Growing Influence of the Bar Association

Introduction of Right-to-Counsel Legislation

On May 9, Chancellor Rochelle M. Fedullo joined City Councilmember Helen Gym, community legal organizations and Philadelphians at a press conference at City Hall where Councilmember Gym announced the introduction of right-to-counsel legislation to expand access to legal representation for Philadelphians facing eviction.

“Our city is facing an eviction crisis that destabilizes families and put significant stress on our people, our schools and our city services.

continued on page 14

Our Impact on Election Day

(From left) Volunteers Katie Contino, Elizabeth Vaysman and Dominique B. E. Ward handed out judicial candidate voter guides at various polling places in Philadelphia on May 21.

On Tuesday, May 21, in a crowded field of 25 candidates for six open seats on the Philadelphia Court of Common Pleas, three of the four judicial candidates rated “Highly Recommended” by the Philadelphia Bar Association’s Commission on Judicial Selection and Retention achieved success in the primary election. Four judicial candidates rated “Recommended” were successful, as well. Out of two candidates for one open seat on the Philadelphia Municipal Court, continued on page 14

Family and Law Section 2019 Blanket and Pillow Drive

From March 4 to May 6, the Family Law Section of the Association sponsored a bar-wide blanket and pillow drive for donations to families living in and transitioning out of shelters in Philadelphia.

(From left) Tara D. Phoenix, director of continuing legal education; Nadège Tandoh, chair, Family Law Section Outreach Committee; Kristine Calalang, chair, Family Law Section; and Andrea Morris-Tracey, manager of member services; with just some of donations for needy families.

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If You Have Someone You Cannot Help... Refer Them to Us!
If my mother had enough extra money left on payday, she would treat herself to breakfast at Horn & Hardart on her way to work. She was paid on Friday—cash in a sealed payroll envelope. Her envelope contained about 30% of the amount in the modest rent of her male supervisor. She knew because she did the office payroll, which was among those of his job responsibilities she handled, along with all her own.

She stayed at that job from 1961—when I was nine—until I was in college, living between very thin pay envelopes. She was a young widow with a child and needed a secure job. The culture at the company was genteel, and it had been in business for a long time, so she stayed.

We lived in the second-floor apartment of a Logan duplex, along with my grandparents who shared in paying the modest rent. Eventually, when it was just the two of us, paying that modest rent was a monthly struggle, and it was usually late. Our landlords, an older couple who lived in the first-floor apartment, had a key to ours. We started to notice that we were having “visitors” while we were out. It was either that, or we had poltergeists opening drawers and forgetting to close them. Best to pick your battles, so we said nothing to them and just joked to each other about keeping the drawers neat and maybe leaving snacks out. Even when Khatool, a cat who came to live with us after being exiled from a friend’s apartment by his landlady, suddenly vanished, we let it go.

This is not meant to be a woeful tale. Aside from a lost cat (who was later seen around the neighborhood, having taken well to his independence) nothing happened to us. Why did I tell it? I told it because it speaks to feeling vulnerable. I never thought about it then, mainly because she hid it so well, but looking back, I think of how very vulnerable my single mother must have felt. What if our landlords were just looking for a reason (aside from late rent) to get rid of us? What if she lost her job and could not pay the rent? What if the rent, which she could barely afford, went up? As I think about it more, maybe something did happen to us, at least a little. We traded in some of our dignity.

About a month ago, I listened to a struggling single mother describe how she felt when she saw a row of lawyers, and knew that none of them were there to help her. She said she felt like she did not matter, and she “braced herself for impact.” I was in Philadelphia City Council Chambers with her, and others, as speakers at a press conference about the introduction of a bill to provide a right to counsel for low-income tenants facing eviction. I was there on behalf of our Association in support of advocating for Philadelphia to join the growing national movement of providing a right to counsel for low-income tenants to prevent housing instability and its potentially devastating consequences.

Each year, 22,000 evictions are filed in Philadelphia, and when illegal lockouts are included, the number is even higher. One in four renters are affected, disproportionately from high-poverty neighborhoods of color. Only 8% of tenants have legal representation, as compared to 81% of landlords.

It is unlikely that anyone reading this needs convincing that having a lawyer levels the playing field in any legal dispute. In legal disputes involving something as fundamental as shelter, the need for representation becomes imperative.

According to the report titled “Economic Return on Investment of Providing Counsel in Philadelphia Eviction Cases for Low-income Tenants” (the Stout report) commissioned by our Association through its Civil Gideon and Access to Justice Task Force, each $1 invested into legal representation to prevent eviction results in a nearly $13 savings in costs for city services. In addition, the Stout report found that only 5% of tenants with representation experienced disruptive displacement, compared to 78% of unrepresented tenants.

On June 6, Philadelphia City Council announced preliminary approval of the Fiscal Year 2020 budget package that includes $1.5 million for a low-income tenant legal defense fund. This was very welcome news. We have reason to be proud of our Task Force and our contributions, including the Stout report, to the cause of serving vulnerable Philadelphians. There is still more to be done and we will continue to work. If anyone knows how much of a difference lawyers can make, it is us, and working to make a difference in the lives of those who need our help is what Philadelphia lawyers always do.

Tell Us What You Think!

The Philadelphia Bar Reporter welcomes letters to the editors for publication. Letters must be signed to verify authorship, but editors reserve the right to condense for clarity, style and space considerations. Letters must be signed to verify authorship, but names will be withheld upon request. Letters may be mailed, faxed or e-mailed to: Thomas E. Rogers, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 11th floor, Philadelphia, PA 19107-2955. Telephone: (215) 238-6300. Association Web site: philadelphiabar.org. Newspaper e-mail address: reporter@philabar.org. The editorial and other views expressed in the Philadelphia Bar Reporter are not necessarily those of the Association, its officers or its members. Advertising rates and information are available from Shawn D. Phillips at American Lawyer Media, 1617 JFK Boulevard, Philadelphia, PA 19103. Telephone: (215) 557-2340 or e-mail sphilips@alm.com.
It is hard to believe that we are already halfway through 2019. As the summer approaches, it is easy to take a foot off the pedal and coast for a little while. Everything seems to slow down, and staying motivated during this time of year can be tough.

