Register by Sept. 14 to Get $80 Bench-Bar Discount

Association members have until Friday, Sept. 14 to register for this year’s Bench-Bar & Annual Conference and take advantage of early-bird savings.

The Oct. 5-6 Bench-Bar & Annual Conference, featuring 21 CLE seminars, provides attendees with the opportunity to earn CLE credit while networking with colleagues and members of the bench. Hundreds of attorneys and judges are expected to attend at the beachfront Revel resort in Atlantic City, N.J. A total of 6 CLE credits are available. Registration increases by $80 for those who register after Sept. 14.

In addition to a brand-new venue, this year’s event will also offer an insider’s view of the 2012 presidential election, as we welcome ABC News White House Correspondent Ann Compton as our Opening Plenary speaker. Additionally, at our Saturday breakfast, we’ll hear from Dick Polman, The Philadelphia Inquirer’s national political columnist, offering his own special brand of election insights.

The conference will also feature a state of the courts presentation featuring the president judges of Pennsylvania courts. Scholarships to the 2012 Bench-Bar & Annual Conference are available by lottery to Association members who are public interest or government service attorneys.

To enter the lottery, please submit your name and organization to Dawn Petit at dpetit@philabar.org by 4 p.m. on Monday, Sept. 10. Each scholarship will include hotel accommodations for one night on Friday, Oct. 5 at Revel as well as all conference fees which include CLE programming and all sponsored meals and events.

The winners will be announced Wednesday, Sept. 12 via email. You must be a member of the Philadelphia Bar Association to participate in the scholarship lottery.

If you enter the lottery please DO NOT register for the conference or make a hotel reservation. If your name is not selected for one of the scholarships we will honor the early-bird discount until Wednesday, Sept. 19.
Attention All Litigators

Join The Legal Intelligencer, in partnership with Furia Rubel Marketing and Public Relations, on September 13 for our first annual Litigation Summit. This 6 credit CLE program (including ethics credit) will cover the latest trends and issues in litigation that affect your law practice. Seminar topics will include:

- What’s Hot in Litigation
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- Judicial Panel Discussion (Ethics Credit)
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Program:
8:30am – 4:00pm

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Registration Fee:
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Five or more from one firm – Call for details

Seating is limited – REGISTER TODAY!
FJD Judicial Fellowship Program Benefits Both Job Seekers, Judges

By John E. Savoth

One of the most valuable learning experiences of my career came as a young lawyer. I was fortunate to learn about an open clerkship position with Pennsylvania Supreme Court Justice James T. McDermott. The year was 1985.

Trying my hardest to impress the Justice during the 90-minute interview, I studied his published opinions for insights. However, to my surprise, I found my most common ground with him on the least-suspecting topic: literature. We spent the majority of our initial time together discussing Samuel Johnson, Goethe’s Faust and Anthony Burgess, among many others.

Justice McDermott was a voracious reader. He would read a book in a day. In the back of the book, he would put the date and the day’s weather. To this day, I still have all the books he generously gave to me.

In the two years I clerked for Justice McDermott, I helped draft 18 opinions for him. His mentorship was instrumental in my career and I continued to stay in touch with him, discussing books, movies, and, of course, the intricate fabric of a just society, until his passing in 1992.

Judicial clerkships offer tremendous insight on the decision-making process and how the courts work. To be mentored by a sitting judge and introduced to members of the Bar affords you the skills, knowledge and connections that put you on an excellent path for the rest of your career in the legal profession.

Philadelphia judges are currently seeking to host law graduates as judicial fellows to provide them with substantive legal experience while benefitting the court system with additional legal talent, as part of the First Judicial District’s Judicial Fellowship Program.

The program was created last year to address the difficult hiring climate for lawyers that many recent law graduates are facing.

Participating law schools include the Earle Mack School of Law at Drexel University, the University of Pennsylvania Law School, Temple University Beasley School of Law, Rutgers University Camden Law School, Villanova University School of Law, Penn State University Dickinson School of Law and Widener University School of Law, but the judges welcome applicants from any accredited law school.

The Judicial Fellowship Program provides high-caliber law graduates professional development opportunities. At the same time, the judicial fellows help our busy court carry out key functions and maintain its superior quality of service to the Philadelphia community.

Judicial fellows work in the civil, criminal, family and orphans divisions of the Philadelphia Court of Common Pleas and Municipal Courts, carrying out the same duties as paid judicial clerks.

The fellowships help recent graduates gain valuable experience and strengthen their marketability for obtaining a paid position in law. Judges select judicial fellows through an application process administered by the court.

Each judge and fellow team designs a flexible schedule (minimum of 20 hours per week) that ensures reliable service to the judge but permits the fellow to seek a paid position elsewhere and to leave the fellowship with two weeks’ notice upon obtaining paid employment.

Philadelphia Court of Common Pleas Judge Lisa M. Rau developed the program with help from Drexel Law Professor Chapin Cirmino as well as faculty and administrators from career services offices at the Penn and Temple law schools.

During the first year of the program’s existence, 88 percent of the 30 judicial fellows left their fellowships having successfully secured paid positions.

Judge Rau saw the opportunity for a double-fill-the-gap experience: while recent grads were suffering from gaps in employment opportunities, the Court had gaps of its own to manage. Due to state budget constraints, the First Judicial District had less than a full complement of judges, yet remained committed to both efficiency and quality.

And now, the court can draw upon the talent of new graduates to maintain these commitments while at the same time provide real-work experience to graduates.

The fellows immediately put their law degree to work, preventing a gap on their resume, while actively cultivating contacts inside the Bar and expanding their network.

Tell Us What You Think!

The Philadelphia Bar Reporter welcomes letters to the editors for publication. Letters should be typed. There is no word limit, 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: Jeff Lyons, Senior Managing Editor, Philadelphia Bar Reporter, Philadelphia Bar Association, 1101 Market St., 11th Floor; Philadelphia, PA 19107-2911. Phone: (215) 238-6345. Fax: (215) 238-1139. E-mail: reporter@philabar.org.

Notice to Potential Judicial Candidates

The Commission on Judicial Selection and Retention of the Philadelphia Bar Association evaluates the qualifications of persons seeking appointment or election to the Philadelphia Common Pleas and Municipal Courts.

Individuals who wish to be considered for appointment or who are considering filing for the 2013 primary election as judicial candidates should contact the Commission on Judicial Selection & Retention c/o Charles J. Klitsch, Esq., the Bar Association’s Director of Public and Legal Services, to obtain a Judicial Evaluation Questionnaire, the Commission’s Guidelines for Evaluation of Attorney and Judge Candidates and Bylaws of the Philadelphia Bar Association.

In order to ensure that each candidate receives a full and fair evaluation, the completed questionnaire must be returned by Monday, Dec. 3, 2012 to “Judicial Commission” at 1101 Market St., 11th Floor, Philadelphia, PA 19107-2911. Also, candidates who have previously been evaluated by the Commission are invited to contact the Association to determine whether their ratings are current by calling Mr. Klitsch at (215) 238-6326. Individuals are reminded that under the Commission’s Guidelines, any candidates who do not participate in the Commission’s evaluation process will receive “Not Recommended” ratings if they continue to pursue either appointment or election.

Gaetan J. Alfano, Esquire
2012 Chair, Commission on Judicial Selection and Retention
Credibility, Control Key in Court

By Benjamin F. Johns

Credibility and control. That advice about how to handle one’s self in the courtroom was once given from legendary trial lawyer and former Chancellor Joseph H. Foster to Thomas J. Duffy, and was among the points that Duffy shared with members of the Medical Legal Committee at a July 25 discussion on medical malpractice litigation.

Duffy illustrated how the credibility and control theme played out by discussing a recent case involving the emergency room at Temple University Hospital that he successfully tried to a $21 million verdict.

That case involved a 56-year-old diabetic man with severe hyperglycemia who had been admitted to the hospital’s emergency room several times. He ultimately suffered a debilitating brain injury soon after he was released from the emergency room. The theory of Duffy’s case against the hospital was that, under the circumstances, their decision to release him was a breach of the applicable standard of care.

Duffy explained how he was able to use a procedural tool – a certificate of non-involvement – filed by one of the emergency room doctors who was trying to get out of the case to bolster his theory. This certificate, which essentially said that this ER physician did not treat the plaintiff, was useful in showing that no one was watching him for several hours, Duffy said. He supplemented this portion of the seminar by showing taped deposition testimony from one of these witnesses. He also told the audience how he prepared and showed the jury a “day in the life” story about the plaintiff. While he clearly is comfortable presenting taped videos and deposition testimony at trial, Duffy said that he prefers not to do so in his opening statement because of the risk that it could elicit objections and lead to a distracting sidebar conversation.

