a state. The
program will include a review of court decisions, state departments of revenue guidance,
legislation and the policy concerns raised by recent approaches.

Classifying Workers - Employee or Independent Contractor? A Complicated Decision.
Fri., 6/23/17 – 12 – 1 p.m. (1 SUB)
Hosted by the Labor & Employment Law Committee
Many employers classify some workers as independent contractors. However, a workers’
employment status is not determined by his/her title. A worker’s status is a question of
law, determined under the Fair Labor Standards Act and the accompanying regulations of
the Department of Labor, and by the Internal Revenue Service. This CLE will present
an overview of the various regulations and case law controlling whether a worker can
be classified as an independent contractor, as well as the penalties associated with
misclassification.

TO REGISTER
Visit the CLE page at PhiladelphiaBar.org
YLD Update

Ground-Breaking Primary, Still Limits to Break

By Matthew S. Olesh

I write this month’s column the day after the May 16 primary election. In my opinion, this election was not just a significant event in our city’s history, but a rallying call for progressives and those who want to see our city evolve for the better.

This election was particularly significant for us because it marked the culmination of our efforts to hand out the Philadelphia Bar Association’s Commission on Judicial Selection and Retention’s ratings at polling places. Through our efforts, spearheaded by the Young Lawyers Division, we had 80 volunteers handing out the ratings at 41 polling places across Philadelphia County. The data we generated are being analyzed, but we are pleased to see that the preliminary results show that the ratings do make a difference in the vote.

The analysis being undertaken will guide us going forward as we determine the most effective way to engage with voters. I am truly grateful for everyone who volunteered to help us with this project, and to Chancellor Deborah R. Gross and Judicial Commission Chair Eric Weitz for their whole-hearted support.

Of course, this election was significant in that there is a race for Philadelphia district attorney. Through Gross, the Association has been outspoken about many of the issues facing office. As Philadelphians, we all have an interest in making sure that the office of the district attorney undergo some degree of transformational change. Whether this occurs remains to be seen. However, Krasner’s primary victory speaks volumes as to what type of city this could be.

Of course, you can argue that the will of the people is hardly expressed when voter turnout is low. I have heard that voter turnout was higher than it is typically for this election at approximately 17 percent. While I understand that this turnout is significantly higher than our last contested Democratic primary, the reality is that this number remains embarrassingly low. As I wrote last month, we have spent a considerable amount of time this election cycle attempting to learn how we can more effectively convey our judicial candidate ratings. However, an even more significant dilemma is how to increase voter turnout beyond 17 percent of the eligible voters in Philadelphia. While there may not be an easy way to increase voter turnout, we simply cannot be complacent with numbers this low. Even in hotly contested presidential elections, one-third of the city’s electorate stays home. We can do better.

There are basic, common sense changes that can be implemented to address this problem. One such change is to make Election Day a federal holiday. Or, we could move voting to a weekend. A more drastic change, but one that has gotten results in increasing voter turnout, is voting by mail. I am not breaking any new ground by suggesting these ideas. They have been proposed before, and hopefully will be proposed again.

These solutions go toward ease of access, but there remains a more challenging problem to deal with: voter apathy. It says something that even in an atypical race for district attorney that seems to have energized many, turnout remained quite low. While we at the Association grapple with convincing voters to care about our judicial ratings, we as a city must figure out how to get our citizens to care enough to come out and vote. Every election matters and the health of our democracy depends on free, uncorrupted elections.

Candidly, I do not know how we get people to care enough to show up and vote. But it is something that should be of concern to us all. We cannot give the “Philly shrug” to low voter turnout. As lawyers, we must take responsibility in helping to educate and inform the electorate that each elected official is integral to the healthy function of the rule of law.

Matthew S. Olesh (molesh@chamberlainlaw.com), senior counsel at Chamberlain, Hrdlicka, White, Williams & Aughtry, is chair of the Young Lawyers Division.

ATTORNEY DISCIPLINARY / ETHICS MATTERS

STATEWIDE PENNSYLVANIA MATTERS
NO CHARGE FOR INITIAL CONSULTATION

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

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Photo by Thomas E. Rogers

Right: Michael S. Ryan, associate, Morgan, Lewis & Bockius LLP, hands out the Philadelphia Bar Association’s Commission on Judicial Selection and Retention’s ratings at polling places. Through our efforts, we have spent a considerable amount of time this election cycle attempting to learn how we can more effectively convey our judicial candidate ratings. However, an even more significant dilemma is how to increase voter turnout beyond 17 percent of the eligible voters in Philadelphia. While there may not be an easy way to increase voter turnout, we simply cannot be complacent with numbers this low. Even in hotly contested presidential elections, one-third of the city’s electorate stays home. We can do better.
Board Opposes Bill to Supercede Pa. Guidelines

The Board of Governors adopted a resolution calling on the Pennsylvania General Assembly to oppose legislation that would disallow a presumptive amount of alimony pendente lite or spousal support based on presumptive guidelines.

Under current law, alimony pendente lite or spousal support is awarded according to a statewide guideline established by the Pennsylvania Supreme Court. The policy imperatives are that persons similarly situated should be treated similarly, that the guidelines should place the primary emphasis on the net incomes or earning capacities of parties with allowable deviations and that the guideline support amount should be a rebuttable presumption of the proper amount of support.

The goal is to prevent one party being placed at a financial disadvantage during a separation or divorce litigation. It also brings the advantages of speed and predictability to the process of determining alimony pendente lite or spousal support at a time when relationships are strained and needs may be great.

In Mascaro v. Mascaro, 803 A.2d 1186 (2002), the Pennsylvania Supreme Court approved the use of the guidelines in spousal support cases and specifically held that “[d]etermining spousal support solely on the parties’ net incomes and the obligor’s other support obligations treats similarly situated persons similarly, which is the goal expressed in Section 4322 of the Divorce Code (Support Guidelines).”

House Bill 1250, recently introduced in the General Assembly, would prohibit courts from basing alimony pendente lite or spousal support solely on these established guidelines. Consequently, unless there is an amicable agreement, family court judges and support masters would be required to conduct detailed, subjective and overly burdensome inquiries in all alimony pendente lite and spousal support cases to determine the petitioner’s “basic needs,” regardless of the incomes of the parties.

The procedures required by HB 1250 would prevent resolution of alimony pendente lite and spousal support matters at the domestic relations conference level, demand additional judicial resources and further tax an already backlogged court system.

Moreover, HB 1250 would cause devastating effects on financially dependent spouses involved in or considering divorce litigation by limiting and delaying an award of support for the spouse’s “basic needs.” This would provide the financially independent spouse with an unfair financial advantage in prosecuting or defending a divorce action, which contradicts the intent and purpose of alimony pendente lite.

Within twenty-four hours of passage, the Association lobbyist Anthony Crisci delivered copies of the resolution opposing HB 1250 to members of the House Judiciary Committee, where the bill is pending. The Association anticipates taking additional action regarding the legislation as appropriate.

To view the full resolution, visit PhiladelphiaBar.org.

Board Supports Increase in Availability of Youth Courts

The Board of Governors unani-mously adopted a resolution on May 24 calling on the Pennsylvania Senate to pass Senate Resolution 32 which recognizes the value of youth courts as a positive reformatory juvenile justice tool.

The governing principle of Pennsylvania’s Juvenile Act is restorative justice, promoting competency development in children and community protection. Large numbers of Pennsylvania’s youths experience early contact with the justice system which may put them at greater risk for future contact as an adult absent access to diversion programs emphasizing the principles of restorative justice.

Recent training and advocacy has led to the reintroduction and expansion of youth courts at a selection of schools across the city. The Judiciary Committee of the Pennsylvania Senate recently and unanimously approved Senate Resolution 32 which recognizes the value of youth courts as a positive reformatory juvenile justice tool. The development of youth courts has been supported by previous resolution by the Philadelphia Bar Association and Philadelphia City Council, as well as by training initiatives sponsored by the United States Attorney for the Eastern District of Pennsylvania, the Attorney General of Pennsylvania, the Defender Association of Philadelphia, and the Pennsylvania Bar Association.

Senate Resolution 32 directs the Joint State Government Commission to study the use and effects of youth courts in the education and juvenile justice systems, and establishes an advisory committee to conduct a thorough and comprehensive analysis of the same. Senate Resolution 32 directs the Joint State Government Commission to report within 18 months on recommendations to implement necessary changes in state statutes, practices, policies and procedures relating to youth courts.

This will include measures to increase availability of youth courts, and to develop awareness, education and other strategies to address issues relating to youth restorative justice programs.

“If passed, Pennsylvania Senate Resolution 32 would be a tremendous step towards further study of the use and effectiveness of Youth Courts,” said Jason W. Poore, chair, Youth Courts Committee.

“Youth Courts around the country, and here in Philadelphia and surrounding counties, have demonstrated increased graduation rates and lower recidivism rates for participants.”

The Philadelphia Bar Association will collaborate with the American Bar Association on page 10.
Future of Legal Industry as Told by Leaders of the ‘Incubators’

By Maureen M. Farrell

It is historic that six new deans have been installed at Philadelphia-area law schools in the last few years. Mark C. Alexander, dean of Villanova University Charles Widger School of Law; Michael T. Cahill, co-dean, Rutgers Law School; Daniel M. Filler, dean of Drexel University Thomas R. Kline School of Law; Gregory N. Mandel, dean of Temple University Beasley School of Law; Theodore Ruger, dean of the University of Pennsylvania Law School; and Rod Smolla, dean of Widener University Delaware Law School participated in a Chancellor’s Forum moderated by Young Lawyers Division Chair Matthew S. Olesh on April 25. The deans took a candid look at current topics and trends affecting the law school experience and legal market today. Issues discussed ranged from admissions, diversity and inclusion, scholarships, LSAT scores, to new endeavors to create a market for non-practicing lawyers.