This quiet time is a perfect opportunity to pause and look back at the year so far. Whether or not you have a formal mid-year review, it is time to assess yourself. Take stock of what you have accomplished, what you would like to improve, and what lies ahead for you in the rest of this year.

First, for a young lawyer developing your career, it is vital that you keep track of your accomplishments. You are the only person who knows all that you have done this year. Especially if you do not have a formal mid-year review, it can be hard to remember all that you have achieved by the time an end-of-year review comes around. Keeping even an informal list will be helpful to reference in future evaluations and should serve as a confidence boost to keep motivated for the second half of the year.

Building off of your list of accomplishments, consider what you may be able to improve in the months ahead. The slower pace of the summer months gives us the luxury to fine tune our processes and to implement best practices.

Finally, consider what you want to see looking ahead at the second half of the year. Take time to map out upcoming major projects and events. Plan ahead for the busy fall season. Set goals to accomplish before the year ends or before your next review.

So what has the Young Lawyers Division accomplished this year, and what do we look forward to in the coming months of 2019?

So far this year, we have judged more than five rounds of high school mock trials. We have collaborated with the Association to expand our mentoring pilot program bar-wide. We have volunteered with the Rendell Center to teach school students about civics. We have offered more than 25 hours of walk-in or call-in opportunities for free legal advice. We mobilized almost 100 volunteers during Law Week for various community outreach activities.

For the second half of 2019, the YLD will continue to strengthen our relationships with other groups and organizations. We look forward to our annual Diversity Scholarship Reception on June 12, honoring five outstanding local law students. The event is co-hosted by six different and diverse organizations across Philadelphia. On July 18, we will have Affinity Bar Quizzo, bringing together various groups for friendly competition and networking. We also will continue to strengthen our organization internally. In August, the YLD’s executive committee is planning a mid-year service retreat. In September, we will host a fundraiser for the Philadelphia Bar Foundation.

As we self-reflect, it is okay to take a breath and relax for a moment, but take advantage of the time to rev up for the year ahead.

Michaella Tassinari (michaella.tassinari.kfyk@statefarm.com), attorney at Robert J. Casey, Jr. & Associates, is chair of the Young Lawyers Division.
Each year, many class action lawsuits are filed nationwide by lawyers from Philadelphia. As these class action cases settle, unclaimed or leftover funds can remain. The cy pres doctrine presents a unique opportunity to benefit not only class members but also a broader community.

The term *cy pres* is derived from the Norman French phrase “cy pres comme possible,” meaning “as near as possible.”

For whatever the reason, when it is not possible to distribute all of the money directly to the class, a *cy pres* distribution to a nonprofit charitable organization whose work advances the public interest and indirectly benefits the class members is accepted as the next best use of the funds. The *cy pres* remedy can also be used for the entirety of a settlement fund when the amount to be awarded to each class member is too small to warrant distribution, or there is a determination that the settlement is better designed to align with the issue in the lawsuit.

*Cy pres* funds from class action lawsuits make a significant difference in our community. The Philadelphia Bar Foundation uses these funds to support the legal service organizations that provide a full range of legal aid services for people struggling with poverty, abuse and discrimination. The Bar Foundation is uniquely positioned to be the recipient of *cy pres* in many cases:

- We serve the entire community, both in Philadelphia and beyond.
- We provide grants and other support to nearly 40 different nonprofit legal aid organizations.
- We support the full range of access to justice issues, including children and youth, consumer issues, education, health, homeless individuals, housing, immigration, incarcerated individuals, individuals with disabilities, seniors, veterans, women and workers.
- We are an independent, nonprofit organization aligned with the Philadelphia Bar Association.

The Foundation has been fortunate to be the recipient of *cy pres* awards almost every year for nearly 20 years. *Cy pres* funds awarded to the Bar Foundation are used exclusively for our annual grantmaking to local legal aid organizations. During this grantmaking process, we thoroughly vet the organizations who receive the funds. These nonprofits deliver direct services to more than 60,000 clients annually, providing vital legal assistance to assure equal access to justice.

The parameters of *cy pres* relief in class action settlements are changing. This March, in the case of *Frank v. Gaos*, the Supreme Court appeared poised to provide some clarification regarding the validity of *cy pres* awards. However, the Supreme Court declined to resolve the *cy pres* issue in an 8-1 majority, thus allowing the use of *cy pres* to continue.

Both plaintiffs’ and defendants’ counsel can help to initiate a *cy pres* award to promote equal justice for all individuals and families in the Philadelphia region by incorporating it into the settlement agreement. We thank those who have allowed the Bar Foundation to use these funds to strengthen the provision of quality legal services to those who can least afford them. When appropriate, I encourage you to consider the Bar Foundation as the recipient of *cy pres* funds.

For more information on *cy pres*, contact Jessica Hilburn-Holmes, executive director of the Philadelphia Bar Foundation.

Leslie E. John (joh@ballardspafr.com), partner at Ballard Spahr LLP, is president of the Philadelphia Bar Foundation.
APRIL 30, 2019 NATURALIZATION CEREMONY

(From left) Immigration Services Officer Norman McCall; Hon. John J. Rufe (Ret.); Chancellor Rochelle M. Fedullo; President of the Museum of the American Revolution Dr. R. Scott Stephenson; Hon. Cynthia M. Rufe, U.S. District Court for the Eastern District of Pennsylvania; her granddaughter, Christina Alexander; and court officers at the naturalization ceremony held at the Museum of the American Revolution on April 30. Forty-seven people from 25 countries became U.S. citizens at the ceremony.

MAY 1, 2019 LAW DAY NATURALIZATION CEREMONY

(Left, from left) Former Chancellor Edward F. Chacker, Chancellor Rochelle M. Fedullo; Chacker Essay Award winner family friend Debbie Tillman; Chacker Essay Award winner Nailah Wheeler; Wheeler’s mother, Pamela Rich-Wheeler; Hon. John R. Padova, Senior Judge, U.S. District Court for the Eastern District of Pennsylvania; David L. Cohen, senior executive VP and chief diversity officer of Comcast Corp.; YLD Financial Secretary Arly Smith-Pearson; and YLD Chair Michaella Tassinari at the Law Day naturalization ceremony at the U.S. Courthouse, during 2019 Law Week, sponsored by the Philadelphia Bar Association on May 1. (Right) Fifty-nine people from 30 countries became U.S. citizens at the ceremony.