Duffy also shared several practice pointers and war stories. In the context of the Temple ER case, Duffy explained how he likes to affirmatively introduce bad facts (i.e., that the plaintiff liked to drink) to the jury himself. Duffy said that his general preference is to present his case quickly so as not to lose the jury’s attention – something he referred to as the “Law and Order method.” This also forces the defendants to try to match that fast pace.

As far as preparing for trial, Duffy reads every piece of paper in the file and prepares every case as if it is going to trial. He pointed out that a good motivator used by Foster was to have jelly doughnuts available for those who came into the office to work on Saturdays.

Duffy also shared some general observations about trends in the practice. Somewhat surprisingly, he said that the plaintiff’s bar has embraced the requirement of obtaining a certificate of merit for medical negligence cases. This has forced plaintiffs to evaluate cases more carefully and to be more selective in the cases that are filed. As Duffy explained, gone are the days where a “Dr. Detroit”/OB-GYN doctor could serve as an expert in an anesthesia case. Duffy also said that plaintiff’s lawyers can no longer just sue with an injured person; you need to have both a coherent theory and medicine on your side.

Duffy had very complimentary remarks about the quality of lawyers who both bring and defend medical malpractice cases, describing the relatively small bar as the “gold standard” of trial lawyers. He did point out that the defendants tend to have an advantage from the outset because they will have a better understanding early on, based on speaking with the carrier and/or doctor, as to which cases they are likely to settle.

Benjamin F. Johns (BEJ@chimicles.com) is an associate with Chimicles & Tikellis LLP.
Defendant Must Show Need for PCRA Relief

By Angie Halim

In Post Conviction Relief Act filings or hearings, it is the defendant’s burden to demonstrate that he is entitled to relief by a preponderance of the evidence, members of the Criminal Justice Section were recently told.

Burton Rose and Robin Godfrey were the featured speakers at the Section’s July 31 meeting.

Starting with the basics, Godfrey explained that following a conviction and sentence in non-capital cases, defendants have 10 days to file post-sentence motions and 30 days to file an appeal to Superior Court. If unsuccessful at the Superior Court level, a defendant must then seek allocatory to the Pennsylvania Supreme Court. Each step is relevant for determining the applicable deadline for a PCRA filing.

Rose and Godfrey’s presentation made clear that timing is perhaps one of the most critical factors to the survival of a PCRA claim. Defendants have one year from the time a judgment is made final to file a PCRA. Absent three exceptions, Godfrey said, the one-year time bar is absolute and regardless of the strength of the claim, if it is not timely filed it will be dismissed. Also strictly applied to PCRA claims is the requirement that a defendant be “serving a sentence.” A defendant must be in prison, on probation or parole to bring a claim; if a defendant finishes his or her sentence anytime while the PCRA is pending, he is “out of court,” explained Godfrey.

One of the three exceptions, cases involving interference by governmental officials, is extremely rare. The remaining two exceptions, however, are more commonly seen in PCRA filings. The discovery

continued on page 15

Naturalization Speakers

Photos by Jeff Lyons

U.S. Magistrate Judge L. Felipe Restrepo (above, from left) and Chancellor-Elect Kathleen D. Wilkinson spoke to new American citizens at a July 26 naturalization ceremony presided over by U.S. District Court Judge Timothy J. Savage. Eighty-four people from 40 nations took the oath of citizenship in the program sponsored by the Philadelphia Bar Association.
Celebrating the 132nd Edition of The Legal Directory!

This trusted resource has been the #1 choice for attorneys, legal staff and businesses for over a century and is available in three formats: print, online and a mobile version to use when you’re “on-the-go.”

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WOMEN IN THE PROFESSION COMMITTEE

With an Obstreperous Opponent, Keep Your Cool

By Megan Q. Miller

When facing an obstreperous opponent in or out of the courtroom, remain calm, a Philadelphia Court of Common Pleas judge advised members of the Women in the Profession Committee.

The program defined an obstreperous lawyer as someone who repeatedly violates the rules of civil procedure, badgers witnesses and opposing counsel, or uses the judicial process for an improper purpose.

Judge Frederica A. Massiah-Jackson opened the discussion by stressing that despite the common misconception, the obstreperous lawyer is not gender specific. However, Judge Massiah-Jackson noted the frequently used tactics of speaking objections and talking over opposing counsel. She also emphasized the importance of remaining calm, which will make the antagonistic attorney seem somewhat foolish and build the compliant attorney’s credibility.

On a similar note, Philadelphia Court of Common Pleas Judge Marlene F. Lachman asserted that “thinking globally” in terms of your ultimate goal is an effective way to deal with the obstreperous lawyer. As emotions tend to run high at bar, inciting a reaction from opposing counsel may be a strategic move on the part of an aggressive attorney. Judge Lachman stated that losing your cool will not likely benefit your client, but rather your opponent may benefit from your

resolution backs city on women’s participation

By Jeff Lyons

A resolution supporting and commending Mayor Michael A. Nutter and City Council on examining the level of women participation on executive boards in companies that contract with the City of Philadelphia has been unanimously approved by the Board of Governors.

The measure, introduced at the Board’s July 26 meeting, supports and commends the Mayor and the City Council’s Committee on Commerce and Economic Development in holding hearings and in examining the level of women participation on executive boards in companies to ensure that all companies that receive City contracts take a proactive role in producing boards that are more reflective of the population demographics of the City and reflect the growing number of women in the workplace.

The resolution also states that diversity on executive boards is important. Marks said research from the Catalyst Group showed that having more women on executive boards positively affects hiring and diversity within the company.

Women in the Profession Committee Co-Chair Lauren P. McKenna, Heidi G. Villari, Sheryl L. Axelrod, Judge Frederick A. Massiah-Jackson, moderator Kathleen Kirkpatrick, Judge Marlene F. Lachman and Committee Co-Chair Emily B. Marks before the July 31 program.

continued on page 21

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Philadelphia Court of Common Pleas 25th Anniversary Celebration GOLD SPONSOR
What Do I Do With MLR Rebate?

By Brian McLaughlin

As a part of the Affordable Care Act, insurance carriers are required to satisfy certain medical loss ratio (MLR) thresholds. This generally means that for every dollar of premium a carrier collects with respect to a major medical plan, it should spend 85 cents in the large group market (80 cents in the small group market) on medical care and activities to improve health care quality. If these thresholds are not satisfied, rebates are available to enrollees. These rebates do not apply to self-funded plans.

Carriers determine MLR on a state basis by market segment (individual, small group or large group).

A carrier is not required to provide a rebate to an enrollee if the total rebate owed is less than $20 per subscriber ($5 when a carrier pays the rebate directly to each subscriber). This rule regarding de minimis amounts only applies to the carrier, not to employers refunding amounts to participants.

HHS has announced that 12.8 million Americans are likely to see a benefit from $1.1 billion in rebates from insurance companies during the summer of 2012. The rules around rebates are complex and require careful review with ERISA counsel. Among other things, an employer receiving a rebate as a policyholder will need to determine:

- who receives a rebate (e.g., current participants vs. former participants);
- the form of the rebate (e.g., premium reduction v. cash distribution);
- the tax impacts of any such rebate (on both the employer and participants receiving the rebate); and
- what, if any, communication to provide participants regarding the rebate.

Carriers must process rebates that must be paid by Aug. 1 each year. Carriers will be required to make the first round of rebates to consumers in 2012. A carrier that fails to timely pay any rebate must additionally pay the enrollee interest at the current Federal Reserve lending rate or 10 percent annually, whichever is higher.

Carriers will generally send rebate checks to employers and employers must mete out any amounts attributed to employer contributions to employees and handle the tax consequences. There is no one formula for employers to use, but guidance has been provided to aid employers. Employers are required to return the participants portion, within three months of receipt.

Employers are required to give some or all of the rebates to employees unless they paid 100 percent for all tiers of coverage. Employers do not have to notify employees, but they may want to address the notices being distributed by the carriers. Language similar to the following provides a starting point for such a notice:

Employers should have received a notice of rebate from [carrier]. In short, [Employer] received a rebate check in the amount of $_____. Amounts attributable to participant contributions will be used to [reduce premium amounts] for [currently enrolled employees] in accordance with legal requirements. These amounts will be reflected in the [August ____] paychecks.