According to recent statistics, it appears that there has been shrinkage in law school admissions. Smolla said he has seen a drop of approximately 45 percent. While law school applicants may be cut in half, though, the panel agreed that applicants are now more focused. Individuals are applying because they want to be lawyers, not because it may be their only option.

According to the deans, applications seem to be doing better here then in the rest of the country. Ruger said that he has seen the fields of STEM education grow significantly. Patent law and technology have driven innovation in the law school concentrations in the past few years. However, the applications from applicants of color have been trending downward. The panel expressed that diversity practices must start early at the high school and college level.

Law schools continue to give out a significant amount of financial aid. Scholarships for students who wish to pursue fields in social justice are encouraged. They talked about the LSAT as a measure of law school performance. Smolla explained that the LSAT is in fact a “crude measure” of rating performance. In fact, two law schools, including Harvard Law School, are now using the GRE to accept law students. This can create a market advantage and may attract students from STEM fields who may also show an interest in law.

The state of Washington’s practice of certifying non-lawyers to practice in certain areas of practice law was also discussed. The certification did not seem to result in significant employment opportunities, though.

Lastly, the law school curriculum for first year law students remains largely the same (for maybe the past 100 years). Although innovation for law schools may not be clear, there seems to be thoughtfulness about how law is taught and the potential there is for expansion outside of the box.

Maureen M. Farrell (Maureen@MaureenFarrell.com), Law Offices of Maureen M. Farrell, Esq., is an associate editor of the Philadelphia Bar Reporter.
By Thomas A. Brophy

Contrary to the wisdom of Yogi Berra, the Philadelphia Bar Foundation ultimately aims to grow the pie. We must meet the challenge to significantly increase philanthropy for access to justice and legal aid in our region. The need is clear and greater than ever before:

- Philadelphia has the worst poverty rate of the largest U.S. cities.
- 28 percent of Philadelphians – more than 430,000 people – live below the federal poverty level.
- Only 1 in 5 low-income individuals and families in Philadelphia receive the civil legal assistance needed for crucial problems affecting their lives.
- The lack of access to justice often leads to lost opportunities for education, employment, housing, family unity, health care, safety and much more.

These barriers add up to ultimately compromise the ability of individuals to exercise their basic rights and fully participate in our economic and civic systems.

Charitable Giving is as American as Apple Pie . . .

Many individuals, law firms, corporate legal departments and others have certainly acted generously in assisting the Foundation over the years. Our donors know that the Foundation effectively supports the full range of nonprofit legal aid organizations, from education to employment, from health to housing, from youth to seniors and from people with disabilities to immigrants.

Philanthropy for legal aid through the Foundation is also valued because our 14 integrated programs and services – including grantmaking, technical assistance, fellowships, awards, and public awareness efforts – are successful in removing barriers to justice, engaging the legal community and building system-wide capacity for the local legal aid and pro bono networks.

But Ensuring Everyone Gets a Slice of the Pie is Not Easy

As Philadelphia’s philanthropic hub for access to justice, the Foundation has a responsibility to move the community to a much higher level of funding for legal aid. Those of us with the ability to help have an obligation to get involved and ensure that all of our neighbors receive justice.

More than 35 nonprofit legal aid organizations receive critical support from the Foundation, totaling more than $3 million in grants and other assistance in the last five years. Our annual grants range in size from more than $100,000 to less than $2,000. More than 60,000 individuals and families receive direct services each year from organizations funded by the Foundation, as well as tens of thousands more who benefit through impact litigation and advocacy.

But the status quo is not adequate. The capacity of legal aid in Philadelphia must grow to serve more people in need. Bar Foundation grants must increase in size to allow the full range of organizations to hire more staff. We must set ambitious goals, because doubling the overall funding would still only meet less than 40 percent of real client needs. In addition, the Foundation’s vital programs for training, technical assistance, fellowships, and public awareness must expand to sustain and strengthen the legal aid and pro bono systems.

Our New ‘Unified Approach’ to Fundraising is Practical, Not Pie in the Sky

I have dedicated much of my time over the last six months to conversations with steadfast supporters of the Foundation. I asked these individuals what the Foundation can do to make it easier for them and their offices to provide robust philanthropic commitments to this cause.

In response, I heard unreserved backing for the Foundation. The leaders of our legal community enthusiastically want to contribute their fair share. No hesitation or uncertainty.

I then tested a new idea for fundraising to reach these bold objectives. I asked whether major donors, law firms and businesses would respond to a “unified approach,” where the Foundation will make a single annual request for giving.

Our intention for this new approach is to help our donors set an annual charitable budget regardless of the specific events and campaigns we hold during the year. Most importantly, the unified approach must lead to a substantial growth in funding.

Andrew R. “Drew” Duffy, Salz Mongeluzzi Barrett & Bendesky PC, provided feedback similar to what I heard from many others. He said, “My firm is a long-standing supporter of the Bar Foundation and its crucial access to justice mission. We are happy to reinforce this support by making a comprehensive annual commitment.”

Vincent R. McGuinness, Jr., Conen O’Connor, said, “Since our firm plans its philanthropy on an annual basis, it’s actually a huge help for us to have one conversation with the Bar Foundation and work out our charitable engagement without regard to the timing of their particular events.”

Based on this kind of extraordinary support, the Foundation plans to move ahead with the new unified approach to fundraising. Later this year, we will contact major donors and ask for an annual commitment. We need your assistance to make this a streamlined and productive process for everyone. And we hope you will consider increasing your overall giving by at least 15 percent.

The unified approach will reduce the Foundation’s staff time involved with seeking donations and sponsorships at multiple points during the year. Our board members will focus on developing deeper and mutually beneficial relationships with our supporters. Annual giving commitments will also provide the Foundation with greater flexibility for our events, allowing us to restructure these gatherings to maximize revenue over costs for the benefit of our grant recipients. We will also experiment with new types of events to generate donations while growing public awareness and appreciation for legal aid and pro bono efforts.

On behalf of the board and staff of the Philadelphia Bar Foundation, thank you for your ongoing passion for ensuring access to justice for all people in the community, particularly those struggling with poverty, abuse and discrimination.

Check out our new and improved website and please test the Donate Now page at www.philabarfoundation.org.

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

Federal Funding Cuts Announced

Many of the legal aid nonprofits supported by the Bar Foundation will be significantly affected by funding cuts included in the proposed federal budget for 2018. The initial budget was announced on March 15. The budget proposes to eliminate all funding for the Legal Services Corporation. Major cuts are also proposed to other federal programs affecting people struggling with poverty, housing, education, health care, and much more.

YOU CAN HELP NOW BY SUPPORTING THE BAR FOUNDATION!

Go now to www.philabarfoundation.org.
Youth Courts

By Maya J. Brown

The Philadelphia Bar Association’s Diversity in the Profession Committee has launched a Law Student Series to engage future members of the legal profession. The series kicked off with a panel titled “Making the Most of Your Summer Internship: Tools & Tips for a Successful Summer” on April 10. The panel, moderated by DIPC Chair Priscilla Jimenez, was cohosted by DIPC, the Hispanic Bar Association and the National Bar Association Women Lawyers Division, Philadelphia Chapter.

Panelists were Tianna Kalogerakis, judicial law clerk to Hon. Lillian Harris Ransom, Superior Court of Pennsylvania; Sophia Lee, partner at Blank Rome LLP; Brenda L. Marrero, director of operations at Community Legal Services; Amber M. Racine, associate at Raynes McCarty; Jacqueline Romero, assistant U.S. attorney for the Eastern District of Pennsylvania; and Vishal H. Shah, associate at Drinker Biddle & Reath LLP.

The application and interview process for a summer internship is arguably the most important step. It is your first impression and only chance to convince your potential employer to hire you. For many employers, typos are automatic disqualifiers. Make sure your cover letter is addressed to the correct company or agency. “A well-written cover letter will get you in the door every time,” Romero said. For legal aid agencies, steer clear of a generic cover letter. These agencies are interested in who you are and why you are dedicated to their cause.

Practicing interview skills in advance may help to calm pre-interview jitters. Remember, interviews are a two-way street. Be sure to engage with the interviewer to determine if the firm or agency culture is a good fit for you.

The quality of your work is the basis of your reputation. This means paying attention to detail, proofreading thoroughly and turning your assignment in ahead of the deadline. Albeit cliché, being the first person to arrive and the last person to leave the office does not go unnoticed.

Ask questions only when you are sure you cannot figure out the answer, or it would be too time-consuming to do so. Ask about timelines and prioritize your day to maximize productivity and look at the big picture to better understand the assignment— if it is available, read the entire case file. Finally, stay off your phone and social media and volunteer for the assignments no one else wants.

A good rule of thumb when it comes to office attire is to always dress one level above your colleagues. Also, leave the backpack at home! It is a good idea to keep a suit or professional dress in your office or workspace regardless of the office dress code.

It is important to remain professional even in more relaxed environments like a cocktail party or happy hour event. The panel suggested getting one drink and carrying it around all night. Before arriving, think about who you would like to connect with and what you want to share. Do your research about key individuals to create talking points. Always avoid discussing politics or religion. If you do get caught in a political or religious conversation, sit quietly. Following up with contacts you meet at an event is imperative. “Assume everyone you encounter can influence your career.” The same is true of your fellow interns. Be nice and keep in touch. The people you intern with this summer will one day be your colleagues in the legal profession.

Maya J. Brown (mayabrownpr@gmail.com) is a student at Temple University Beasley School of Law.