For details on placing a Lawyer to Lawyer referral ad, contact Lana Ehrlich at 215-557-2392 or lehrlich@alm.com.

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MAY 1, 2019 LAW DAY NATURALIZATION CEREMONY
40TH ANNUAL PHILADELPHIA BAR ASSOCIATION CHARITY RUN/WALK

A 200-yard Kids’ Dash, sponsored by Buchanan Ingersoll & Rooney PC, was held for children ages 5-10. (Left) H. Marc Tepper, shareholder at Buchanan Ingersoll & Rooney PC, with the kids before the race. (Right) Kids take off at the gun.

A 200-yard Kids’ Dash, sponsored by Buchanan Ingersoll & Rooney PC, was held for children ages 5-10. (Left) H. Marc Tepper, shareholder at Buchanan Ingersoll & Rooney PC, with the kids before the race. (Right) Kids take off at the gun.

(Top, left) Team Marshall Dennehey Warner Coleman & Goggin.

(Top, right) Chancellor-Elect Hon.A. Michael Snyder (Ret.) (left) with team Post & Schell, P.C.

(Bottom, from left) Teams White and Williams LLP; Clark Hill PLC; and Kline & Specter, P.C.

(Left) (from left to right) Manny Pokotilow, cochair of the Charity Run Committee, and Tom Bell.

(Right) Runners at the beginning of the 5K race.

(Below) Participants get started on the 5K walk.
June 2019 Probate & Trust Law Section Quarterly
- Getting Your Head Out of the Cloud: Digital Assets in Estate Planning and Estate Administration
Tue., 6/4/19 - 12:30 - 2:30 p.m. (1 SUB/1 ETH)
Hosted by the Probate & Trust Law Section
It has become the norm to store personal tangible assets, such as documents, photographs or videos and financial or business records in the cloud or on a digital device or other software sharing platform. As a result, digital asset planning is now a critical component of any estate and business succession plan. This timely and practical program will specifically familiarize Pennsylvania practitioners with the transitory nature of legislation which governs digital assets in 2019, allowing them to plan for the statutory change while also abiding by current federal and state laws.

2019 Federal Bench Bar Conference
Wed., 6/5/19 - 2:15 - 6:00 p.m. (3.5 SUB)
Cocktail Networking Reception immediately following the Conference at 6 p.m.
Loews Philadelphia Hotel, 1200 Market St., Commonwealth Hall
Hosted by the Federal Courts Committee in collaboration with the Eastern District Court of Pennsylvania
Sponsored by Friedman LLP
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: Practice Tips from Magistrate Judges of the Eastern District of Pennsylvania; How Electronic Evidence, Social Media and Technology Has Changed Modern Trial Practice and New Special Courts; Insights into Civil Case Management: Discovery and Cost Shifting, Requests for Confidentiality, and Other Issues; and Report on State of the Courts in the Eastern District of Pennsylvania. 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.

Cyber Security Landscape & Trends
Thu., 6/6/19 - 3 - 4 p.m. (1 SUB)
Hosted by the Investment Companies Committee
This program will explore the current cybersecurity landscape and current threats in the legal community. The program will examine how organizations may protect themselves from cybersecurity attacks, particularly those involving social engineering tactics, such as email phishing, wire fraud (otherwise known as “business email compromise”), fraudulent websites, and social media attacks. The program will also address creating a cybersecurity program, risk management, and the governance of these activities.

YLD Bootcamp Series: Ins and Outs of Discovery Court
Fri., 6/7/19 - 2:00 - 3:30 p.m. (1.5 SUB)
Co-hosted by the Young Lawyers Division and the State Civil Litigation Section
New civil practitioners often present or defend discovery motions. Whether it’s your first or hundredth time at discovery court, there’s always more to learn. The Discovery Court Program operates in accordance with the Alternative Motion Procedures set forth in Philadelphia Rule of Civil Procedure *208.3. Hear an overview of the process, insight into what the court appreciates (and doesn’t), and answers to common questions regarding procedures.

For questions regarding Philadelphia Bar Association CLE, contact Director of Continuing Legal Education Tara D. Phoenix at 215-238-6349 or tphoenix@philabar.org.
Plaintiffs on the Frontline: A First-hand, Family-member Perspective of the Landmark Right to Education Lawsuit PARC v. Commonwealth of Pennsylvania

Wed., 6/12/19 - 12:30 - 1:30 p.m. (0.5 SUB/0.5 ETH)

Hosted by the Legal Rights of Persons With Disabilities Committee

Impact litigation requires plaintiffs. Hear the compelling story of Kate Fialkowski and her family, who were involved in several landmark cases that opened the door to educational rights and inclusion for students with disabilities: Halderman v. Pennhurst State School and Hospital; PARC v. The Commonwealth of Pennsylvania; and Fialkowski v. Greenwich Home for Children. Ms. Fialkowski provides a fascinating first-hand perspective on Pennsylvania’s civil rights legal battles that set the stage for the creation of federal laws that guarantee a public education for all children. The program addresses ethical questions with which all attorneys practicing impact litigation should grapple—the tension between the goals and realities of the named plaintiffs and the impact litigation goals of the attorneys who need them. This presentation also includes a refresher of some of the salient rules of professional conduct that emerge during civil rights litigation.

VIDEO ENCORE: Nuts and Bolts of SBA Lending

Fri., 6/14/19 - 9:30 - 10:30 a.m. (1 SUB)

This video-encore program will provide attendees an understanding of the Small Business Administration lending process. The program will address information regarding certain lending programs, qualifications for borrowers, specifics of loans and the process. This is an important program for anyone with a small business client that may need capital and is having, or may in the future have, a difficult time obtaining loans from traditional lenders. The program will also provide insight into how loan proceeds may be used.