For 2011 only, carriers who are not required to provide MLR rebates for 2011 because their 2011 MLR meets or exceeds the standard must nonetheless provide a notice regarding the MLR requirements to policyholders and enrollees. Reductions in future premiums for current participants is probably the best method. If proceeds are to be paid to participants in cash, the DOL is likely to require that payments go to those who participated in the plan at the time the proceeds were “generated,” which may include former employees. An option that may be easier to administer is to keep the proceeds in the plan and provide a “premium holiday” (suspension of required premiums) or a reduction in the amount of employee-paid premiums.

To recap, here are some options to consider:

- Reduce future premiums for current plan participants. This is administratively easy with limited tax issues with respect to participants.
- Cash payments to current participants. This is administratively burdensome and results in tax consequences to participants.
- Cash payments to former participants. This is administratively burdensome and results in tax consequences to former participants.
- The employer could also consider, with counsel, whether providing benefit enhancements or payment of reasonable plan expenses would be considered permissible.


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

**Bar Foundation**

**DLSC Members Chip in for Voter ID Case**

For the last few months a raging argument has swirled around Pennsylvania’s Voter ID law, a law that was passed by Republican lawmakers over the vociferous objections of Democrats and that, in one side’s view, is a common sense effort to ensure that the polls are free of voter fraud, and, in the other’s view, is a blatant attempt to disenfranchise minorities, the poor and the elderly who, it is assumed, will vote Democrat. The debate blew in a whirlwind of legal activity that, regardless of the rights and wrongs of each side’s position, is why I write of it here.

Many of our legal services organizations are involved in a legal challenge to the law that was first filed in Pennsylvania’s Commonwealth Court. The court denied plaintiffs’ request for a preliminary injunction that would have stopped the implementation of the law in the November election. Although, as I write, the decision has yet to be appealed to the Supreme Court, there is every indication that it will be. It is, thus, likely that when you read this, the matter will be under consideration by Pennsylvania’s Supreme Court.

This is not a place to get into whether or not the law is the right thing to do or not. Neither am I sufficiently close to the briefing to discuss the merits of the arguments on either side, but I do want to use this as an illustration of the unique and wonderful nature of our public interest community in Philadelphia and how honored the Bar Foundation is to be a part of helping make it work.

The lawsuit in question, *Applewhite v. Commonwealth of Pennsylvania*, was filed by the ACLU of Pennsylvania and the Public Interest Law Center of Philadelphia in conjunction with the Advance ment Project and Arnold & Porter LLP, a Washington, D.C. law firm. Homeless Advocacy Project wrote an amicus brief (as did SeniorLAW Center) and provided expert testimony. And, one of our smallest grantees, Face to Face Legal Clinic, Applewhite is a 92-year-old African American woman who worked as a welder during World War II and marched with Dr. Martin Luther King Jr. during the civil rights movement. Applewhite has voted in nearly every election since at least 1960, but was unable to obtain identification that complies with the new voter ID law.

Face to Face Legal Center Director Niki Lutd said of identifying Applewhite for the case, “We knew immediately what the voter ID law was going to mean for our clients because we have such an intimate relationship with them. The legal needs they come to us for are the most basic aspects of their lives. For Viviette, the right to vote is one of these.” Applewhite was lucky. After she testified, PennDOT took an interest in her case and found a way to get her an ID card.

Both of the executive directors of ACLU of Pennsylvania and the Public Interest Law Center of Philadelphia, the organizations taking the lead in this case, are members of the Delivery of Legal Services Committee (DLSC), a Bar Association committee that the Bar Foundation helps support. Every month, the executive directors of the public interest agencies of Philadelphia come together to discuss legal issues that are affecting their clients. The synergy created by this monthly gathering creates a whole that is much greater than the sum of its parts.

The Voter ID case is a prime example of this. When it first became apparent that the state was considering this law, Reggie Shuford, executive director of ACLU PA, knew he could come to a DLSC meeting to get support. “Not only was I able to get valuable feedback on our litigation strategy but, importantly, I knew that I could rely on my DLSC colleagues to help identify named plaintiffs who could demonstrate the various ways the law would disenfranchise citizens if allowed to stand. I also know, whatever the outcome of the litigation, the DLSC organizations will be there to spread the word and to help people do what they need to do in order to vote in November and beyond.”

Jennifer Clarke of the Public Interest Law Center of Philadelphia was one of four attorneys filing the original petition on either side, but I do want to use this case as an illustration of the unique and wonderful nature of our public interest community in Philadelphia and how honored the Bar Foundation is to be a part of helping make it work.

Recent Gifts to the Bar Foundation

**In Memoriam**

In memory of Karen Detamore, former executive director at Friends of Farm workers and an active member of the public interest legal community, the following individuals made gifts to support a scholarship for law students pursuing a career in public interest law: Wendy Beetlestone, Jonathan Blazer, Judith M. Buchanan, Barton Byg, Donna Detamore, Robin B. Devin, S. David Fine man, Kenneth J. Horoho, Sara Jacobson, Brian T. Keech, Holly Maguignan, Daniel Mayfield, Carl Tobe y Ochsolm III, Sarah H. Pauletti, Edward M. Posner, Abraham C. Reich, Mary Catherine Roper, Louis S. Rulli, Sally A. Simmons and Elizabeth Thrall.

Deborah R. Gross and Amy B. Ginesky each made a contribution in memory of U.S. District Judge Louis H. Pollak, a former dean of the University of Pennsylvania Law School and an advocate for the rule of law in the public interest. As a young lawyer, he volunteered for the NAACP Legal Defense Fund, helping to draft the briefs in *Brown v. Board of Education*.

Amy B. Ginesky and Deborah R. Gross each made a gift in memory of Tom Stokes, musician and psychologist and brother-in-law of Lynne Brown, executive director of the Philadelphia Bar Foundation.

Amy B. Ginesky donated in memory of Donald J. Goldberg, a Philadelphia trial lawyer and special counsel at Ballard Spahr Andrews & Ingersoll, LLP.

**Tribute Gifts**

Philadelphia Business Journal made a gift to honor Mark Tarasiewicz, associate executive director of the Philadelphia Bar Association, on the occasion of his induction into the Philadelphia Public Relations Association Hall of Fame.

Judy Berkman made a gift to honor Lilu G. Roosberg for being a trailblazer and a mentor for the women attorneys at Ballard Spahr LLP.

**How You Can Help in Voter ID Cases**

SeniorLAW Center has been asked to help spearhead legal clinics for the Pennsylvania Voter ID Coalition. Anyone interested in helping people obtain IDs can email Karen Buck of SeniorLAW Center at kbuck@seniorlawcenter.org. Or, any voters needing legal assistance can call the SeniorLAW HelpLine at 877-PASRLAW.

Homeless Advocacy Project, along with PECO Exelon, will be hosting a birth certificate clinic on Wednes day, Sept. 12 from 9 to 11:30 a.m. at PECO’s headquarters at 2301 Market St. Legal volunteers from PECO Exelon and local corporations will help.

Student Advocate Project, along with PECO Exelon, will be hosting a birth certificate clinic on Wednes day, Sept. 12 from 9 to 11:30 a.m. at PECO’s headquarters at 2301 Market St. Legal volunteers from PECO Exelon and local corporations will help.

The Villanova Law School Pro Bono Society is hosting a birth certificate clinic at Face to Face Legal Clinic in Germantown on Saturday, Sept. 8. In addition to taking birth certificate applications, the law students will be advising the clients on what they need to do to obtain an ID.
How do lawyers attract potential clients to their websites when the average attention span is less than that of a goldfish? Candace Roberts had the answer to that question and more during her presentation “Getting Found on the Internet (Or, What is Search Engine Optimization and Why Should I Care?)” at the Aug. 14 meeting of the Solo and Small Firm Committee. Roberts is the founder and president of Quantum Think, which specializes in web development, print design and brand identity.

“Search engine optimization” is defined as the process of improving the visibility of a website or a web page in a search engine’s “natural,” or unpaid, search results. The statistics tell the story of why law firms should care: the average attention span is less than that of a goldfish; the total number of pages indexed by Google rose from 17 billion in 2009 to 46 billion in 2011, while the average attention span fell from 12 seconds in 2000 to 8 seconds in 2012 and only 4 percent of page views lasted more than 10 minutes. Social media is another area where law firms should have a presence. Again, the statistics tell the story: 1.2 billion Facebook users, 490 million unique YouTube users per month and over 100 million registered Twitter users. Roberts recommended that firms create a firm page on Facebook and LinkedIn, prepare videos that can be placed on YouTube and the firm’s website and use Twitter to promote the firm’s community activities.