Member Benefit: Philadelphia Custom Clothiers

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Show your Philadelphia Bar Association membership card to receive the discount.
By Elisa C. Advani

HIAS Pennsylvania and other legal aid organizations have taken on the initiative to teach attorneys how to take on a naturalization case. As part of Take Action Philly, the Philadelphia Bar Association hosted a CLE titled “Ethics of Pro Bono Representation & Naturalization” on March 20. The program was presented by Lori Alexander, program manager, immigration services, and Jason Hernandez, asylee outreach project manager, at HIAS Pennsylvania. Hernandez and Alexander talked about the importance of providing these services, as well as the ethical considerations to keep in mind when representing an applicant before Immigration and Customs Enforcement (ICE). In Pennsylvania, attorneys are not required to do pro bono work and Hernandez said that the service is important, especially given the climate of the time.

The best thing permanent residents can do is become naturalized and receive the protections of citizenship. “These protections include avoiding deportation, having the right to vote, running for certain political offices, applying for government jobs or public benefits, sponsoring other family members or transmitting citizenship to their children,” Hernandez said.

In addition to providing training and mentoring volunteer attorneys, many of these clinics will pre-screen the clients so that volunteers only handle cases for green card holders or permanent residents who speak English and have no significant criminal history. The 20-page N-400 application used in screening asks a variety of background questions that assess whether the person will be an upstanding citizen. Being able to speak, read and write in English is a huge component of the naturalization process because applicants are interviewed by an ICE officer in addition to the written civics test. Some applicants can circumvent the English requirement for example, if the applicant has resided in the U.S. for at least 15 years and is over age 55, they can use an interpreter for the interview and exam. If a mental health condition prevents an applicant from learning English, the applicant should seek a medical waiver. An applicant must have been a U.S. resident for at least five years prior to applying for citizenship.

“Heavy moral character, that they have no outstanding tax or child support obligations,” Alexander said. “Your client should know that while you represent them and not the government, you also cannot lie to the government.” An attorney might come to learn that an applicant had a green-card marriage or a past criminal record. She said that sometimes throughout representation, attorneys may have to withdraw representation to preserve their ethical integrity.

Many pro bono clients cannot afford the fees associated with applying for citizenship and should apply for a fee waiver. When representing a pro bono naturalization client, attorneys must establish trust and advise the client to be thorough, candid and consistent throughout the process. “Now more than ever people are asking what they can do to protect themselves and their families,” Hernandez said. Attorneys also reap a benefit said Hernandez, “it is an opportunity to get to know someone’s story and watch a swearing-in ceremony which is powerful and moving.”

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

For more information on ways to become involved and engaged in response to federal and state policy decisions, visit the Take Action Philly page at PhiladelphiaBar.org.

PHILADELPHIA BAR ASSOCIATION CLE - GOV’T & PUBLIC SERVICE LAWYERS CMTE.


Wilson is a financial advisor, television contributor and new media personality who concentrates his practice on providing advice to and managing financial affairs for professional athletes, entertainers and other young professionals. Rob shares his advice as a frequent contributor to CNN, CBS, NBC and Fox and his appearances can be seen at www.robwilson.tv.
Good Client-Centric Brands Rely on Solid Relationships

By Adriana K. Gonzalez

Imagine your perfect client. How do you attract and retain that perfect client? It starts with having positive and productive client relationships, the core of which is creating a client-centric personal brand.

The Philadelphia Bar Association CLE titled “10 Steps to Client Mastery” on April 12 featured Cynthia Sharp, founder of The Sharper Lawyer. Her presentation described how to build a client-centric practice and personal brand, important not just for prospective or current clients, but also for other lawyers within your sphere of influence.

There are six components of a successful client-centric practice that Sharp talked about. The first component of a successful client-centric practice is attracting prospective clients through marketing, which should be a constant reiteration of your brand. Creating your brand starts with self-knowledge. The aspect of self-knowledge that most informs personal brand development is the set of facts that everyone else knows about you, but that you do not know about yourself.

Gaining a reputation as an expert on a particular matter or in thought leadership is an effective way of reinforcing your personal brand once you have established one. Targeted writing in third-party publications and arranging speaking engagements reiterates your personal brand both inside and outside of the legal community. This can even include direct mailing, but be sure to remain within the bounds of the ethics rules in your state and local jurisdiction.

An attorney needs to forge a connection with the client. Forging the connection with the client involves an honest evaluation of your client’s needs, expectations, and your ability to meet those needs and expectations. Sharp said that making sure your clients are aware of all of the services you can provide, not just the service you have been retained to provide, is another important aspect of forging connections.

Serving your clients properly is more than expert-level legal knowledge and positive results. Clients should feel important and respected at all times and the work products presented to them should be pristine. Serving your client properly also involves communicating effectively and frequently. Setting aside regular times to return client calls and emails can be an easy and efficient way to ensure this. Leveraging information and technology to serve your clients will also contribute to serving your clients properly.

Legal fees should be fair to both you and your clients and should be communicated clearly and honestly. You can clearly communicate and justify your fees by breaking the work you will be doing for the client into stages that explain the work necessary to achieve the desired results, which can be done in the initial retainer agreement.

When the time comes, end representation tactfully. This may be via a letter of non-engagement, which should always be sent if your services are not retained, a closing letter describing the conclusion of the client’s matter with you, or a termination letter. These letters are good opportunities to ask for both feedback and referrals.

The final component of a client-centric practice is the post-matter relationship. It is important to maintain a positive relationship with clients after your representation has ended for a number of reasons. These positive relationships can lead to repeat business or referrals, which are invaluable to business development.

The core of all these components is listening to your clients and their feedback, stepping outside your comfort zone and staying true to your promise of performance, which is the key to your client-centric brand.

Adriana K. Gonzalez (Adriana.Gonzalez@Phila.gov) is an assistant city solicitor at the City of Philadelphia Law Department.

CLE Topic Idea?

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

By Thomas E. Rogers

Volkswagen’s emissions cheating scandal rocked the automotive industry and sullied the automaker’s reputation, affecting its business. There are lessons to be learned from the repercussions of the actions taken by attorneys involved in the case.

The Professional Responsibility Committee, the Business Law Section’s Business Litigation Committee and the Young Lawyers Division hosted a Philadelphia Bar Association CLE titled “Litigation Lessons from the VW Emissions Scandal: Privilege, Litigation Holds, and Lawyer Liability” on April 17. This was a free CLE for Association members in good standing.

Introduced by Elizabeth S. Fenton, cochair, Business Law Section Business Litigation Committee, and W. Bourne Ruthrauff, cochair, Professional Responsibility Committee, the panelists included Professional Responsibility Committee cochairs Hon. Denis P. Cohen, Philadelphia Court of Common Pleas, Diana Kyauta Ashton, and Deborah A. Winokur; Donald W. Myers, shareholder, Litigator Mendelson P.C.; and Anthony Vale, of counsel, Pepper Hamilton LLP.

Using the VW case as a starting point, the panelists spoke about professional responsibility, e-discovery and corporate litigation to provide insight into best practices regarding ethical and practical issues confronting litigators today. An allegedly mishandled litigation hold sent to VW attorneys in Germany was perhaps the spark that began the fire.

In 2006, VW’s diesel engines were unable to comply with Environmental Protection Agency emission standards. In 2014, a team of West Virginia University researchers found that two of three production-model Volkswagen diesel engines they tested were producing approximately 40 times the level of pollutants than was EPA-compliant. After regulators questioned the automaker, a choreographed deception by VW was put in place to hide that a “defeat” device was installed only into engines meant for EPA compliance tests. In August 2015, a low-level engineer refused to cooperate with corporate, exposing VW’s wrongdoing.

Later in August 2015, attorneys for VW in the U.S. sent a litigation hold to VW attorneys in Germany. “There were probably several opportunities well before the litigation hold was issued in August 2015 when it should have been issued years before,” said Myers. He said that a hold should have been sent as soon as government regulators approached VW, eliminating the opportunity for the destruction of evidence perceived to have occurred after regulators came around but before the hold was sent.

“The Volkswagen emissions case is a catalog of things you want to avoid if you intend to continue in the practice of law,” Ruthrauff said.

Ashton said that in situations where litigation is on the horizon, a hold should be put in place before any of the stakeholders or employees are notified. By giving stakeholders notice before a hold is set, it gives them the opportunity to delete or otherwise eliminate evidence, said Vale. And, according to Vale, when there was a failure by VW to preserve documentation or other evidence, or when the attorneys in the U.S. realized that the hold was not done properly, they should have disclosed it to the U.S. government.

Have We Been Looking at Attrition All Wrong?

By Francesca Seltzer Rothseid

Employee attrition is costing America’s 400 largest legal firms more than $9 billion a year. A recent article cites the top 13

PHILADELPHIA BAR ASSOCIATION CLE - FREE CLE FOR MEMBERS

Photo by Thomas E. Rogers

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W. Bourne Ruthrauff (left to right), Judge Denis P. Cohen, Diana Kyauta Ashton, Deborah A. Winokur, Donald W. Myers and Anthony Vale at the Philadelphia Bar Association CLE on April 17.
Contaminants in Drinking Water Sneaking Up

By Benjamin C. Frommer

There is a growing but under-reported environmental and public health concern: the presence of contaminants known as endocrine-disrupting chemicals in our public drinking water supply. The Environmental and Energy Law Committee hosted a Philadelphia Bar Association CLE titled “Legal Implications of Pharmaceuticals and Personal Care Products in Our Water Supply” on April 18.

As part of an ongoing effort to increase awareness of environmental issues throughout the region, the Committee invited Professor Richard Pepino, deputy director of the Community Outreach and Engagement Core of the Center of Excellence in Environmental Toxicology at the University of Pennsylvania, to discuss his research surrounding the environmental impacts of products and pharmaceuticals that many of us use every day.

According to the National Institute of Environmental Health Sciences, EDCs may be found in plastic bottles, detergents, toys and cosmetics. These EDCs can mimic or partly mimic naturally occurring hormones in the body, potentially affecting reproductive processes, and they are finding their way into water supplies with staggering consistency.