Recent Decisions and Developments in Pennsylvania Eminent Domain Law - 2019 Update

Mon., 6/17/19 - 12:00 - 1:30 p.m. (1 SUB)

Hosted by the Eminent Domain and Appraisals Committee

This luncheon program will provide an overview of important and relevant Pennsylvania appellate court decisions on Pennsylvania eminent domain (condemnation) law from 2018 forward, as well as recent developments in and changes to related court procedures. Additionally, panelists will address proposed revisions and updates to Philadelphia Civil Rule *1028.1, “Preliminary Objections to Declaration of Taking Pursuant to Section 406 of the Eminent Domain Code or to Petition for Appointment of Viewers Alleging De Facto Taking or Other Compensable Injury Pursuant to Section 502(e) of the Eminent Domain Code”. The proposed revisions and updates will be submitted for the approval of attending members of the Eminent Domain and Appraisals Committee.

VIDEO ENCORE: Philadelphia Lobbying Ordinance: An Ethics CLE for Real Estate Attorneys

Tue., 6/18/19 - 9 - 10 a.m. (1 ETH)

This video-encore CLE program will provide an overview of the registration and reporting requirements imposed by the Philadelphia Lobbying Ordinance and Regulations, including updates on clarifying advisory opinions and guidance issued by the Board of Ethics. Panelists focus on what real estate lawyers and their developer clients need to know about lobbying in Philadelphia, including what contacts with the city are covered and what are exempt.

Teledicine: Criminal & Regulatory Overview

Tue., 6/18/19 - 12 - 1 p.m. (1 SUB)

Hosted by the Health Law Committee of the Business Law Section

On April 9, 2019, the Department of Justice Criminal Division announced federal indictments and law enforcement actions in one of the largest health care fraud schemes involving teledicine and durable medical equipment marketing executives. This charging highlights the need for providers of teledicine services to evaluate their compliance efforts. In this timely and informative CLE, panelists will provide an overview of the investigation and expected changes in the industry and recommendations for health care providers. The program will also provide an overview of key regulatory considerations to mitigate the possibility of civil enforcement actions.

VIDEO ENCORE: 2019 Update on Support Rules

Wed., 6/19/19 - 12:30 - 2:00 p.m. (1.5 SUB)

The rules regarding the calculation of child support, spousal support, alimony pendente lite, and alimony have changed with the passing of the federal tax bill. This video-encore program will provide attendees with an in-depth update on those important changes.

VIDEO ENCORE: HR for Solos, Small Firms & Small Businesses

Thu., 6/20/19 - 12:30 - 1:30 p.m. (1 SUB)

In this video-encore program, panelists will examine human resources issues facing solos, small firms and small businesses, including drafting of employee handbooks, compliance with state and federal laws and regulations, the Philadelphia Fair Practices Act, FMLA requirements and leave policies.

VIDEO ENCORE: Not If But When - Planning For The Crisis That Will Strike Your Law Firm

Tue., 6/25/19 - 12 - 2 p.m. (1 SUB/1 ETH)

In life and business, reputation is everything. It only takes one misstep to cause irreparable damage to a law firm and its attorneys. And it’s not if, but when, because life happens, mistakes happen and crises happen to law firms of all sizes and areas of practice. What is your law firm doing to proactively protect its most valuable asset - its reputation? This video-encore program addresses the elements needed for a viable crisis communications plan, working through the six stages of a crisis - scenario-style, and things a firm can do to manage its reputation before, during and after a crisis.

Effective Practice in the Superior Court

Wed., 6/26/19 - 12 - 1 p.m. (1 SUB)

Hosted by the Appellate Court Committee

This CLE will offer practice pointers for appeals in the Superior Court, including what makes a persuasive brief and oral argument. Superior Court Judges Panella and McLaughlin will also review the impact of recent appellate rule changes and strategies to avoid waiver of appellate issues.

VIDEO ENCORE: Vicarious Trauma and Burnout: Supportive Self-Care Strategies When Working With Clients in Crisis

Thu., 6/27/19 - 12 - 2 p.m. (1 SUB/1 ETH)

Through the course of their work, legal advocates and social service professionals are exposed to the stories, images, experiences and emotions of people who have faced trauma and adversity. This program will examine vicarious trauma and related concepts of compassion fatigue and burnout, and identify self-care strategies and supports that help maintain professional competency and enhance personal well-being.

*Additional courses may be added within the month. For more new, unique and affordable CLE programs, please visit the Philadelphia Bar Association CLE webpage.

DID YOU KNOW?

The Association’s CLE program was named the #1 Continuing Legal Education Provider in the Legal Intelligencer’s “Best Of” for 2018.

Please Remember to Vote for Us Again!

TO REGISTER Visit the CLE page at PhiladelphiaBar.org
Construction Accidents Investigation 101

By Thomas E. Rogers

The Occupational Safety and Health Administration investigates several hazards, including struck-by, falls and electrocutions. These are just some of the causes of complaints brought by attorneys representing clients after being involved in construction accidents. Fleisher Forensics sponsored “Construction Accident Investigation 101” on April 24. Panelists were Thom McAdams, consulting construction manager and project manager for Fleisher Forensics; Glenn M. Campbell, principal manager and project manager for Fleisher Forensics; and Adam J. Pantano, partner at Saltz Mongeluzzi Barrett & Bendesky.

Safety equipment responsibilities in a construction site are often placed with employees, not the employer, said McAdams. They are also often responsible for understanding the safety guidelines of the site. However, he said that while employees must adhere to OSHA guidelines, states sometimes have additional requirements. New York has a state plan, but Pennsylvania and Delaware follow the federal guidelines only. New Jersey applies its own regulations to public employees, but private jobs fall under federal guidance.

OSHA is not required to investigate every accident, but it may investigate any accident at its discretion. Campbell said that attorneys should find out if there are any investigations related to their case on OSHA’s radar. Additionally, requests for information under the Freedom of Information Act can be sent to OSHA, but Campbell said he expects OSHA to deny requests if an investigation is ongoing. Lists of investigations available at OSHA.gov can be searched by location, parties involved and time frame of the accident being investigated.