Further, website visitors stay longer and are more responsive when there is dark text on a light background. The website should have HTML and XML sitemaps, a robots.txt file that provides information to the search engine bots, unique titles for each page and searchable content. Fresh content, including press releases, blogs and newsletters, is needed to achieve (and maintain) a high search engine ranking. Roberts said that blogging is one of the easiest ways to keep website content fresh, and two of the more popular blogging programs are Blogger.com and Wordpress.com.

Make Web Search Engines Work for You

By Edward P. Kelly

YLD at the ABA Annual Meeting

Rachel Kopp, one of the Philadelphia Bar Association’s liaisons to the American Bar Association’s Young Lawyers Division, meets with ABA YLD Chair Michael Bergmann at the ABA Annual Meeting in Chicago in August. Bergmann presented Kopp with a “Star of the Year” award for her work as a key member of his leadership team.

Conference Marks ICC Anniversary

Members of the Philadelphia Bar Association are invited to a Monday, Sept. 10 conference celebrating the 10th anniversary of the International Criminal Court and commemorating the 225th anniversary of the signing of the U.S. Constitution in Philadelphia.

This special conference, to be held at The Free Library of Philadelphia, will be the kickoff for a series of seminars and events during the academic year 2012-2013.

The program, which runs from 2 to 6 p.m., includes a video address from Judge Sang-Hyun Song, president of the International Criminal Court. Michael S. Greco, ABA past president (2005-06) and chair, Advisory Council, ABA Center for Human Rights, will present the ABA mission to strengthen, regularize and broaden U.S. engagement with the ICC. There will also be a moderated panel discussion and the announcement of the launch of Rule of Law Model UN. For more information and to register, visit www.una-gp.org/global.initiative.

An additional afternoon seminar is scheduled for Thursday, Nov. 8 at Temple University Beasley School of Law. Judge Sanji Maseenono Monageng, first vice president of the International Criminal Court, will be the guest speaker.

Join Eight Judges at Bankruptcy CLE

JOIN A PANEL OF EIGHT U.S. BANKRUPTCY COURT judges at the 17th Annual Bankruptcy Institute on Thursday, Sept. 20.

The Institute will be joined this year by Eastern District of Pennsylvania Judges Magdeline D. Coleman, Richard E. Feiring, Jean K. Fitzsimon and Eric L. Frank; District of Delaware Judge Kevin J. Carey; and District of New Jersey Judges Gloria M. Burns, Rosemary Gambardella and Raymond T. Lyons.

Representatives of the U.S. Trustee’s Office, along with Chapter 13 and Chapter 7 Trustees, consumer, commercial and creditor attorneys, and tax experts will also be on hand. A total of 6 CLE credits are available for the program, to be held at The CLE Conference Center on the 10th floor of the Wanamaker Building, Market and Juniper streets, beginning at 9 a.m.

The Institute offers a wide array of topics and individual workshops that will allow you to customize the seminar to your practice, and again this year, we will have a full track for newcomers to consumer bankruptcy or for those who just need to brush up on the basics of consumer bankruptcy law. For more information or to register, visit pbi.org.
Bench-Bar & Annual Conference

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Twenty-one CLE seminars with a maximum of 6 credits are available at the 2012 Bench-Bar & Annual Conference Oct. 5-6 at Revel in Atlantic City.

The State Civil Litigation Section will present “Oyeh, Oyeh: New Order in the Court.” Judges from the Philadelphia Court of Common Pleas will provide an overview on everything from new procedures in place in the civil program, complex litigation program, commerce court program and day forward programs, including changes made with discovery court. This will be a “must-attend” program for all civil attorneys. Panelists for this program are Administrative Judge John W. Herron, Philadelphia Court of Common Pleas Judge Marlene E. Lachman, Philadelphia Court of Common Pleas Judge Idee C. Fox, Philadelphia Court of Common Pleas Judge Patricia McNerney and Philadelphia Court of Common Pleas Judge Nitra I. Quinones Alejandro with moderators Philadelphia Court of Common Pleas Judge Sandra Mazer Moss and Chancellor-Elect Kathleen D. Wilkinson.

The Family Law Section will present “Crossing the Legal Custody Line” from course planners Julia Swain and Megan Watson. Panelists will address which decisions rise to the legal custody threshold; which decisions of legal custody decisions bear upon parental fitness; how determinations are made when parents conflict on a legal custody decision; and, an overview of contemporary legal custody issues such as nutrition, cell phones, Internet and social media. Panelists include Philadelphia Court of Common Pleas Judge Angeles Roca, Ann M. Funge, Mark A. Momjian and James A. Rocco III.

“Linsanity, Linguistics and the Law,” presented by the Diversity in the Profession Committee, features panelists Cynthia Ceow, Mary Catherine Roper, Kay Yu and Zac Stalberg, along with moderator Stella Tsai. This panel discussion will examine the etymology of racial slurs; a survey of laws and regulations that are designed to combat the use of racial slurs and other forms of hate speech in commerce; the protections afforded by the First Amendment; and a review of alternative measures.

“When Constitutional Law Meets Flash Mobs – A Practical Method to Inform Juveniles About First Amendment Rights and Limitations” will be presented by the Advancing Civics Education Committee with panelists Philadelphia Court of Common Pleas Judge Genevieve B. Britchley, Elvin P. Ross III, Renee Bergmann and Mark A. Momjian.


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Prepare yourself for litigating in the five-county region of Bucks, Chester, Delaware, Montgomery & Philadelphia Counties. Our impressive faculty will fill you in on the “nuts & bolts” of civil practice, with an emphasis on the practical ways to move your case from filing to trial. Panelists include Philadelphia Court of Common Pleas Administrative Administrative Judge John W. Herron, Philadelphia Court of Common Pleas Supervising Judge Allan T. Tresehko, Montgomery County Court of Common Pleas Judge Carolyn T. Carluccio, Montgomery County Court of Common Pleas Judge Robert J. Mellon, Delaware County Court of Common Pleas Senior Judge Charles B. Burr II, Chester County Court of Common Pleas Judge Robert J. Shenkin, Court Administrators Michael E. Kehl, Charles A. Mapp Sr., Gerald C. Montella, Douglas R. Prael and David D.

continued on page 13
Wasson III. The course planners are Mark N. Cohen and Robert T. Szostak. This course is worth 2 CLE credits.

Presented by the Bar-News Media Committee, “Social Media and the Practice of Law” will present attendees with a better understanding of the do’s and don’ts of social media as it relates to litigation, communicating with judges, “friending” clients and witnesses, protecting your intellectual property, discovery, jury vetting and instructions, marketing and public relations. Panelists are Rachel E. Branson, John Encarnacion, Gina F. Rubel and Eric H. Weitz.

The Young Lawyers Division and Criminal Justice Section are co-sponsoring “Alternatives in Sentencing.” In general the aims of sentencing in a criminal case are divided into six different categories: retribution, deterrence, denunciation, incapacitation, rehabilitation and reparation. This has led to the creation of multiple programs including but not limited to DUI Treatment Court, Drug Treatment Court, the Do-It Program, Marijuana Court and the ARD Program. This course aims to provide an overview of the various forms of alternative sentencing options. Panelists are Philadelphia Municipal Court President Judge Marsha H. Neifield and attorneys Byron Cotter, Jill J. Holden and Denise Spadaccini.

The program “What Personal Injury and Defense Lawyers Should Know About SSI Insurance and SSD Claims” will be presented by the Social Security Disability Benefits Committee with Committee Co-Chairs Jeffrey S. Lichtman and Sanjaniita Gonzalez serving as panelists and course planners. This presentation will explain the differences in the disability programs (Social Security Disability Insurance, which encompasses individual wage earner’s benefits, auxiliary benefits, disabled adult child benefits, disabled widow’s benefits and Supplemental Security Income, which is a federal welfare benefit for persons who are indigent and over 65 or disabled).

The Women in the Profession Committee will present “Vanishing Trials: Building Trial Skills in the Age of Settlement and ADR.” The “vanishing trial” arises from a number of factors, including client pressure to settle in the face of slow and expensive civil litigation and the availability of alternative dispute services and programs. As a consequence of fewer trials, attorneys have less opportunity to develop and hone critical trial skills. This course will offer perspectives from the bench. Panelists are Philadelphia Court of Common Pleas Judge Sandra Moss, Philadelphia Court of Common Pleas Judge Patricia A. McNerney, U.S. Magistrate Judge L. Felipe Restrepo, U.S. District Court Judge Cynthia M. Rufo, Pennsylvania Superior Court President Judge Correale F. Stevens and Lauren P. McKenna.