Pepino referenced a 2008 study that revealed that Philadelphia’s water supply contained 56 detectable pharmaceuticals containing EDCs. However, he said that there has been no consensus within the scientific community regarding the potentially harmful impact of EDCs on the human population, and thus no political will to take regulatory action.

Pepino reported that 80 percent of U.S. streams have at least one pharmaceutical contaminant. The contamination levels are - for the most part - only about one microgram per liter.

“That could really be an issue? I don’t know if one [microgram per liter] could be. I don’t know if 10 could be. I’m starting to worry about 30,” he said. “And by the time I get up to 60... as in Philadelphia water... do you worry about that? These things might be considered hazards.”

The Environmental Protection Agency classifies EDCs as an “emerging risk,” and Pepino reviewed 43 studies focused on their effect on certain birth defects in humans. None of the studies found that EDCs were the direct cause of a defect; however, separate studies have revealed that they are negatively impacting many different non-human populations, including algae, fish and even some larger animals.

Pepino said that EDCs can persist for a long time in the environment and cause direct or indirect disruption within a population. This persistence, he said, is a unique and dangerous characteristic of EDCs. Pepino would like to see more steps to curb the presence of EDCs in our water.

“I think it is frustrating that we can’t seem to do that,” he said.

Pepino acknowledged that the risk levels to humans are unclear. Still, the ecological damage is well-documented.

“If it’s happening to algae, an alligator or a whale,” said Pepino, “is that an indication that we’re next?”

Anyone interested in learning more about the potential environmental impact of EDCs, or in participating in future events with the Environmental and Energy Law Committee is encouraged to contact Committee Chair Sarah Silver at ssilver@lssh-law.com.

Benjamin C. Frommer (bfrommer@lssh-law.com) is an associate at Lengam Stevens Silver & Hollander.

Muni. Court Pilot Program Can Provide Tenants Relief

By Kristine A. Phillips

The Philadelphia Bar Association’s Municipal Court Committee took the initiative to help Philadelphia tenants through a new pilot program with the Philadelphia Municipal Court. Based on dicta in Pagh v. Holmes, the Committee brought the idea for the pilot program to the court’s attention. The pilot program is applicable to residential landlord-tenant cases where the court determines that the landlord is entitled to a monetary award based solely on nonpayment of money due under the lease and the rent due should be abated because of conditions of the property that affect its habitability.

Before the launch of the pilot program, tenants were at risk of having judgments entered against them if they withheld more rent, than the court found was warranted, due to conditions affecting the habitability of the leased property. The pilot program addressed that situation by providing tenants with an opportunity to pay the amount that the court finds is due. If tenants pay the amount found by the court, the court will enter a judgment in favor of the tenants. If, however, the tenants choose not to make the payment, the court will enter a judgment in favor of the landlord in the amount that the court found was due minus any payments that the landlord in the amount that the court found was due minus any payments that were made by the tenants after the court’s finding. Whether tenants avail themselves of the pilot program by making a payment, they and the landlord maintain their right to take a de novo appeal to the Court of Common Pleas after the Philadelphia Municipal Court enters a judgment.

The pilot program’s method was chosen because it does not unduly delay an eviction and provides an easily verifiable means of payment. The pilot program advances the goal of providing tenants with a way of withholding rent due to conditions of the property that affect its habitability without having to fear that a judgment will be entered against them if they withhold more than the court finds is warranted. All concerned recognized that an adverse judgment may have the collateral effect of impairing tenants in their effort to find housing and credit.

The Municipal Court Committee worked closely with Supervising Judge Bradley K. Moss, who had the support of President Judge Marsha H. Neifield and the assistance of the court’s staff in implementing this program. Judge Moss reported that the pilot program is running smoothly without any problems.

Kristine A. Phillips (kphillips@wwdlaw.com), partner, Willig, Williams & Davidson, is cochair of the Municipal Court Committee.
Low-Cost, Effective Tech. Solutions Make a Difference

By Melissa Hazell Davis

These days, juries expect that attorneys will incorporate and use the latest technology during trial because of what they see on television. There are inexpensive and effective tools that can be used by lawyers who want to incorporate technology into their presentation but who do not want to break the bank.

The Solo, Small & Mid-Size Firm Management Committee, Workers’ Compensation Section, and the State Civil Litigation Section, along with the Brehon Law Society, presented Philadelphia Bar Association CLE titled “Using Technology at Trial on a Budget” on April 24, to incorporate technology into trials and their every-day practice. The presenters were Laura Laughlin and Joseph Marano, associates at Freiwald Law, P.C.

According to Laughlin and Marano, an attorney only needs the following to use technology effectively in the courtroom: an iPad Pro (or an iPad), a screen, a projector, and a video graphics array connector.

They both recommend the application “iAnnotate.” iAnnotate, which only costs a one-time fee of $9.99, allows an attorney to manage, project and manipulate Word documents, deposition transcripts, PowerPoints, Excel spreadsheets, and photo images before and during trial. iAnnotate requires documents to be uploaded from a storage program, like Dropbox or Google Drive.

Once the documents have been uploaded into Annotate, the attorney can project them onto the screen, and, in real time, the attorney (or a witness) can highlight important passages in a document, search a document or group of documents for a key term, circle key words or phrases, bookmark important pages, write notes or annotations on documents, or make additions to documents (like maps) by drawing directly on them. The program permits the attorney to save the document as edited by the witness, locking the witness into his testimony and allowing the attorney to access, use and show the document as edited at later points in the trial. According to Marano, most of the application’s features do not require Wi-Fi.

According to the presenters, iAnnotate’s only limitation is in presenting and using videos (like videotaped depositions) and animations. For that, they recommend downloading and using a free application called VLC Media Player. Marano also recommended another application, 3D Anatomist, that can be used in personal injury cases or in other such cases where it is needed to break the bank.

Facilitating Dispute Resolution by the Parties Disputing

By Shelby Haverson

Recently, I found myself in a relatively sterile conference room with three strangers. One person was my co-mediator, an accountant I had met just that afternoon. The others were employees of a local nonprofit whose supervisor had suggested mediation because of obvious discord on the job. And now, these same co-workers were hugging each other. In the space of two hours, they went from icy hostility to warm embrace. The Good Shepherd Mediation Program’s mediation process gave one co-worker, the only female on the team, a venue to express her discomfort with the gender dynamics in the group. Her co-worker then understood that what he thought was hostility was actually unease. It was immensely heartening to see two people who had struggled in the workplace come to a place of spontaneous hugs.

I found The Good Shepherd Mediation Program through an Internet search on the topic of alternative dispute resolution. I was looking for creative possibilities for achieving resolution, ones that went beyond probing the faults in the parties’ respective arguments and apportioning damages. Google brought me to the website of GSMP and its list of training opportunities.

I signed up for “basic mediation training,” along with about 20 other people, most of whom were lawyers. The instruction included a generous amount of role-playing, which gave us ample opportunity to practice our new skills. Completion of the three-day training qualified us to become volunteer mediators with GSMP after participating in a brief apprenticeship.

Mediation is a collaborative undertaking. The mediator is a facilitator, a means to help the parties explore and clarify their needs and desires, to move past positions and toward a workable resolution created by the parties, not the mediator. As lawyers, we are expected to provide guidance and counsel. Mediators, on the other hand, do not give advice. Instead, the mediator gently guides the parties to explore their needs. Frequently, this exploration leads the parties to realize that their opening positions are very different from their actual needs.

I have had the privilege of acting as volunteer co-mediator in a variety of cases. In the past few years, I have mediated a dispute arising from a rent-to-own situation, two employment cases (including the hugging co-workers) and two parent-child mediations initiated by parents struggling with a child’s behavior or choices. All but one case reached resolution. In each instance of agreement, resolution came directly from the participants.

The most moving session was a parent-child mediation between a father and young son. The son had been begun fighting at school and was being threatened with expulsion. The boy was clearly very emotionally sensitive, but he was struggling to control his response to strong emotion. When asked what would help him gain control when he felt a surge of anger, he spoke about his 7-year-old cousin who looked up to him. With tears in his eyes, he said, “I’ll just think about him and then I won’t fight.”

Lawyers are trained to provide solutions, to radiate confidence in their knowledge and to use their judgment to offer solutions. As a GSMP mediator, rather than detailing past damages, you can facilitate brainstorming for the future—encouraging the parties to throw out all possible solutions, even those that may seem unrealistic at first, without criticism or comment. Volunteering as a mediator allows you to witness the “a-ha” moment when the parties discover their solution, and, with or without hugs, is truly inspiring.

Shelby Haverson is assistant general counsel at the Kaiserman Company Inc.
PHILADELPHIA BAR ASSOCIATION CLE - SUPPORT CENTER FOR CHILD ADVOCATES

Save a Young Life, Volunteer With Child Advocates

By Stephen B. Heimann

When a child is a victim of abuse, or is endangered by parental neglect, the state — in the form of county agencies and family court — steps in to protect the child's safety and well-being. But the agencies and courts have large case loads and limited staffing, and are frequently unable to devote resources to investigating and evaluating the circumstances of a child's situation. Children are often unable on their own — because of fear, or ignorance of available options, or preferences for solutions that may not truly be in her long-term best interest — to identify or explain the optimal resolution of a bad situation. In short, children need advocacy to help navigate the legal and social service complex.

Protecting Philadelphia's at-risk children is the mission of the Support Center for Child Advocates, a Philadelphia nonprofit agency founded 40 years ago. Child Advocates' staff of lawyers and social workers, working together with more than 300 volunteer attorneys every year, represent at-risk children at every step in the dependency process, providing advocacy to more than 1,000 children annually. Child Advocates provides intensive training and support to lawyers who want to volunteer. The most recent all-day training session was held as a Philadelphia Bar Association CLE on April 26.