There are other ways an attorney can gather information, though. Search for photos online of the construction site and for any other pertinent information about the project or parties involved. Visit the construction site itself, as soon as possible. Look at the equipment and speak with clients’ coworkers. If the site is inaccessible, look from the street or other vantage point. If representing an employer, Campbell suggested looking over project progress photos, safety manuals, safety guideline acknowledgments of receipt and videos or time-lapse footage. Additionally, the panelists said attorneys should send preservation letters to all parties to restrict destruction of potential evidence.

Personal testimony is another useful source of information. Statements written by the injured client, along with their safety personnel files, are helpful, said Campbell. Pantano and Campbell also talked about bringing in experts. Hire them early to assist in drafting complaints and discovery. They also can help attorneys understand the nuances of the incident, like technical specifications and potential hazards. OSHA personnel can potentially be sources of information, but Campbell said it is very difficult to depose an OSHA investigator.

OSHA also reserves the right to redact information and deny requests if an investigation is ongoing. Lists of investigations available at OSHA.gov can be searched by location, parties involved and time frame of the accident being investigated.

Reintroduction of Reconsideration in Pennsylvania

By Zachary Lipshutz

Reconsideration is an additional step in the social security disability adjudication process. At “The Reintroduction of Reconsideration in Pennsylvania” on April 26, Steven Rollins, the director of the Bureau of Disability Determination at the Pennsylvania Department of Labor and Industry, discussed the new reconsideration procedure that now applies to social security cases in Pennsylvania.

Previously, initial determinations could be appealed and go straight to a hearing with an administrative law judge, but this is no longer the case. Only about 30% of applicants are approved at the initial application, so for the other 70%, reconsideration will now be required for those who want to maintain their claims.

If the claimant is denied on the initial application and denied again at reconsideration, they then are able to appeal for a hearing. Some argue that this is a rubber stamp because of the low likelihood of success at the reconsideration stage. Rollins told the assembled attorneys in attendance that it is imperative that cases at reconsideration be viewed as if they are at the initial application stage, meaning that claimants would be given a fair chance to win benefits at that stage.

The Pennsylvania reconsideration rate of approval is the fourth-highest in the nation, said Rollins. This is based on cases from other states that Pennsylvania adjudicators worked on prior to reconsideration becoming law in this state. He explained that many more staff were hired in response to the policy. A total of 130 additional staff were hired in Pennsylvania alone, and a total of 7,777 staff were added in states where this is being introduced. Reconsideration will not apply to cases denied before April 20, 2019, but cases denied after that date will be subject to the new procedural mechanism.

Most cases that are awarded at the reconsideration stage will probably have achieved a differing verdict from that of the initial application because of additional medical evidence that was not available to the first decision-maker. Community Legal Services has provided numerous suggestions for efficiency and processing at the reconsideration level. These are as follows: requiring the adjudicators to contact claimants when initiating reconsideration; improving health record collection; requiring adjudicators to solicit new evidence; establishing continued on page 14
Treading Public Waters: Social Media and Open Govt.

By Brittany Anne Robertson

As official social media accounts for government agencies become the norm, where does the line lie between a post from a city department’s official Twitter account and one from the personal account of a city employee? This topic and more were addressed at “Social Media and Open Government in the Digital Age,” hosted by the Government and Public Service Lawyers Committee on April 30. The panelists included, from the City of Philadelphia Law Department, Elise Bruhl, senior attorney for the Appeals and Legislation Unit; Bradford Ham, deputy city solicitor; Robert Kieffer, assistant city solicitor; and Jordan Segall, staff attorney for the City of Philadelphia Board of Ethics.

Kieffer began with an overview of “right to know” law in Pennsylvania, the public records law that is roughly equal to the federal Freedom of Information Act. A “record” is information, regardless of physical form or characteristics, that documents a transaction or activity of an entity. Under right-to-know law, any records in an agency’s possession are presumed to be public, which are not exempt under law. Exemptions can be made in the public interest if disclosure outweighs nondisclosure. These exemptions, however, cannot override prohibitions by other laws. For example, medical records are exempt under HIPPA. Social media accounts generally fall under right-to-know law, even if they are not operated by the agency itself.

Next, Segall provided a rundown of Philadelphia’s restrictions concerning social media posts under the Home Rule Charter, which addresses the city’s political restrictions, and guidelines from the Board of Ethics, which provide rules for city employees and posting on social media. Generally, non-city council members can post political material to their personal accounts. What they cannot do, however, is use city time or resources to post; use city employee titles to imply endorsement; include content created by a political party, candidate or partisan group—or link to any such content; or seek contributions for political purchases. Ham talked about intellectual property and social media, of which trademark and copyright issues are most prevalent. He explained that there is not yet a ton of case law on the issue, as social media sites are diligent about policing themselves. Exceptions are instances that fall under “fair use,” where one is able to criticize, parody, comment upon or use copyrighted or trademarked material to educate.

Bruhl discussed the first amendment issues involved in government agencies and social media, which has made up the bulk of questions that she has received in the past few years. Cases are fact-specific, and “the law is changing, basically, by the week,” she said. She recommended that if, as a city employee, you see something on social media that is provoking and that you may want to respond to, step back, take a breath and think about whether you would want your response—as a city employee or agency—to “go viral” and become public record.

Philadelphia Bar Association CLE on April 30.

(Special to the Philadelphia Bar Association)

PHILADELPHIA BAR ASSOCIATION CLE - GOVERNMENT & PUBLIC SERVICE LAWYERS CMTE.

'Super Lawyers' Weigh in on Arbitration and Mediation

By Brittany Anne Robertson

How do some of Pennsylvania’s very best decide to mediate, arbitrate or litigate? The Super Lawyers’ Explanation of Why and When to Use Arbitration and Mediation, sponsored by the Alternative Dispute Resolution Committee on May 7, explored the plethora of answers to this question. Planned and moderated by Charles F. Forer, of Charles F. Forer Alternative Dispute Resolution Services, and Hon. Richard B. Klein (Ret.), of the Dispute Resolution Institute, the program’s panelists included Ronald A. Kovler, partner at Kovler & Rush, P.C.; Robert Ross, partner at Ross Feller Casey, LLP; and Kathleen Wilkinson, partner at Wilson Elser Moskowitz Edelman & Dicker LLP and former Chancellor.