The program “Violence in the Workplace” will examine the legal aspects of violence in the workplace applicable to workers’ compensation law, including the personal animosity defense; psychiatric claims; evidentiary problems encountered in litigation; and considerations for practitioners representing workers and employers. Panelists for this Workers’ Compensation Section program are Workers’ Compensation Judge Todd Seelig, John P. Dogum, Hilary S. Cornell and Dr. Gladys S. Fenichel.

Philadelphia has a new zoning code that was implemented on Aug. 22. Do you work and/or live in Philadelphia? Do you enjoy the amenities that Philadelphia offers after-hours? A faculty, experienced in land use, will discuss land use and zoning in “New Developments in Zoning in Philadelphia.” Panelists for this Real Property Section program are Stephen G. Pollock, Dawn M. Tancredi, Cheryl Gaston and Stella Tsai.

Saturday morning’s CLE offerings begin with “E-Discovery in Pennsylvania Courts.” This panel presentation will highlight electronic discovery in our Pennsylvania state courts, the impact of recent caselaw concerning the taking of “social media” electronic discovery, the absence of any substantial rule-based guidance concerning electronic discovery and its effect on discovery requests/ burdens. Panelists include Philadelphia Court of Common Pleas Judge Mark I. Bernstein, Edward T. Butkovitz, Sophia Lee and Laurence Z. Shickman.

The Business Law Section will offer “From the Board Room to Court Room – An Update on Commerce Court Litigation.” The panel will explore key topics, including the applicable provisions of the Pennsylvania Business Corporation Law, key differences between Pennsylvania and Delaware law, the duties of officers and directors, the Cuker decision, and the role of Special Litigation Committees in derivative litigation. The panel will address these issues in what we hope will be a relatively informal hour with active audience participation. Panelists are Philadelphia Court of Common Pleas Judge Patricia McInerney, Susan Packier, Michael L. Kichline, M. Norman Goldberger, Michael D. Donovan and moderator Marc Sonnenfeld.

In “The Opportunities and Ethics of Pro Bono Representation,” panelists will cover the ethical responsibility of pro bono service for attorneys not employed in the public sector and offer concrete opportunities for pro bono service. The panel will cover a variety of ethical rules that relate to pro bono and limited representation.  

CLE Seminars continued from page 12
Special Revel Room Rate for Bench-Bar Attendees

A special group hotel room rate is available for attendees of the 2012 Bench-Bar & Annual Conference on Oct. 5-6 at Revel in Atlantic City, N.J.

A rate of $179 plus tax is available Friday, Oct. 5 and a limited number of rooms are available at $149 plus tax for Thursday, Oct. 4. You must be a registered attendee of the Bench-Bar & Annual Conference in order to reserve a room at the group rate. Once you are registered for the conference you will receive instructions on how to make your room reservation online at philabenchbar.com.

One of the highlights of the Bench-Bar & Annual Conference will be Friday evening’s Swanky Soirée at the four-story HQ Nightclub from 7 to 10 p.m.

The $2.4 billion glass Revel is located on 20 beachfront acres on the Boardwalk between South New Jersey and South Connecticut avenues.

The resort is smoke-free and features more than 1,800 rooms with 47 floors of sweeping ocean views. Designed to embrace its natural surroundings, Revel curates a collection of daylife and nightlife experiences crafted to bring the outside in and the inside out. Indoor and outdoor pools, gardens, lounges, and a 32,000-square-foot spa provide guests with a relaxing resort.

CLE Programs continued from page 13

scenarios. The panel will also provide an opportunity for lawyers to learn about a variety of the public interest organizations in Philadelphia that partner with local lawyers on pro bono matters. Panelists are Benjamin Beck-Coon, Sangreta Prasad, Marguerite C. Gualtieri, Joseph A. Sullivan, Michael Taub and Sara Woods.

The Criminal Justice Section program “Evidentiary Issues and the ‘Crawford’ Test” features panelists Isla Fruchter, Prof. Jules Epstein and Kevin Harden.

The court developed a test, commonly referred to as the “Crawford” test, where a court makes a decision based on the circumstances under which the statement was given to determine if it is “testimonial” or offered for a later criminal proceeding - or for another “non-testimonial” reason. This program will address experts prepared by others and the constitutional reason. This program will address experts prepared by others and the constitutional

F. Stevens, Pennsylvania Commonwealth Court President Judge Correale J. Dimmerman, Laura A. Feldman and Molly Peckman.

The Appellate Courts Committee will present “Oral Argument From the Inside Out.” Oral argument is an important component of advocacy in both trial and appellate courts. This program will present an inside look at oral argument from the perspectives of experienced advocates and judges. The program will involve a short moot oral argument, the facts of which will be based on the appeal to the United States Supreme Court of Enoch “Nucky” Johnson from a tax fraud conviction. Panelists are Pennsylvania Superior Court Judge David N. Wecht, Judge Richard B. Klein (ret.), Kimberly A. Boyer-Cohen, Robert L. Byer and Sean R. Sullivan.

Whether you are “swimming” as a solo practitioner or practicing at a small firm or large firm, “Catch a Wave: Treading Water, Staying Afloat and Swimming to Shore” will help prepare you for the ebbs and flows of your practice’s uncertainties including managing multiple stressors, maximizing technology and minimizing expenses, all while protecting your clients’ interests and maintaining your professional and personal standards. Hear from a panel of experienced lawyers who will offer their practical advice and review best practices for law firm, law practice and career management. Panelists for this Law Practice Management Committee program are James D. Schultz, Harper J. Dimmerman, Laura A. Feldman and Molly Peckman.

The Bench-Bar & Annual Conference wraps up with a luncheon program on the State of the Courts, with reports from Pennsylvania Supreme Court Chief Justice Ronald D. Castille, Pennsylvania Superior Court President Judge Correale F. Stevens, Pennsylvania Commonwealth Court President Judge Dan Pellegrini, Philadelphia Court of Common Pleas President Judge Pamela Poynter Dembe and Philadelphia Municipal Court President Judge Marsha H. Neifeld.

Please note that all programs and panelists are subject to change without notice.
Frontline continued from page 3

work. The hiring judges in turn benefit from energetic, fresh talent in their chambers.

President Judge Pamela Pyor Dembe insightfully predicted, “This is a winner for both the courts and the new graduates.” Administrative Judge D. Webster Keogh supported the program when it began, and Administrative Judge John W. Herron has continued the court’s support.

As of this writing, 44 Philadelphia judges are now seeking to mentor fellows. In fact, the program’s biggest challenge has proved to be a largely unexpected one, which is trying to attract graduates to the post.

Help us spread the word about this valuable program. For additional information and fellowship application forms, visit the Judicial Fellowship Program’s website at www.courts.phila.gov/jfp.

John E. Saneth (jansaneth@mbk.com), of counsel to Saltz, Mongeluzzi, Barrett & Bendokry, P.C., is Chancellor of the Philadelphia Bar Association.

Elections continued from page 1

the Dec. 4, 2012 annual meeting, nominations in writing which, for candidates on the Board, must be signed by at least 25 members who are entitled to vote; for candidates for Secretary, Treasurer, Assistant Secretary and Assistant Treasurer, shall be signed by at least 35 Members who are entitled to vote; and for candidates for Vice Chancellor, shall be signed by at least 100 members who are entitled to vote.

Individuals who wish to run for any of the above named offices should contact Susan Knight, CFO/Director of Administration at sknight@philabar.org for additional information. Signatures, along with a resume, and written authorization should be submitted to Association Secretary Sophia Lee, c/o Susan Knight, Philadelphia Bar Association, 1101 Market St., 11th Floor, Philadelphia, PA 19107, no later than 5 p.m., Friday, Oct. 5, 2012.

October 2012 Philadelphia Bar Reporter 15
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Citizen, PILCOP Take on Legislative Reapportionment

By Virginia Gibson, David Newmann and Steve Loney

Amanda Holt has an unparalleled passion for the voting rights of Pennsylvania citizens. Over the past year, she has brought the Pennsylvania Constitution back into the Commonwealth’s legislative redistricting process. Holt challenged a system that preserved incumbency at the expense of the voting rights of citizens and the integrity of communities.