Each volunteer is paired with a Child Advocates staff social worker to handle a child’s case. They work as a team on all aspects of the case, from intake to conclusion, a process that normally takes 2-3 years. A case will typically require 2-10 hours a month of volunteer attorney time. That time is spent researching the case, interviewing parties and others involved with the child, making home visits and attending court hearings. A child dependency case is initiated when the county children and youth agency — in Philadelphia, the Department of Human Services — receives a report of abuse or neglect. If DHS determines that there is cause, it may initiate an emergency case in the juvenile division of Family Court. If the court finds a reasonable likelihood of risk to the child, it will authorize DHS to take custody of the child and will schedule a further hearing 10 days out. That is typically the point where a volunteer child advocate is brought into the case. The volunteer attorney, acting as both counsel and guardian ad litem for the child, works with the social worker to determine whether there is a safe alternative placement for the child, such as with a relative or neighbor. The goal under the Juvenile Act is preservation of the family unit, if that can be done without endangering the child. If the child cannot safely be reunited with one or both parents, the court will seek the least restrictive, most homelike placement for the child. After the initial placement, the court continues to oversee the case, holding hearings every 90 days to monitor the situation and determine whether any changes should be made, until a permanency plan for the child is finalized.

Volunteering as a child advocate is a rewarding way to help the most vulnerable members of our community. Lawyers who volunteer with Child Advocates attend an all-day training session, do two hours of court observation, and obtain a series of state clearances.

Jodi Schatz, director of intake and pro bono services, Support Center for Child Advocates, at the CLE.

By Pamela Thurmond

In Birchfield v. North Dakota, the U.S. Supreme Court considered the permissible consequences of a suspected drunk driver’s refusal to submit to a blood or breath test. The Criminal Justice Section hosted a Philadelphia Bar Association CLE titled "DUI/Birchfield Update: Refusals, Blood Tests, Self-Incrimination Warnings and Right to Counsel" on changes to DUI practice since the Supreme Court issued its decision in Birchfield in June 2016 on April 27. The panel included Cheryl A. Brooks and Mark P. Cichowicz of the appeals division of the Defender Association of Philadelphia, L. Kenneth Chotiner of The Chotiner Law Firm and Thomas Ivany of Ivory Law.

Significantly, before Birchfield, many states penalized suspects who refused either a blood or breath test with civil sanctions like license suspension and/or criminal sanctions ranging from enhanced sentencing guidelines to charging the defendants with a separate crime. The Supreme Court considered three consolidated cases where warrants were not present. The Birchfield decision held that the Fourth Amendment permits warrantless breath tests incident to arrests for drunk driving, but not warrantless blood tests with the Supreme Court drawing a distinction between the level of intrusion and inconvenience in breath tests as compared to blood tests. The Supreme Court also held that potential suspects may not be criminally punished for their refusals to participate in a blood test, but left the door open for civil sanctions.

The panelists reviewed the Birchfield case and gave an update of the Pennsylvania court decisions since the Supreme Court’s 2016 decision. In Pennsylvania, before Birchfield, a refusal of a blood test was not a crime, but the refusal could subject a criminal defendant to enhanced criminal penalties and a suspended driver's license. In the Superior Court of Pennsylvania case Commonwealth v. Green, the court found that after Birchfield, Pennsylvania courts cannot impose enhanced criminal sanctions upon a defendant who refused a blood test where the police had no warrant or a warrant exception did not apply.

The panel engaged in a lively discussion regarding whether a defendant’s blood test refusal could be admitted into evidence at trial. Panel members discussed whether the blood test refusal under the Fourth Amendment was akin to the exercise of a defendant’s right to remain silent under the Fifth Amendment and thus, no negative inference could be drawn.

Whether post-Birchfield warnings given by the police are adequate and not confusing was also addressed. Specific areas of concern included misleading language as continued on page 19


**Treat Special Needs, Traumatized Kids With Care**

*By Alyssa Cosentino and Sara Lynch*

Representing court-involved youth who have special needs and have experienced trauma in their short lives requires a specific approach. The Legal Rights of Children Committee hosted a Philadelphia Bar Association CLE program titled “Issues of Special Education and Complex Trauma in Youth Legal Representation” on May 9. The Youth Advocacy Project of the University of Pennsylvania, a student organization supervised by the Youth Sentencing and Reentry Project that works with youth facing adult criminal charges, cosponsored the program and invited four experts from the fields of education, law and social work to focus on gaps between special education protections and their implementations.

Incoming Penn Law 3L and YAP Director Sara Lynch moderated the session. Panelists included Gabe Labella, staff attorney and director of special education intake at Disability Rights Pennsylvania; Dr. Caroline Watts, director of school and community engagement at the University of Pennsylvania Graduate School of Education; Katherine Vengraitis, Stoneleigh Emerging Leader fellow at the Defender Association of Philadelphia; and Tanya Regli, executive director of the Arc of Philadelphia. Lynch directed her initial question towards Labella and Vengraitis, who provided a background on the Individuals with Disabilities Education Act as well as Pennsylvania’s disability laws generally. Vengraitis expanded Labella’s overview of the IDEA and children’s rights to a Free Appropriate Public Education, highlighting various gaps in the implementation of these federal protections. She also explained that while Pennsylvania law provides youth in juvenile facilities the right to attend a local public school, “in practice that never happens,” and most receive inadequate educational services onsite.

Even before youth reach residential facilities, the panel asserted that they are exposed to multiple system failures. Dr. Watts said that youth in the juvenile justice system average a 4.9 on the Adverse Childhood Experiences scale, meaning that youth facing criminal charges have survived instances of abuse or neglect disproportionate to their peers. While court-involved youth often demonstrate behaviors that are “characterized as oppositional defiant, as conduct disordered,” Dr. Watts explained that these are often “very reasonable behavioral responses” to traumatic experiences. Youth are “communicating through their behavior,” and adults working with them must focus on understanding the root of the behavior rather than on controlling them. By providing youth with mental health evaluations, appropriately implementing Child Find obligations and manifestation determinations for youth with disabilities, and enhancing supports before and after system involvement, professionals can improve outcomes for youth with disabilities and extensive trauma histories. While these changes take time, teachers, lawyers and other supports working with court-involved youth can make immediate changes by reframing their language towards youth and in front of the court, focusing on capabilities rather than deficits. Finally, consensus found that the key to working with system-involved children is a willingness to treat each as an individual, despite limited time and resources. This, along with a conscious effort to restore communication between community systems and supports, can markedly contribute to a youth’s long-term success.

Allysa Cosentino (coea@upenn.edu) is a graduate student at the University of Pennsylvania and Sara Lynch (sarlynch@pennlaw.upenn.edu) is a student at the University of Pennsylvania Law School.

**Post-Conviction Relief Opens Doors, Futures**

*By Stephanie Kammer*

Criminal justice reform and post-conviction relief are finally getting some of the large-scale attention they demand. Many are working to build momentum for widespread elimination of the criminal justice system’s inequities and inefficiencies. The Civil Rights Committee, Criminal Justice Section and Public Interest Section hosted a Philadelphia Bar Association CLE titled “Criminal Injustice: Investigating and Challenging Wrongful Convictions” on May 12. A group of experts in the law and practice around wrongful convictions took part: Bradley S. Bridge, assistant defender at the Defenders Association of Philadelphia; Marissa Boyers Bluestine, legal director of the Pennsylvania Innocence Project; and Andrew Wellbrock of the Conviction Review Unit at the Office of the District Attorney of the City of Philadelphia. The panel was moderated by A.J. Thomson of Ruthrauff & Associates, PC. They discussed their efforts for pursuing the often limited and complex avenues for post-conviction relief based on innocence, and the difficulties of investigating such claims. The trend seems to be that innocence claims are getting a more receptive response from all sides than they once were.

Once a person is convicted of a crime, they can appeal the conviction to the Superior Court of Pennsylvania. Bridge discussed the process of challenging a conviction directly. One year after the conviction has been finalized; there is the opportunity to seek post-conviction relief, based on newly-discovered evidence (among other grounds). The Post Conviction Relief Act, the governing Pennsylvania law, provides for a right to counsel for hearings in the associated petition. Unfortunately, counsel is scarce and continued on page 20.
20 Years of Cross-Cultural Sharing and Love of Law

By Mary-Kate Martin

“THANKS TO THE EXCHANGE OF OUR LAW students and our regular meetings over the past twenty years, a part of Philadelphia lies deep within our Lyon bar,” said Laurence Junod-Fanget, baronnet, Le Barreau de Lyon (Lyon Bar Association).

The Philadelphia Bar Association and the Lyons Bar Association celebrated the 20th anniversary of their “Twinning” intern exchange program on April 20–22.

The American and French bar associations reunited for a weekend-long series of events beginning with a welcome reception in Conversation Hall in City Hall on April 20. Guests included American and French lawyers and judges, alumni of the twinning program and numerous Francophiles. Other anniversary events included a CLE program, and a luncheon with Philadelphia City Solicitor Sozi Tulante, a Mural Arts Philadelphia tour and a dinner at Davio’s Northern Italian Steakhouse on April 21; and an afternoon at The Barnes Foundation on April 22.

One of the most successful aspects of the twinning relationship has been the yearly exchange of legal interns between Philadelphia and Lyon, France. Lyon is a city in east-central France that is the capital of the Auvergne-Rhône-Alpes region and is the country’s third-largest city. Each year, several young lawyers-in-training from Lyon volunteer at law firms in Philadelphia for approximately 6-months-long internships at no cost to the host firms.

Philadelphia-area law students often find summer placements in Lyon law firms, and occasionally practicing attorneys are as well. Each year, the International Law Committee places a student in a Lyon law firm by matching the student’s experience and interests with the firm’s practice.

Philadelphia host firms have included Reed Smith LLP, Pepper Hamilton LLP, Buchanan Ingersoll & Rooney PC and Duane Morris LLP.