What factors determine whether to pursue arbitration or mediation? Unsurprisingly, the first answer is the oft-heard “it depends.” Arbitration can save time and money, said Kovler. He said if he knows the arbitrator, he can usually be about “90% correct within 20%” at guessing which way the arbitrator will decide; if chances are in his favor, he will pursue arbitration. Wilkinson also said that it depends on the situation. She also mentioned that arbitration works better for commercial cases and employment issues. Ross said that if there is a “small gap” between what the defense wants and what the plaintiff is willing to pay, going to an arbitrator to resolve the final figure is a good fit for arbitration.

After pointing out that all of the panelists prefer arbitration over mediation, Forer asked in what instances they would decline to go to mediation if their adversary wanted it. Kovler would decline unless he had an offer or believed the defense attorney was acting in good faith. Ross differed in that he does not need an offer, but he does need to have a conversation with his adversary to see if they are in the same range. Wilkinson again said that it depends, but she said that private mediation is an option if the case is sophisticated, and the mediator is skilled enough.

Discussion then centered on the good and the bad of mediator attributes. Wilkinson said that what blows her away is when a mediator shows empathy and respect for all sides, expresses personal regret for the situation and establishes continued on page 19

PHILADELPHIA BAR ASSOCIATION CLE - ALTERNATIVE DISPUTE RESOLUTION CMTE.
The Workers’ Compensation Section held its annual awards luncheon on May 3, 2019 at the Sheraton Philadelphia. This year’s recipient for the Martha J. Hampton award was Patrice (Puddy) Toland of Post & Schell P.C. Toland received this award based on her unique compassion and dedication to her clients, her professionalism, her scholarship, and her good will with her peers. She celebrated this award along with her colleagues from Post & Schell P.C. and her beloved family who were able to attend the luncheon. The award is given in honor of Martha J. Hampton, who was committed to the practice of workers’ compensation law and improving the same.

The Irvin Stander Award was also given to Elizabeth Scian of Villanova University’s Charles Widger School of Law. This award is given by the Section in memory of workers’ compensation Judge Irvin Stander, a Philadelphia judge who was well known for his prolific writings on workers’ compensation and zoning law. Judge Stander was also a founder of the first law school course on workers’ compensation at Temple University law school, now the Temple University Beasley School of Law. The Irvin Stander Award recognizes an outstanding graduating law student who has demonstrated legal acumen or scholarship in the areas of administrative or workers’ compensation law.

The luncheon’s guest speakers included representatives from four of the many charitable organizations that the Section has donated to over the years. They discussed the valuable work they perform in our communities and how the Section’s engagement helps with their missions. First, Patricia Anne Hogan, president of the Sean Hogan Foundation, spoke about her organization, whose mission is helping to alleviate some of the financial burden families with children experience after a cancer diagnosis. The foundation provides assistance with child care expenses for families with a parent or guardian diagnosed with cancer. Hogan is the widow of former Philadelphia firefighter Sean Hogan, who unfortunately passed away from cancer. Second, Chris Kirchner, the executive director of The Philadelphia Children’s Alliance, discussed that organization’s collaboration to form a team of professionals to allow abused children to tell their stories using a coordinated process in a safe and welcoming facility. She discussed her work in overseeing the collaborative investigation of child sexual abuse cases in Philadelphia, and the impact donations have in providing necessities (and some fun toys and teddy bears!) for those children. Third, Marty Farrell, the director of development and community relations at Saint John’s Hospice, expounded on the charity’s work in providing crucial, life-sustaining services with dignity, respect, and compassion to homeless men in Philadelphia. Fourth, former Chancellor Albert S. Dandridge III of the United Services Organization discussed how that organization supports military service members and military families, as well as his own personal experience with the USO when he was in the service.

The Section presented monetary donations to each of those organizations at the luncheon, as well. The Section looks forward to continuing to donate to and provide volunteer work for these, and many other organizations, throughout the city.

Andrea M. Graf (agraf@swartzcampbell.com), associate at Swartz Campbell LLC, is a cochair of the Workers’ Compensation Section Communications and Marketing Committee.
2019 Spring Quarterly: Honoring Our History

By Brittany Anne Robertson

The Philadelphia Bar Association’s Spring Quarterly Meeting, “Honoring Our History,” took place on April 16 at Center City’s new venue, The Lucy. The meeting recognized Year Club members, Immediate-Past Chancellor Mary F. Platt and Bar Medal winners Mark A. Aronchick and Abe Reich. Chancellor Shelli Fedullo first introduced Immediate-Past Chancellor Mary F. Platt, affectionately describing her as someone who was analytical and thoughtful in her decision-making, and as someone whom she was proud of and proud to introduce as speaker. Platt spoke on the achievements of the Association during her tenure as the 2018 Chancellor. She heralded the members of the Association as the “movers and shakers” of Philadelphia’s legal community and said that the Association has connected lawyers and justices throughout the community since the 19th century. Being a lawyer, said Platt, is about more than practicing law. There is also an obligation to support the rule of law and ensure that the justice system is fair and effective. She closed her remarks by thanking her firm for allowing her the time to commit obligation to support the rule of law and ensure that the justice system is fair and effective. She closed her remarks by thanking her firm for allowing her the time to commit.

Next, Chancellor Fedullo honored the 50-, 60- and 70-Year Club members of the Association, naming each individual, before introducing Nolan N. Atkinson Jr.—also a member of the 50-Year Club—, the Chief Diversity & Inclusion Officer for the City of Philadelphia. Atkinson’s address focused on the history of diversity in the legal profession, and how the Philadelphia Bar Association played an important part in ensuring it in Pennsylvania. In 1970, the Association took up a “courageous and leadership role” when Chancellor Robert Landis created a special committee to investigate the Pennsylvania bar and supporting the Association in investigating temporary communications associate at the Philadelphia Bar Association.