The Pennsylvania Supreme Court heard her voice and issued a historic decision in February 2012 invalidating a state legislative reapportionment plan for the first time since the current system was written into the state Constitution in 1968.

This 29-year-old piano teacher and graphic designer from Allentown perceived injustices in our state apportionment system and took the kind of action many lawyers dreamed of doing when going to law school. She saw that Pennsylvania’s Senate and House district boundaries carved up counties and municipalities, disregarding the interests and boundaries of Pennsylvania’s communities.

The Legislative Reapportionment Commission – a five-person body including the majority and minority leaders of the Pennsylvania Senate and House of Representatives – convenes after each census to redraw Pennsylvania’s legislative districts based on population changes. Article II, Section 16 of the Pennsylvania Constitution mandates that the Commission draw compact and contiguous districts “as nearly equal in population as practicable.” It warns, “no county, city, incorporated town, borough, township or ward shall be divided in forming either a senatorial or representative district” “unless absolutely necessary.”

Since 1968, citizens and politicians have challenged every one of the Commission’s maps. The Pennsylvania Supreme Court rejected each challenge. Holt and her non-partisan group of fellow citizens took a different approach, challenging the Commission’s plan as a whole rather than focusing on any one community, party or candidate. At hearings throughout Pennsylvania in 2011, she presented the Commission detailed maps and data showing alternative reapportionment plans that divided less than half as many counties and municipalities across the state as the proposed redistricting. The Commission’s final plan ignored her ideas.

With 30 days to petition the Pennsylvania Supreme Court and challenge the Commission’s plan, Holt teamed with Michael Churchill of the Public Interest Law Center of Philadelphia and the international law firm of Hogan Lovells US LLP to craft her petition. The looming 2012 election cycle prompted the court to order briefing in three days. In January, Holt entered historic courtroom in the Capitol Building to learn that hers was selected as the lead petition and argument before the Pennsylvania’s highest court.

Weeks later, the Supreme Court struck down the 2011 legislative reapportionment plan and remanded it to the Commission. Chief Justice Ronald D. Castille’s majority opinion in Holt v. 2011 Legislative Reapportionment Commission relied heavily on Holt’s alternative plans, developed on her own preparation for the election the message for all of us, Republicans and Democrats alike, must be, as the phrase goes, “Keep Calm and Carry On.” On Nov. 6, go to the polls and vote. If you are wont to do more, work with organizations like the Committee of Seventy to educate voters on how the law works or work pro bono on behalf of a client who currently does not have the requisite ID and try to get them ID so they do not lose their right to vote and can exercise their democratic responsibility to do so.

Nadeem Bezar (from left), vice president of the NASABA 2012 convention, joins Jollina John, immediate past president, former Pennsylvania Gov. Edward G. Rendell, and Emilie Ninan, NASABA president, at a reception during the North American South Asian Bar Association National Convention earlier this summer. More than 400 attorneys attended the convention.

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September 2012 Philadelphia Bar Reporter 17
Sky Cafe a Reminder of a Distant Journey

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As I set foot inside this tiny yellow-walled covey of Malaysian-complexioned people, Sumatran cooking-oil fragrances and of turmericily-odored chicken broths, my memory retreats to the last time I had visited Sumatra, when I had dared to set foot on the island called Nias, just off Indonesia’s west coast.

The Batak tribe of warriors who inhabit Nias had been Stone Age hunters with a sweet tooth for human heads in the 17th century. Megalithic culture still flourishes today. Five thousand islanders, although converted to Christianity by Dutch Protestant missionaries in the late 19th century, greet me and my wife, dressed to kill.

Five thousand islanders, although converted to Christianity by Dutch Protestant missionaries in the late 19th century, greet me and my wife, dressed to kill.

The drums are pounding bone deep while two dozen men with pig’s jaw masks surround me. Before I can complain, my pants have been replaced with a leather loincloth and my face is covered by a black-haired headpiece. My activity caused nothing but the slippage of the bamboo spike at rock-top while the rest of me adhered to the bowling-ball smooth stone by the suction created at impact. Sheer determination kept me crawling forward. The bounce of my legs upon the stone runway is perfectly executed. With each step I gain speed in geometric progression. My head stops for lunch in Penang and Padang along beaches in Phuket and Bali. At stops for lunch in Penang and Padang I am nourished by rice with shrimp, chillies and warmed coconut sauce. Non-fat vegetable salads (gado-gado) are a staple with sides of ground peanuts, palm sugar and touches of fermented soy beans. If I overindulged at all, it is with fruits: rambutans, mangosteens, salaks, marquisas, mangoes, dulaks and infamous durians, all of which are sold for an Indonesian rupiah at stalls in Jakarta. Frankly, I had reached a carbohydrate peak and a limberness made exquisite by Java Sea’s swimming. My physical and mental condition was that of a Batak warrior about to perform a once-in-a-lifetime feat.

I pound my chest, which I notice has more hair upon it than exists on the chests of every other person in Nias combined. I also realize that I’m barefoot. The drums stop suddenly as I begin my approach. The bounce of my legs upon the stone runway is perfectly executed. With each step I gain speed in geometric progression. My head is high. I’m bounding now readying to project my 60-odd yeared, toned, taut piece of chiseled flesh over the columnar obstacle just inches away....

I am told that my right fist reached and surrounded the bamboo spike at rock-top while the rest of me adhered to the bowling-ball smooth stone by the suction created at impact. Sheer determination kept me crawling and groeping upward in unconscious slow motion. My activity caused nothing more than the slippage of the loincloth. Just before the latter’s complete departure, my right fist reached and surrounded the bamboo spike at rock-top while the rest of me adhered to the bowling-ball smooth stone by the suction created at impact. Sheer determination kept me crawling and groeping upward in unconscious slow motion. My activity caused nothing more than the slippage of the loincloth.

By Skinny D’Bockol
Wealth Transfer: 2012 Window of Opportunity

By Jackie B. Lessman

In this month’s interview, we talk with Martyn Babitz, J.D., senior vice president and national director of estate planning for Hawthorn, a business dedicated to serving the needs of ultra-affluent families with investable assets in excess of $20 million, and we discussed estate planning issues critical for consideration in 2012 as clients and their advisors prepare for potential tax law changes in 2013.

Jackie Lessman: The current tax, interest rate and overall market environments have created unprecedented potential for effective and efficient wealth transfer. What are some of the opportunities that currently exist?

Martyn Babitz: There are a number of key factors that have created a unique and potentially brief (possibly only through year-end) opportunity. The lifetime exemption for making gifts without federal gift taxation increased from $1 million to $5.12 million per person in 2012 under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the Act).

There are several points worth noting about this exemption:
• This exemption can be used during an individual’s lifetime, with the remainder available at death to offset federal estate tax liability under the federal estate tax exemption, which is also $5.12 million this year, but scheduled to return to $1 million in 2013.
• At the end of 2012, the exemption will return to $1 million absent action by Congress.

This exemption is in addition to the annual Gift Tax exemption of $13,000 per person, per donee, as well as the exclusion for gifts to cover tuition and medical expenses. The current gift tax rate on transfers beyond these exemptions and exclusions, and the estate tax rate on assets remaining in one’s estate at death beyond the exemption, is 35 percent, scheduled to increase to 55 percent after 2012.

While most wealthy individuals have been advised, and are aware, of the tremendous opportunities for effective wealth transfer plans under current estate tax and gift tax laws, many of these same individuals are struggling to discover a suitable plan based on the above challenges. What are some of the planning techniques that are available that can preserve wealth — especially given the current tax environment?

The current window of opportunity presented by the $5.12 million lifetime federal gift tax exemption ($10.24 million for a married couple), low interest rate environment, and low asset valuations in several classes will not remain open indefinitely. Specifically, the $5.12 million unified federal gift tax and estate tax exemptions are scheduled to expire and revert to the former $1 million level on Jan. 1, 2013, absent action by Congress.

This unique combination of factors can be utilized for maximum benefit through a number of estate planning tools used in concert with a specific type of trust, which I refer to as the “2012 Family Opportunity Trust.”

A 2012 Family Opportunity Trust presents an ideal vehicle for taking advantage of the wealth transfer opportunities available in the current environment. The Trust can provide complete exemption from federal (and state) transfer tax for many generations by applying both lifetime gift tax exemption and generation skipping tax exemption to the transfers, protect against creditor and divorce claims for the transferor and beneficiaries, and allow flexibility in dealing with beneficiaries and changing laws over the long duration of the trust.