Junod-Fanget shared an analogy linking together French wines, legal work, and democracy. “Did you know that at the beginning of each row of vine, there is a rosebush? She went on to explain that rosebushes are used to gauge the health of the rows of grape vines in a vineyard. To her, lawyers play a similar role on a larger scale in that the lawyer reflects the state of the democracy in which he or she practices. Junod-Fanget said, “Where he is under attack, we should be concerned. We must remain vigilant because the nibbling of our individual liberties is insidious.”

Commenting on the value of the twinning program she said that exchanging is all about “discovering others, exchanging eye contact, dropping our French certainties and cultural identity to share common values.”

Amid live music and passed hors d’oeuvres, Michael Scullin, founder and director of the Lyon-Philadelphia Attorney Exchange Program, welcomed the group and gave his sincere thanks to those who had contributed to the program. Scullin is Honorary Consul to France in Philadelphia and teaches international law and cyber law at Temple University Fox School of Business.

Mayor James F. Kenney gave thoughtful closing remarks and presented proclamations to the Chancellor and baronnet, reflecting on the extensive history between the U.S. and France, and encouraged attendees to visit the new Philadelphia Museum of the American Revolution.

The International Law Committee regularly meets to discuss international law, foreign legislatures and international business. The Committee is cochaired by Diane Penneys Edelman, Jeremy D. Heep and Nan Sato. Law firms interested in hosting a Lyon legal intern can contact Danielle Journeau at jouenned@ugicorp.com or Michael Scullin at mscullin@mdmc-law.com.

Mary-Kate Martin (MaryKate.Breslin@Phila.gov), deputy city solicitor, City of Philadelphia Law Department, is editor-in-chief of the Philadelphia Bar Reporter.

Embracing Unique Ideas, Practices Across Borders

By Erin Murphy

Since the inception of the Philadelphia-Lyon twinning relationship 20 years ago, scores of Philadelphia-area law students have interned at French firms, and French lawyers have worked in Philadelphia firms and businesses. Sharing of ideas and practices by the participants in the exchange program has fostered a culture of collaboration and innovation. In honor of the 20th anniversary of the Philadelphia-Lyon relationship, the International Law Committee hosted a special Philadelphia Bar Association CLE program titled “Cross-Border Perspectives on Handling International Legal Issues in the United States and Abroad” at Pepper Hamilton LLP on April 21.

Committee Cochair Jeremy D. Heep welcomed attendees, who included lawyers from France, Canada and the U.S., as well as several previous Philadelphia-Lyon interns. “You’re really helping to show Philadelphia as a great international city. The partnership here is a true illustration of cooperation, collaboration and the development of mutual understanding,” he said.

Matt Cabrey, executive director of Select Greater Philadelphia, spoke before the CLE about the distinguishing characteristics of the Greater Philadelphia region, including its global access, wide variety of distribution channels and talented workforce. “The region is not only a unique place to live, but also to work, establish a business and grow a business,” he said.

The CLE panel, moderated by Committee Cochair Diane Penneys Edelman, featured Lisa Brody, intellectual property and litigation attorney; Pascal Côte, partner at Vaillancourt Riu LLP and president of the Montreal Bar’s International Relations Committee; Hon. Gary S. Glazer, Philadelphia Court of Common Pleas; Jonathan Grode, U.S. practice director, Green and Spiegel LLC; and Jean-Michel Raynaud, partner at Raynaud Avocats and member of the International Committee of the Lyon Bar.

Edelman began the panel, saying that nearly every lawyer will encounter international issues. “There is broad relevance and prevalence of international issues in
Top left: Chancellor Deborah R. Gross (left) and Battonier Laurence Junod-Fanget (center, right) hold proclamations from Mayor Jim Kenney (center, left) in honor of the Philadelphia-Lyon Twinning Relationship 20th Anniversary, with Michael Scullin at the opening reception on April 20. Top right: Diane Penneys Edelman, Hon. Gary S. Glazer, Jonathan Grode, Jean-Michel Raynaud, Pascal Côté and Lisa Brody; at the Philadelphia Bar Association CLE on April 21. Bottom left: Past Chancellor Kathleen D. Wilkinson (left to right) and daughter Lindsey E. Wilkinson, judicial clerk to Hon. Lillian Harris Ransom, Superior Court of Pennsylvania; with Raynaud at the CLE. Bottom right: Raynaud (top row, second from left), Jeremy D. Heep (top row, center, right), Michael Scullin (bottom row, center) and Enid H. Adler (bottom row, right) with conference attendees at the Barnes Foundation on April 22.

Birchfield continued from page 16

to when the refusal could be held against the defendant (civil vs. criminal cases) and whether a defendant could be told that the refusal could be used against him in either a civil or criminal proceedings. The panel also said that if the warnings are deemed to be misleading, then any consent is coerced and the blood test should be suppressed. The panel also discussed the role that a refused blood test plays in civil suspension proceedings with the Pennsylvania Department of Transportation.

Pamela Thurmond (Pamela.Thurmond@Phila.gov) is a deputy city solicitor at the City of Philadelphia Law Department.

Lyon CLE continued from page 18

domestic practice. You may never leave the backyard of France, Canada, Spain or Philadelphia, but you will come across international issues in your practice,” she said.

The panel discussion covered a wide range of topics, including cross-border legal issues in litigation, IP, transactional matters, immigration and legal education. Throughout the session, each panelist stressed the importance of seeing the big picture when dealing with international matters — and calling for help when needed.

Côté identified three important principles in international legal work, “Communication, transparency and modesty. We don’t know everything, so we ask questions to make sure we understand the client’s needs, and if we need to go abroad, we find the best professional to help our client succeed.”

Grode noted that he often encounters cultural issues in his international immigration work, a point that Judge Glazer echoed. “I have noticed, even if the case doesn’t involve an international issue, the litigants themselves bring their particular cultural backgrounds to the litigation. It could be a completely domestic case, but due to the litigants involved, there’s a different approach to the litigation that’s cultural,” he said.

After the panel discussion, attendees listened to remarks from Sozi Pedro Tulante, Philadelphia city solicitor. Tulante shared his story as a young refugee from Zaire who settled in North Philadelphia with his family. He said that his experiences, as well as his current work on the city’s immigration policy, have shown him the importance of immigrants to the city of Philadelphia.

“Philadelphia is a great city without immigrants, but it’s an even better city with immigrants because immigrants enhance our cities,” he said.

Erin Murphy (murphye@pepperlaw.com) is a marketing writer and editor at Pepper Hamilton LLP.
Ingram Honored for Esteemed Workers’ Comp. Career

By Andrea C. Rock

Despite the rain, the Philadelphia Bar Association Workers’ Compensation Section filled the ballroom at the Sheraton Society Hill on May 5 for the 2017 Martha Hampton Awards Luncheon. The 2017 recipient of the Martha Hampton Award is Niki T. Ingram, shareholder at Marshall Dennehey Warner Coleman & Goggin, P.C.

The award was established in memory of Martha Hampton, an accomplished attorney who was deeply committed to the practice of workers’ compensation law. Each year a Section committee reviews nominations of an attorney or judge who best exemplifies Hampton’s unique compassion, dedication, professionalism, scholarship and good will.

Ingram devotes the entirety of her practice to workers’ compensation defense, representing self-insureds, insurance companies and employers. In 2016, she was inducted into the College of Workers’ Compensation Lawyers, joining a select group of attorneys from across the country who have distinguished themselves in the practice of workers’ compensation law.

She is an active member of the Association, serving on its Investigative Board for Judicial Nominees and sitting on the editorial board of The Philadelphia Lawyer magazine. She served as the cochair of the Association’s Women’s Rights Committee from 2014 to 2017 and is a former cochair of the Section. Ingram graduated from Smith College and the University of Pennsylvania Law School, and is a recipient of Penn’s Sadie T. Alexander Award for Distinguished Alumni.

The Section welcomed Wendy Tyson as its keynote speaker for the luncheon. Tyson is an author, lawyer and former therapist whose background has inspired her mysteries and thrillers. She has written five published crime novels, including Dying Brand, the third novel in the Allison Campbell mystery series.

The Section also presented its Lifetime Achievement Award to Susan M. McDermott, retired commissioner of the Workers’ Compensation Appeal Board; its Irv Stander Award to Kennedy A. Costantino, student at Villanova University Charles Widger School of Law; and its Friend of the Bar Association Award to Tara D. Phoenix, director of continuing legal education at the Association. Lastly, the Section recognized its Arts in the Court Committee cochairs and members and presented the final work in the Arts in the Court series.

Left: Wendy Tyson gives the keynote at the Luncheon. Right: Hon. Scott Olin, Workers’ Compensation Office of Adjudication, cochair, Workers’ Compensation Section Arts in the Court Committee (left), receives an award from Hon. Todd Seelig, Workers’ Compensation Office of Adjudication, for his service to the Committee.

PCRA

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Philadelphia is one of the lowest-paying counties for these labor-intensive cases.

There is a rise in exonerations in non-DNA cases. Bluestine said that DNA exonerations, which get a lot of attention the press, are on the decline (possibly due to DNA evidence being used more on the front-end). These cases might involve conviction based on discredited scientific evidence or corruption of law enforcement officials. Last year there were 166 exonerations, the largest number since the statistics started to be thoroughly recorded in 1989. Recurring factors in innocence claims include mistaken identity, false testimony by a witness at trial, false confessions by defendants and false forensic evidence. An innocence claim for post conviction relief (the relief in Pennsylvania being a new trial) under the PCRA must be brought within 60 days of when the claim could have been presented. The claim must never have been raised before and a petitioner must show that the conviction amounts to a manifest injustice.