Chancellor Fedullo then presented the Bar Medal to Aronchick and Abe Reich, both of whom she described as possessing “exceptional intellectual and gifts and talents, matched by generosity of spirit.” Reich stated that it was “particularly meaningful [to be] with my good buddy, Mark Aronchick” in receiving the honor. He reminisced about witnessing a mentor receive the Bar Medal in his 90s and express how he was honored to receive it in “the deep winter of [his] life.” Reich thanked the Association for the honor “in the summer” of his life, then encouraged all to support the Association as it “really makes a difference.”

Aronchick began his remarks with an observation about how he and his wife, Judy, arrived in Philadelphia with no family, friends or money, and how, 45 years later, he was in disbelief about receiving the Bar Medal. He described Reich as his “brother” and ended his speech with the words “do what is in front of you. Not what you wish you were doing, but what’s in front of you. That’s your path.”

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

PHILADELPHIA BAR ASSOCIATION - UPCOMING SECTION & COMMITTEE EVENTS

Saturday, June 15
Puppy Yoga
1:30 p.m.–4:00 p.m.
Amrita Yoga and Wellness, 1204 Frankford Avenue

Tuesday, June 18
Chancellor’s Forum:
When the Rule of Law Fails - Lessons of the Holocaust
4–6:30 p.m.
Philadelphia Bar Association, 11th Floor

Wednesday, June 19
Workers’ Compensation Section Spring Party
6–9:00 p.m.
Water Works, Grand Pavilion

Monday, June 24
Quarterly Meeting & Luncheon
12–1:30 p.m.
The Bellevue Hotel, Grand Ballroom

Tuesday, June 25
Family Law Section Summer Reception
5:30–7:30 p.m.
XIX at The Bellevue Hotel

To register for all events, visit PhiladelphiaBar.org.
Legislation

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Although this crisis impacts every corner of our city, it does hurt some communities more than others: People of color, single mothers, black women, disabled folks, and seniors suffer the most,” said Councilmember Gym. “As the poorest big city, the cost of representation is out of reach for too many Philadelphia residents. Eighty-one percent of landlords attend court with legal representation, while only 8% of renters have a lawyer to advocate for them.”

Fedullo spoke at the press conference about the Association’s groundbreaking Stout report, that found that an annual investment of $3.5 million in legal representation would save the city $45.2 million annually. Stout determined that unrepresented tenants are disruptively displaced due to eviction in approximately 78% of cases, as compared with represented tenants, who are disruptively displaced due to eviction in only approximately 5% of cases. By being represented, approximately 14,418 low-income individuals each year would avoid being disruptively displaced.

Councilmember Gym’s legislation, if passed, would bring Philadelphia into the national movement around right to counsel. New York City, San Francisco and Newark, New Jersey have adopted similar laws, and plans are underway in other cities to provide eligible tenants with access to legal representation in landlord-tenant cases.

Impact

continued from page 1

the Association’s Recommended candidate won. Only Highly Recommended and Recommended candidates were successful.

Close to 100 volunteers distributed the commission’s ratings at polling places throughout Philadelphia. On primary election day, many voters informed Chancellor Fedullo that they had the Association’s ratings loaded onto their phones and thanked volunteers for their service to the voters. The Association’s online voter’s guide received over 27,000 visits in the 10 days before the election, speaking to the success of the accompanying social media campaign.

Reconsideration

continued from page 10

strong criteria to evaluate adjudicators; encouraging adjudicators to consider time-off task and attendance; discourage abandonment of appeals after reconsideration denial; collect, evaluate and share data on reconsideration; and to fund Pennsylvania legal services programs so that claimants can receive help during the process.

Reconsideration definitely changes the adjudication process with social security disability claims; hopefully it is carried out as effectively as possible.

Zachary Lipshutz (zlipschutz@paworkinjury.com) is an associate at Martin Law LLC.
On April 23, the City Policy and Government and Public Service Lawyers committees co-hosted “A Conversation with Mayors Edward G. Rendell and John F. Street” with the former Philadelphia mayors in advance of the primary election on May 21.

(From left, standing) Chancellor-Elect Hon. Michael Snyder (Ret.); Chancellor Rochelle M. Fedullo; David L. Hyman and Charles M. Gibbs, cochairs of the City Policy Committee; and (From left, seated) former Philadelphia Mayors Edward G. Rendell and John F. Street at the event on May 21.

At the Mentoring and Professional Development Committee meeting on May 14, Jennifer Lynn Robinson, CEO of Purposeful Networking, helped attendees overcome common networking challenges through an interactive program.

(From left) Chancellor Rochelle M. Fedullo; Nicole D. Galli, cochair of the Mentoring and Professional Development Initiative; Jennifer Lynn Robinson; Chancellor-Elect Hon. A. Michael Snyder (Ret.); and Regina M. Foley, cochair of the Mentoring and Professional Development Initiative at the meeting on May 14.

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The Young Lawyers Division sponsored 2019 Law Week during the week of April 29. They held events for the public, including Lawyer in the Classroom, Legal Advice Live!, Lawyer for a Day and the “Gold E. Locks and the Big Bad Wolf” & “Jack and the Beanstalk” Mock Trials. This year’s Law Week theme, as identified by the American Bar Association, was “Free Speech, Free Press, Free Society.”

(Above, left; from left) Chancellor-Elect Hon. A. Michael Snyder (Ret.); YLD Chair Michaella Tassinari; Paul J. Safier, Lawyer for a Day featured speaker; and YLD Executive Committee Member Tianna Kalogerakis at Lawyer for a Day on May 2.

(Above, right; back row, from second from left) Hon. Gary S. Glazer, Supervising Judge, Commerce Court, Philadelphia Court of Common Pleas; Hon. Sandra Mazer Moss (Ret.); Hon. Marlene F. Lachman, Philadelphia Court of Common Pleas; Hon. Idee C. Fox, President Judge, Philadelphia Court of Common Pleas; Philadelphia City Councilmember Helen Gym; Chancellor-Elect A. Michael Snyder (Ret.); and YLD Chair Michaella Tassinari; with Law Week volunteers at “Gold E. Locks and the Big Bad Wolf” & “Jack and the Beanstalk” Mock Trials at Philadelphia City Hall on May 3.