Furthermore, in concert with several other estate planning tools, such as gifting valuation discounted assets, life insurance, sales of GRAT or CLAT remainders, family loans, and sales of assets to the Trust, the wealth transfer possibilities of a 2012 Family Opportunity Trust can be substantially magnified.

By taking advantage of the current lifetime gift exemption by transferring to a specially suited trust, an individual may create a myriad of opportunities for the benefit of family members, potentially for generations to come, on a completely transfer tax free basis (transfer taxes being defined as federal Estate Tax, Gift Tax, and Generation Skipping Tax). Can you further describe some of the potential beneficial impact?

There are a number of benefits, for example, assuming a modest 3 percent net annual growth rate of the assets of an appropriate trust, a $10 million transfer would grow to more than $186 million over a 100-year period, as compared to about $9 million, or less than the initial amount of assets, over that same period, if the assets are subject to federal Estate Tax (assumed at the scheduled 55 percent rate for 2013 and beyond) in each generation at actuarily reasonable time intervals.

In addition, as a grantor trust for federal income tax purposes, the Trust would avoid income tax liability on taxable interest, dividends and capital gains until the transferor’s death; as such, items would be taxed directly to the grantor. From a wealth transfer perspective, this allows the assets of the Trust to grow more rapidly, undiminished by income tax liability. The payment of income tax attributable to the Trust by the grantor, which directly benefits the Trust beneficiaries, is not considered a gift by the grantor to the Trust for federal gift tax purposes, allowing a significant additional Gift Tax-free transfer annually by the grantor for the benefit of his descendants for the duration of his life. There are other significant planning opportunities to consider as well, so clients and their advisors may want to review and seriously consider utilizing a 2012 Family Opportunity Trust for gifting before the window closes on these unprecedented wealth transfer possibilities.
Galfand Berger: 65 Years Of Paying It Forward

By Debra A. Jensen and Norman Weinstein

For Galfand Berger LLP, 2012 marks a milestone in our history. It was 65 years ago that our firm began its mission of helping people. Our success is attributed in large measure to a great legacy passed from each generation of attorneys to the next. In part, a common thread that binds our firm’s history—beyond quality and successful advocacy—is the principal belief that lawyers have a responsibility to be agents of change in the community.

From the time our firm was established, we understood that making a difference in the lives of clients is a rewarding job; however, making a difference in the broader community is an equally enriching responsibility. At Galfand Berger, we embrace a favorite Winston Churchill quote, which informs our actions in and out of the office. Churchill said, “we make a living by what we get but we make a life by what we give.” Throughout our firm history, the attorneys and staff have embraced this value. For us, civil justice and social justice go hand-in-hand.

Most often, we are the real beneficiaries of this philosophy. Indeed, from such communal engagement comes an intimate portrait of the clients and communities we serve. This translates into a greater appreciation of the challenges they face. In the end, we simply become better lawyers as a result of civic engagement.

However, such engagement may not be natural to every firm’s culture. Instead, community outreach must often evolve through the encouragement and guiding example of firm leadership. By embracing civic engagement and social justice, firm leaders signal to their colleagues the importance of lawyers as positive agents of change. Of course, a pleasant consequence of embracing such efforts—besides the impact on community and self—is the benefit to the firm. Active roles in the community provide a fertile ground for preparing a firm’s next generation of leaders. And, these new leaders pay it forward to the generation that follows. Soon, 65 years will have passed and your firm’s legacy will include the good work of well-trained lawyers instilled with the notion that from good deeds spring good business, too.

One simple way of nurturing community leadership is through support of the Philadelphia Bar Foundation’s “Raising the Bar” campaign. It is easy to do and only requires a minimal commitment. At our firm, we support the Bar Foundation, we serve on nonprofit Boards, we have helped establish community foundations and nonprofits, and we fundraise for a variety of charities.

Here are some examples of the generational impact of community leadership at our firm and its lasting legacy. In 65 years, you can accomplish so much! Joe Lurie, an early partner at our firm (now retired from Galfand Berger) to focus on his nonprofit work), established the Peggy Browning Fund, named after his late wife and well-known labor rights attorney. The Peggy Browning Fund provides law students with diverse, challenging work and educational experiences in the area of workers’ rights. Through Joe’s commitment to community the next generation of leaders learned the value of giving back.

Marc Jacobs, another early partner still working at Galfand Berger, volunteers at Children’s Hospital, visiting children and helping cheer them; he volunteers with Reading for the Blind, helping make record-ings; he delivers food to the homeless and has been president of the Workers’ Compensation Sections of the Pennsylvania and Philadelphia Bar Association and served as a member of the Governor’s Committee on Proposed Amendments for Workers’ Compensation Rules and Regulations. Marc also guided our firm as it established the Martha Hampton Award, honoring our former partner and well-respected attorney Martha Hampton.

Richard Jurewicz, one of our firm’s senior partners, founded Kids’ Chance of Pennsylvania, Inc. This Foundation provides scholarships for college and vocational training to children of Pennsylvania workers who have been killed or seriously injured in a work related accident.

Peter Patton, another senior partner, is active in the Brain Injury Association, a nonprofit dedicated to brain injury prevention, research, treatment and education and to improve the quality of life for all people affected by brain injury. Pete is also active in the System Safety Society, an organization committed to reducing workplace injuries through safer product design.

Finally, as managing partner of Galfand Berger, I have the honor and responsibility of cultivating the firm’s social justice culture through my direction and example. I serve as a trustee with the Legal Clinic for the Disabled and in 2012, established Galfand Berger’s Community Outreach and Social Action program, hiring my co-author of this article, Norman Weinstein as its chair.

Our firm’s next generation of leaders is following in their predecessors’ footsteps and likewise take an active role in the community. Here are some examples: Arthur Bugay has volunteered with the Disability Law Network of Pennsylvania, Legal Clinic for the Disabled, the Consumer Bankruptcy Assistance Project for Philadelphia Community Legal Services, and is a charitable fundraiser for a variety of nonprofits. He is also a member of the Pennsylvania Association of Justice, Amicus Curiae Committee.

Michael Malvey serves as a board observer with Esperanza Immigration Legal Services through a new program of the Young Lawyers division of the Philadelphia Bar Association and the Philadelphia Bar Foundation. Henry Yampolsky, through this same program, serves as a board observer on the HIAS Pennsylvania board. Henry is also a member of the New World Association of Immigrants from Eastern Europe. And, recently, Henry became a member of the Pennsylvania Association of Justice, Amicus Curiae Committee.

Recent additions to Galfand Berger have joined our firm, in large part, because of our community efforts. In our experience, creating an environment that fosters social justice invites talent. Both Marla Soffer and Norm Weinstein joined our firm in 2012 because they knew our firm would encourage and support their social justice efforts. Marla sits on the board of the Pennsylvania Immigration and Citizenship Coalition, is a member of Puentes Latino Collaborative of Montgomery County, and volunteers with Philadelphia Volunteer Lawyers for the Arts and the Free Library of Philadelphia. Norm is trustee of the Philadelphia Bar Foundation, is a trustee and past president of HIAS Pennsylvania as well as past president of Philadelphia Volunteer for Indigent Program.

So, what has giving back taught us? It is not only a wonderful reward for the individual and the community but also is a great way of shaping a successful practice. Social justice and community outreach helps nurture future leaders, attracts remarkable talent, and cultivates a proud legacy.

Debra A. Jensen is managing partner of Galfand Berger LLP; Norman Weinstein is chair of Galfand Berger LLP’s Community Outreach and Social Action Program.

Sky Cafe continued from page 18

lose your head, I’ve got the case on a one-third contingency.”

Sky Cafe’s informative picture-laden menu is divided among three pages, “Noodles,” “Rice,” and “Starters or Sides.” Begin with Chicken Satay ($6 for 5 skewers). Before your eyes appears a pool of choice chicken chunks embossed with piquant peanut sauce. Or Satay Padang ($6.50 for 4 skewers) of “beef” (actually ground chicken, pork, sausage, Medan Island. Sky’s “Rice” platters ($6-$7.50) are boisterously partnered with boiled eggs (some to a purple hue), anchovy, barbecued meats and fried fish, tempeh, potato parties, crackers, pork belly and pickles. Avoid nothing; and the wait staff will never lead you astray. They will be playfully helpful by noting what edible might be too extraordinarily peppery-hot or too savory-smelling or pungent. Don’t worry. This luncheonette-looking lair launches legal-ease. Simply arm yourself with hundreds of freely available paper napkins, just in case your loincloth begins to fall.