Wellbrock talked about the newly overhauled Conviction Review Unit in the Office of the District Attorney. The unit will only take on cases where there is an actual innocence claim, not those contingent on errors of law. He explained that the office is in a good position, compared to outside groups, to investigate innocence claims as they have access to trial and police investigative files. Of course, many times problems arise with tangible evidence or documentary evidence, that has not been properly stored or handled and has disintegrated over the years. The program gave participants a basic footing and some guidelines in the labyrinthine world of post-conviction relief and the investigation of innocence claims. It also brought home the magnitude of the work to be done. The Innocence Project depends on volunteer lawyers. For more information visit-- http://innocenceprojectpa.org/ways-support-innocent/lawyers/.

Stephanie Kammer (stephanie.kammer@phila.gov), assistant city solicitor for the City of Philadelphia, is an associate editor of the Philadelphia Bar Reporter.
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Established in 1895, the Superior Court of Pennsylvania is a first level appellate court that determines whether an error was made at the trial level. The Court has statewide jurisdiction and handles essentially every type of case, except for administrative and government-related appeals. It encounters approximately 8,000 cases each year, where a panel of three judges makes final decisions.

In preparation for the upcoming elections for the Court judges, the Philadelphia Bar Association and Pennsylvanians for Modern Courts hosted a Chancellor’s Forum featuring candidates for the Court on April 18. Nine candidates, vying for one of the four vacancies, participated.

The participating candidates were Bill Caye, a practitioner focusing on criminal and juvenile defense; Emil Giordano, a judge in Northampton; Wade Kagarise, a judge on the Blair County Court of Common Pleas; Debra Kunselman, first and only women elected to the Beaver County Court of Common Pleas; Maria McLaughlin, judge on the Philadelphia Court of Common Pleas; Geoffrey Moulton, judge on the Superior Court of Pennsylvania; Caryn Nichols, judge on the Philadelphia Court of Common Pleas; Paula Patrick, judge on the Philadelphia Court of Common Pleas; and Craig Stedman, Lancaster County District Attorney. The Forum was moderated by Thomas J. Duffy, founder of Duffy + Partners.

During the Forum, question topics included personal policies and procedures, experience in practicing before appellate courts, opinions on campaign contributions and diversity.

Melanie Grimes is an assistant city solicitor for the City of Philadelphia Law Department.
Candidates Address State Gov’t Civil Matters, Reform

By Joshua Domer

The Commonwealth Court of Pennsylvania is responsible for original civil actions brought by and against the Commonwealth and appeals from decisions made by state agencies and the Courts of Common Pleas. The Philadelphia Bar Association and Pennsylvanians for Modern Courts hosted candidates for the Commonwealth Court of Pennsylvania at a Decision 2017 Chancellor’s Forum on May 3. The panel was moderated by Karl S. Myers, counsel at Stradley Ronon Stevens & Young, LLP.

The Forum was an opportunity for members of the Association and the public to hear from five of the candidates, who competed for two available seats. Participating candidates were Bryan Barbin, a Pennsylvania state representative from Cambria County; Timothy Barry, an attorney from Allegheny County; Hon. Ellen Ceisler, Philadelphia Court of Common Pleas; Hon. Joseph M. Cosgrove, Commonwealth Court of Pennsylvania, appointed in 2016 seeking to serve a full term; and Todd Eagen, an attorney from Scranton.

Myers asked questions on topics like campaign contributions, significant Commonwealth Court decisions, diversity and policy and procedures.

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Joshua Domer (Joshua.Domer@Phila.gov) is an assistant city solicitor for the City of Philadelphia Law Department.
The Philadelphia market area, which includes the city and surrounding counties in Pennsylvania and Southern New Jersey, is on track to continue its current run of gains through 2017 and into 2018 with service and consumer-oriented industries leading job creation. For this month’s interview, I sat down with Kurt Rankin, economist, PNC Financial Services Group, to learn why things seem to be looking up, economically speaking, in the City of Brotherly Love.

Mary Ashenbrenner (MA): What is the current job situation in Philadelphia?
Kurt Rankin (KR): The region should see a third consecutive year of healthy job growth in 2017. Service industry gains are leading the way in the market area, while manufacturing hiring has stalled. However, Philadelphia’s overall pace of job creation should overcome this likely-temporary detriment, thanks to consumer spending support and construction industry hiring that is closely tracking the national pace of growth. Philadelphia’s unemployment rate ticked up slightly in 2016 due to resurgent labor force gains. The expanding pool of job seekers, feeling confident given the local economy’s sustained labor market strength, will mean more resources for employers to choose from in the coming year as payrolls across the local economy should continue to grow.

MA: How do the region’s income levels track against the U.S. as a whole?
KR: Incomes in the Philadelphia market area are above the national average, and growth in the near term should closely track the pace for the country. Hiring trends are stable, which means that an expanding labor force should be steadily absorbed, forcing local employers to continue to raise pay in order to attract and retain their most skilled workers. Median household income will not grow quite as fast as average wages, given the broad mix of high- and lower-paying industries adding jobs throughout Philadelphia. However, with still underlying consumer price inflation and a measured pace of interest rate hikes coming out of the Federal Reserve, the current lull in median household income growth should not significantly hamper consumer sentiment or spending.

MA: Do these positive trends in both jobs and income mean that we should see an increase in the housing market?
KR: The Philadelphia housing market is likely to see continued gains in the near term. Existing housing supply is enjoying the benefits of demand attributed to sustained job growth, but new residential construction trends are lacking. The local housing market will have to wait for existing supply and demand to rebalance before new construction can again contribute to overall economic activity. Looking toward the long run, however, Philadelphia’s housing market is supported by a solid economic base. There should be very little concern that the current sub-par pace of recovery will persist much beyond the next couple of years.

MA: Now that Philadelphia seems to be on firmer economic footing than it was during the recession, will we see an influx of people moving to the region?
KR: Population growth in the Philadelphia area has been slow over the past few years and remains well below the national average. Population in the three New Jersey counties of the market area actually declined slightly as recently as 2013. Because of consistent below-average economic growth, including a long-term decline in manufacturing, Philadelphia’s population growth has lagged that of the nation’s for decades, and that trend is likely to remain in place for the foreseeable future. Over the forecast period population growth will stagnate below 1 percent, remaining below the U.S. average, due to a low birthrate and consistently weak net migration. Slow population growth will also weigh on the local housing market recovery, limiting demand-side potential to what prevailing labor market conditions can provide.

MA: Are there any downsides to the economic outlook for Philadelphia?
KR: The consolidating pharmaceuticals industry, which could lead to job losses, as well as a weak European economy remain risks for the market area, but the baseline outlook for Philadelphia is for hiring and income trends that should overcome these risks and keep powering the local economy forward. Looking beyond the near term, the Philadelphia market area’s important concentrations in education, health services, and finance will provide a buffer against the worst of national economic slowdowns. While a relative lack of cyclical high-tech industries compared to regional neighbors is likely to prevent Philadelphia from accelerating to among the strongest market areas on the East Coast, economic gains in the market area should remain reliably positive nonetheless.

Mary E. Ashenbrenner (mary.ashenbrenner@pnc.com or 215-585-1041) is a senior vice president with PNC Wealth Management.

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Whetting Appetites for Summer at the Shore

By Lee A. Schwartz

In summertime, and the living is “eeee-assyyyy:” With “Joey’s Shore” excursion time at our doorstep, what better location to do a review from than the Shore? I am starting my gastronomic adventure in Ventnor, N.J., on the north side of the lineup of Shore towns.

Red Room Café is one of the B.Y.O.B. restaurants in Ventnor that is worth the visit. Ventnor presently does not have liquor licenses in restaurants, however, just recently there were three put up for sale and those establishments will announce their good fortune shortly. Located on Dorsett Avenue as you approach the bridge into Ventnor, Red Room offers Northern Italian cuisine like Mama used to make.

We started with the Caesar Salad, the basic “salada” staple of this cuisine. It was basic and good. The dressing was a homemade Caesar with croutons, anchovies and a generous topping of pecorino Romano cheese. The dressing was tangy and tasty. We also ordered a special appetizer, the Grilled Artichokes. Two beautiful, fresh artichokes grilled in olive oil and topped with parsley and served with a delicious balsamic reduction sprinkled on top.

Next, my trusted companion ordered the Grilled Salmon covered in house-made bruschetta, another special that night. This was a very generous portion of salmon, cooked to order (she wisely ordered medium) and served with asparagus. It was expertly prepared and enjoyed.

I ordered the Swordfish, also a special. This was a nice portion of swordfish, covered in a mean-looking, dark and flavorful reduced-bruschetta mixture, to which balsamic vinegar, green and black olives were added. It was savory, a bit tangy and just so right. With that, asparagus was also served.

My brother-in-law, the well-known purveyor of all things fish for Sunday morning brunch in neighboring Margate, knows his chicken parmigiana, like I know how to hit a slice in golf (we are both experts). He gauges an entire restaurant’s fortune on the quality of its chicken parm. He enjoyed the parmigiana, but it could have used more gravy for his liking. He is a tough critic to please.

Red Room’s menu is varied, with whole Branzino on the menu, as well as a beautiful veal chop, which went past us and looked both delicious and generous in size. Our neighbors ordered Vincenzo’s Eggplant Parm, which is served in its own crock and they loved it. I am an Eggplant Parm guy and I will order that on our next visit.

We also saw the Suppli pass by us, which is two enormous Arborio rice balls, stuffed with mozzarella and peas topped with a rosé sauce. Mussels sautéed in white wine, lemon and garlic sauce, or in a white wine and plum tomato, sauce is also quite good. I have had that on a prior visit. I recommend the former sauce, but I am sure both are tasty.

Please excuse us for not commenting on the desserts. We four diners are preparing to look “boooooootiful” in our bathing gear at the Shore this summer, so none of us are eating bread or dessert now, much to our collective displeasure. But, when you visit Red Room Café, indulge. At least you can have the pleasure.