(Left) Councilmember Helen Gym addresses Philadelphia schoolchildren at “Gold E. Locks and the Big Bad Wolf” Mock Trials on May 3.
A delegation from EFLIT (English for Law and International Transactions) traveled to Philadelphia and New York City to study and gain exposure to the U.S. justice system, April 21 - May 1. The group spent time in civil and criminal courts observing jury trials and meetings, and met with key players of the U.S. legal community.

(Left) The EFLIT delegation learns about corporate law at Convene on April 23.

(Bottom, left; from left) Chancellor Rochelle M. Fedullo; Hon. Cynthia M. Rufe, U.S. District Court for the Eastern District of Pennsylvania; Claudia Ricci, director of studies, legal and business English teacher, EFLIT; and Dr. Stefano Maffei, director of EFLIT and senior lecturer in law at the University of Parma, Italy; and Claudia Ricci, director of studies, legal and business English teacher, EFLIT; during a visit to the U.S Courthouse on April 24. (Bottom, right; from left) Hon. Michael M. Baylson, Senior Judge, U.S. Court for the Eastern District of Pennsylvania; Claudia Ricci; Hon. John R. Padova, Senior Judge, U.S. Court for the Eastern District of Pennsylvania; Dr. Stefano Maffei; Judge Cynthia M. Rufe; Chancellor Rochelle M. Fedullo; and Professor David Sonenshein, professor emeritus at Temple University Beasley School of Law on April 24.
QUICK BITES: VERNICK

Fare Free, or Free as Possible, From Flaws or Defects

By Lee A. Schwartz

Perfection is defined as “...the condition, state or quality of being free or as free as possible from all flaws or defects.” It seems to happen each time we eat at Vernick Food and Drink, located at 2031 Walnut St.

Greg Vernick opened his eponymous venue in 2012 and has been raising the bar toward perfection ever since. His awards are too numerous to list, but just know Greg was named chef of the year in 2016 by The Philadelphia Inquirer and received a 4-bell review by Craig LeBan, who named it “Best Overall Restaurant” in the city. In 2017, he was named “Best Chef: Mid-Atlantic” by the James Beard Foundation. Need I say more?

Over the years, my trusted companion and I have eaten there several times. Recently, for our twentieth wedding anniversary, there was no better place to celebrate.

The next time you visit Vernick, I suggest you order the Organic Amish Chicken, with lemon and herb jus and the Bronzino on prior visits. Both are cooked to perfection.

However, our “go-to” dish is the Turbot Amandine. Turbot is a species of flatfish, native to the North Atlantic, Baltic and Mediterranean regions. It is a highly prized fish, with a delicate flavor that retains its bright white flesh color when cooked. Filleted tableside, it is smothered in almonds and served with roasted peppers, romaine lettuce, olives and other veggies. It is cooked in the wood-burning oven and it is just spectacular. Sharing one is more than enough.

The service at Vernick is impeccable. They have a full bar and wines by the glass. Call for reservations or come in and sit at the bar. You can also order dinner at the bar. Enjoy.

Lee A. Schwartz (LAS@LeeASchwartz.com) is the owner of the Schwartz Law Firm LLC.

QUICK TIP FROM USI AFFINITY

Importance of Drafting Detailed Retainer Agreements

Since the cost of “full service” representation is cost-prohibitive for many, it is not uncommon for clients to retain an attorney to perform designated legal services. In the corporate world, it is also not uncommon for corporate clients to divide legal representation into discrete tasks and to retain different lawyers to perform specialized and specific legal services.

A Limited Scope Retainer (“LSR”) is a retainer agreement wherein the client agrees that the attorney will provide legal services for part, but not all, of the client’s legal matter. Common examples include a pro se litigant retaining an attorney to “ghost write” pleadings, a consultation to evaluate the legal merit of a potential claim; or an engagement to provide tax advice on a corporate transaction.

LSRs clearly provide benefits to both attorneys and clients. For clients, LSRs reduce the cost of legal services and provide options. Clients are not forced to choose between “full service” representation or no representation. For attorneys, LSRs provide an opportunity to expand their client base and to tailor their practice’s focus.

Read more at insurancefocus.usiaffinity.com.

To learn more, visit usiaffinity.com, or call (800) 265-2876.

For more information about insurance, visit the Philadelphia Bar Association Insurance Exchange at www.usiaffinity.com/Philadelphia. For attorneys’ Professional Liability and other business coverage, you can continue to visit the regular Philadelphia Bar Association Insurance Program website at www.mybarinsurance.com/Philadelphia. If you’d like to talk someone about insurance and benefits options for Philadelphia Bar Association members, call USI Affinity Benefit Specialists at 1-855-874-0267.

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Kimberly Rice, president/chief strategist of KLA Marketing Associates, recently presented Evoke the Secret Sauce© to Help New Lawyers Get Off to a Strong Start at the Association of Legal Administrators national conference in Grapevine, Texas.

Jane Leslie Dalton, of counsel to Duane Morris LLP and a former chancellor, was recognized by Continental Who’s Who as a Lifetime Achiever in the field of Law.

“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.

Arbitration
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The Philadelphia Bar Association’s Board of Governors adopted two resolutions on May 30.

The Board adopted a resolution in support of proposed Amendment of the Comment To Pa. Rule of Evidence 401 generally excluding evidence of class.

The Board also passed a resolution concerning service in landlord-tenant actions filed in the Philadelphia Municipal Court in which the landlord is seeking a judgment in order to regain possession of the property through the use of lawful process.

To view the full resolutions, visit PhiladelphiaBar.org.

Brittany Anne Robertson (brobertson@philabar.org) is a temporary communications associate at the Philadelphia Bar Association.
FOR MORE THAN 30 YEARS, Sidney L. Gold & Associates, P.C. has dedicated its practice to the field of employment law and civil rights litigation. The firm’s attorneys take great pride in serving as both aggressive and compassionate advocates for victims of unlawful discrimination and harassment. As a result, the Martindale-Hubbell® Bar Register has certified Sidney L. Gold & Associates as a pre-eminent law firm in the field of labor and employment law. More than 4,500 lawyers throughout Pennsylvania and New Jersey look to Sidney L. Gold & Associates to refer their clients.

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