Red Room Café is located at 141 N. Dorset Ave., Ventnor, N.J. BYOB. Reservations recommended. Street parking is abundant. Mangia!

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

LEGAL ADVISORY UPDATE FROM USI AFFINITY

4 Simple, Effective Ways to Avoid Malpractice Claims

Legal malpractice claims are relatively common, and many arise as a result of simple mistakes that could (and should) have been avoided. Here are some tips that can help lawyers avoid costly malpractice claims:

Do Not Blow off Deadlines

Missed deadlines are the most common source of malpractice claims. Missing a deadline happens for a variety of reasons, none of which are excusable: you had the wrong date, you procrastinated, you had a family emergency, or you simply forgot. But attorneys are working for their client and should do everything they can to meet their expectations. Investing in practice management software with a digital calendar and automated reminders can keep everyone accountable.

Document All Fees

To avoid getting into a financial dispute with a client, lawyers should clearly document all timekeeping, fees, transactions, and payment details to avoid conflict. This will help you avoid doing unpaid work, stay out of malpractice court, and suing a client to recoup unpaid fees, which almost always results in a counterclaim for negligence.

Keep a Paper Trail

Set up a reliable system to manage your files that will help you store, back up, and secure client information. Strive to always keep your clients updated and informed, and also document all communications with clients throughout the representation—a comprehensive paper trail will not only keep you informed as to the status of each of your cases, but also significantly reduce your malpractice risk.

Avoid Conflicts of Interest

Conflicts of interest continue to be the most common alleged malpractice error, according to a Lexology report. When a lawyer represents a client despite some sort of conflict of interest, both the client and the court system take this situation very seriously, because such an error represents a breach of the duty of loyalty. These conflicts often arise because the same lawyer or law firm has represented the same current or past clients, and can be avoided by giving conflict checks top priority to protect the firm against malpractice claims.

To learn more about how to avoid a legal malpractice claim, contact USI Affinity today.

For more information contact USI Affinity at 610.537.1446.

LEGAL MALPRACTICE CLAIMS ARE RELATIVELY COMMON, AND MANY ARISE AS A RESULT OF SIMPLE MISTAKES THAT COULD (AND SHOULD) HAVE BEEN AVOIDED. HERE ARE SOME TIPS THAT CAN HELP LAWYERS AVOID COSTLY MALPRACTICE CLAIMS:

- DO NOT BLOW OFF DEADLINES
  - MISSED DEADLINES ARE THE MOST COMMON SOURCE OF MALPRACTICE CLAIMS. MISSING A DEADLINE HAPPENS FOR A VARIETY OF REASONS, NONE OF WHICH ARE EXCUSABLE: YOU HAD THE WRONG DATE, YOU PROcrastinated, YOU HAD A FAMILY EMERGENCY, OR YOU SIMPLY FORGOT.

- DOCUMENT ALL FEES
  - TO AVOID GETTING INTO A FINANCIAL DISPUTE WITH A CLIENT, LAWYERS SHOULD CLEARLY DOCUMENT ALL TIMEKEEPING, FEES, TRANSACTIONS, AND PAYMENT DETAILS TO AVOID CONFLICT.

- KEEP A PAPER TRAIL
  - SET UP A RELIABLE SYSTEM TO MANAGE YOUR FILES THAT WILL HELP YOU STORE, BACK UP, AND SECURE CLIENT INFORMATION. STRIVE TO ALWAYS KEEP YOUR CLIENTS UPDATED AND INFORMED, AND ALSO DOCUMENT ALL COMMUNICATIONS WITH CLIENTS THROUGHOUT THE REPRESENTATION—A COMPREHENSIVE PAPER TRAIL WILL NOT ONLY KEEP YOU INFORMED AS TO THE STATUS OF EACH OF YOUR CASES, BUT ALSO SIGNIFICANTLY REDUCE YOUR MALPRACTICE RISK.

- AVOID CONFLICTS OF INTEREST
  - CONFLICTS OF INTEREST CONTINUE TO BE THE MOST COMMON ALLEGED MALPRACTICE ERROR, ACCORDING TO A LEXOLOGY REPORT. WHEN A LAWYER REPRESENTS A CLIENT DESPITE SOME SORT OF CONFLICT OF INTEREST, BOTH THE CLIENT AND THE COURT SYSTEM TAKE THIS SITUATION VERY SERIOUSLY, BECAUSE SUCH AN ERROR REPRESENTS A BREACH OF THE DUTY OF LOYALTY. THESE CONFLICTS OFTEN ARISE BECAUSE THE SAME LAWYER OR LAW FIRM HAS REPRESENTED THE SAME CURRENT OR PAST CLIENTS, AND CAN BE AVOIDED BY GIVING CONFLICT CHECKS TOP PRIORITY TO PROTECT THE FIRM AGAINST MALPRACTICE CLAIMS.

- TO LEARN MORE ABOUT HOW TO AVOID A LEGAL MALPRACTICE CLAIM, CONTACT USI AFFINITY TODAY.

FOR MORE INFORMATION CONTACT USI AFFINITY AT 610.537.1446.
CALENDAR OF EVENTS

Note: While the following listings have been verified prior to press time, any scheduled event may be subject to change by the committee or section chair. Lunches are $9 for members and $15 for non-members, unless otherwise indicated. Register online for most events at PhiladelphiaBar.org. Unless otherwise specified, all checks for luncheons and programs should be made payable to the Philadelphia Bar Association and mailed to Bar Headquarters, 1101 Market St., 11th Floor, Philadelphia, PA 19107-2955.

June 1
Law School Outreach Committee: 12:00 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.

June 2
Quarterly Meeting & Luncheon: 12 p.m., Hyatt at The Bellevue, Broad and Walnut streets, Philadelphia. Register: PhiladelphiaBar.org.

June 5

June 6
Legal Rights of Persons With Disabilities Committee: meeting, 9 a.m., 11th Floor Committee Room South. CLE - Pennsylvania’s School Funding Crisis: 12 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.

June 7
Delivery of Legal Services Committee: meeting, 8:30 a.m., 10th Floor Board Room.

June 8
Section, Committee, and Division Chairs Meeting: 8:30 a.m., 11th Floor Conference Center.

Law School Outreach Committee: 12 p.m., 11th Floor Conference Center.

June 9

June 10

June 11
Securities Regulation Committee: meeting, 12:30 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.

June 12

June 13
Orphans’ Court Litigation and Dispute Resolution Committee: meeting, 8:30 a.m., Heckscher, Teillon, Terrill & Sager, PC., 1500 Market St., Center Square East, Tower 12, 12th Floor, Philadelphia.

June 14
APABA-PA: meeting, 12 p.m., 11th Floor Committee Room South.

June 15
Law School Outreach Committee: 12 p.m., 11th Floor Conference Center.

June 16
Civil Gideon Task Force: meeting, 12 p.m., 10th Floor Board Room.

June 17
Criminal Justice Section: meeting, 12 p.m., 11th Floor Conference Center. Lunch: $9.

June 18
YLD Executive Committee: meeting, 12 p.m., 10th Floor Board Room.

June 19
Public Interest Section Executive Committee: 12 p.m., 11th Floor Committee Room South.

June 20
LGBT Rights Committee: meeting, 12 p.m., 10th Floor Board Room.

June 21
CLE - Nexus: Where the States Are and Where They Are Going: 12:30 p.m., 11th Floor Conference Center. Legal Line: 5 p.m., LRS offices.

June 22
Crisis: 12:30 p.m., 11th Floor Conference Center. Lunch: $9.

June 23
YLD Executive Committee: meeting, 12 p.m., 10th Floor Board Room.

June 24
Crisis: 12:30 p.m., 11th Floor Conference Center. Lunch: $9.

June 25
CLE - Classifying Workers: Employee or Independent Contractor: 12 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.

June 26
Law School Outreach Committee: 12 p.m., 11th Floor Conference Center.

June 27
CLE - Campaign to End the Rape Kit Backlog: 12 p.m., 11th Floor Conference Center. Register: PhiladelphiaBar.org.

June 28

June 29
LGBT Rights Committee: meeting, 12 p.m., 10th Floor Board Room.

June 30
Law School Outreach Committee: 12 p.m., 11th Floor Committee Room South.
Sophie Bryan has been named the new executive director of Philadelphia VIP. Bryan brings a wealth of experience to her new role. For the last eight years, she has led programs and strategic external relations initiatives throughout Philadelphia. Most recently at the Reinvestment Fund, Bryan directed a national initiative to improve the health and well-being in low-income neighborhoods in 50 U.S. cities.

Steven L. Friedman, partner at Duane Morris LLP, has been appointed to the Thomas Jefferson University and Jefferson Health Board of Presidential Advisors by Jefferson President and CEO Stephen Klasko.

David Ladov, partner at Obermayer Rebmann Maxwell & Hippel LLP, was named to the National Law Journal’s list of Divorce, Trust and Estates Trailblazers.

Gino Benedetti, general counsel at SEPTA, will be the honoree at the Justinian Foundation & The Justinian Society Annual Meeting, Election & Scholarship Reception at The Union League of Philadelphia on June 12.

Michele R. Panturi, shareholder at Marshall Dennehey Warner Coleman & Goggin, P.C., will be a featured speaker at the 2017 CLM & Business Insurance Workers’ Compensation conference on May 24-25 in Chicago.

Michael G. Fitzpatrick, partner at Obermayer Rebmann Maxwell & Hippel LLP, presented at the Uniwest Economic Summit 2017. With four other panelists, he discussed the general economy, forecasts, current legislation, and other related topics.

Andrew R. Rogoff, of counsel to Pepper Hamilton LLP, has been named to the Philadelphia Foundation board of managers.

James Eisenhower, partner at Dilworth Paxson LLP, has been appointed to the Board of ASPIRA Inc. of Pennsylvania.

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

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