PRO BONOS MORES PUBLICO

Skinnier D. Bockol (@bockol@msn.com), a sole practitioner, is an advisory editor of the Philadelphia Bar Reporter. Read his reviews online at bockol.com.

Outreach helps nurture future leaders, attracts remarkable talent, and cultivates a proud legacy.

Debra A. Jensen is managing partner of Galfand Berger LLP; Norman Weinstein is chair of Galfand Berger LLP’s Community Outreach and Social Action Program.
Women continued from page 7

own reactive bad behavior. Maintaining a calm demeanor in the courtroom is therefore crucial to neutralizing a volatile environment.

In a pretrial setting, namely during depositions, attorney Heidi G. Villari noted that “preserving the tape” is a particularly effective tool for the young attorney. Stressing that the record is your friend, Villari also spoke on the usefulness of taking breaks and cutting out speaking objections to create a clearer and helpful record. Similarly, if opposing counsel is bluntly aggressive throughout correspondence, maintaining copies of obnoxious emails or letters and even attaching such offensive correspondence to motions can be a meaningful way of displaying an obstreperous lawyer’s actions. Villari also remarked on the efficacy of video depositions, if available. Finding that video has a somewhat “chilling effect” on both witnesses and attorneys, such a technique can significantly decrease bad behavior among lawyers during depositions.

Panelist Sheryl L. Axelrod discussed the extreme ineffectiveness of obstreperous tactics that detract from an attorney’s likability. “People believe people that they like,” Axelrod said. “Goal number one is to be liked.” Downplaying your frustration with a defiant opponent while in front of a jury is key to maintaining control of the situation.

Utilizing sidebar to air concerns about opposing counsel with the judge is an effective method to address grievances without bringing the jury’s attention to your frustrations. Judge Lachman also weighed in on making grievances without bringing the jury’s attention to your frustrations. Judge Lachman also weighed in on making observations about opposing counsel respecting the integrity of the courtroom.

Monday, Sept. 3
Labor Day: Bar Association offices closed.

Tuesday, Sept. 4
Committee on the Legal Rights of Persons with Disabilities: meeting, 9 a.m., 11th floor Committee Room.
Women’s Rights Committee: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.
Philadelphia Bar Reporter Editorial Board: meeting, 12:30 p.m., 10th floor Cabinet Room.

Wednesday, Sept. 5
Delivery of Legal Services Committee: meeting, 8:30 a.m., 10th floor Board Room.
State Civil Litigation Section: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.
Intellectual Property Committee: meeting, 12 p.m., 11th floor Committee Room South. Lunch: $8.
ADR Committee of the Family Law Section: meeting, 4 p.m., 11th floor Committee Room South.

Friday, Sept. 7
LGBT Rights Committee: meeting, 8:30 a.m., 10th floor Board Room.
Workers’ Compensation Section Executive Committee: meeting, 10:30 a.m., 11th floor Committee Room South.
Workers’ Compensation Section: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

Monday, Sept. 10
Family Law Section: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

Public Interest Section Executive Committee: meeting, 12 p.m., 10th floor Board Room.
Business Law Section Executive Committee: meeting, 12 p.m., 11th floor Committee Room South.

Tuesday, Sept. 11
Criminal Justice Section Executive Committee: meeting, 12 p.m., 10th floor Board Room.
Real Property Section Executive Committee: meeting, 12 p.m., Bradywine Construction & Management, Inc., 1521 Locust St., Suite 400.
Solo and Small Firm Management Committee: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

Wednesday, Sept. 12
Philadelphia Bar Foundation Grants Committee: meeting, 8 a.m., 10th floor Cabinet Room.
Immigration Law Committee: meeting, 12 p.m., 11th floor Committee Room South. Lunch: $8.

Thursday, Sept. 13
International Business Initiative Committee: meeting, 12 p.m., 11th floor Committee Room South. Lunch: $8.
Legislative Liaison Committee: meeting, 12 p.m., 10th floor Board Room. Lunch: $8.
Investment Companies Committee: meeting, 12 p.m., 11th floor Conference Center. Lunch: $8.

Tuesday, Sept. 18
Philadelphia Bar Foundation Board of Trustees: meeting, 12 p.m., 10th floor Board Room.
Employee Benefits Committee: meeting, 12:30 p.m., 11th floor Committee Room South. Lunch: $8.

Women's Rights Committee:

Panelist Sheryl L. Axelrod discussed the extreme ineffectiveness of obstreperous tactics that detract from an attorney’s likability. “People believe people that they like,” Axelrod said. “Goal number one is to be liked.” Downplaying your frustration with a defiant opponent while in front of a jury is key to maintaining control of the situation.

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Finaly, perhaps the best way to counteract obstreperous tactics involves picking up the techniques of seasoned lawyers while remaining yourself. “Philadelphians like to see attorneys acting real, rather than acting like a lawyer on TV,” Villari said. Combining a high level of preparation with likability will defuse even the most obstreperous of lawyer’s bad behavior.

Megan Q. Miller (mmiller@law.villanova.edu) is a J.D. candidate of the Villanova University School of Law, 2016, and judicial intern to Philadelphia Court of Common Pleas Judge Albert J. Suine Jr.
The Hon. M. Teresa Sarmina, a judge with the Philadelphia Court of Common Pleas, was presented with the Hispanic National Bar Association’s Latina Judge of the Year Award at the HNBA Gala Awards Dinner on Aug. 25 in Seattle.

Marcel S. Pratt, an associate with Ballard Spahr LLP, has been named to the board of EducationWorks, a nonprofit organization that provides educational support for economically disadvantaged communities in the greater Philadelphia area.

Arthur L. Bupay, a partner with Galfand Berger, LLP, received the George F. Douglass Jr. Amicus Award from the Pennsylvania Association for Justice on June 30.

James S. Ettelson, a partner with Thorp Reed & Armstrong, LLP, discussed “Remedies to Resolve Property Line Problems” at the National Business Institute’s “Title Workshop: From Examination to Commitment” on July 16.

Edward T. Butkowitz, an associate with Kleinbard Bell & Brecker LLP, authored an article published in the July 2012 Pennsylvania Bar Association Quarterly, a partner with Thorny Trial Lawyers in San Francisco on July 28.

Keith B. Joseph, an associate with Ballard Spahr LLP, has been elected to serve a one-year term as vice chair on the Equal-Privilege.”

Joshua B. Schwartz, an associate at Eisenberg, Rothweiler, Winkler, Eisenberg, & Jeck, P.C., has been elected to a two-year term on the Pennsylvania Bar Association Board of Governors.

Christopher J. Day, a partner with Thorp Reed & Armstrong, LLP, was a presenter at DELVACCA’s Ethics and Compliance CLE on Aug. 9 at the Union League where he spoke on “Attorney Pitfalls with Social Media and E-Mail: Ethics Considerations Raised by Social Media and Dangers to the Attorney-Client Privilege.”

Kevin E. Raphael, a partner with Pietragallo Gordon Alfano Bosick & Raspanti, LLP, presented “Understanding the Basics of Fraud & Abuse in the Health Care Industry” for the Pennsylvania Bar Institute on July 26. He also has been named lead coordinator of the Education Committee for the American Health Lawyers Association Fraud and Abuse Practice Group.

Stephanie Resnick, a partner with Fox Rothschild LLP, has been selected for inclusion in the inaugural Benchmark Top 250 Female Litigators in America.

Steven Berk, a partner with Segal, Berk, Gaines & Liss, has been elected chair of Einstein Healthcare Network’s Board of Trustees.

Thomas J. Duffy, founding member of Duffy + Partners, was recently inducted as president of the Philadelphia Trial Lawyers Association.

Theodore "Ted" Simon, principal in the Law Offices of Theodore Simon, was elected first vice president of the National Association of Criminal Defense Lawyers at the group’s 54th Annual Meeting in San Francisco on July 28.

Salvatore M. DeBunda, co-managing partner of the Philadelphia office of Archer & Greiner P.C., has been re-elected as a member and vice chair of the Board of Directors of Encore Series Inc., the nonprofit organization that presents the Philly Pops orchestra.

Harris T. Bock, has been appointed to the Board of Directors of the Philadelphia affiliate of Susan G. Komen for the Cure.

Nadeem A. Bezar, a partner with Koby, Gordon, Robin, Shore & Bezar, has been named president-elect of the North American South Asian Bar Association.

Richard Negrin, deputy mayor and managing director of the City of Philadelphia, was presented with the Hispanic National Bar Association’s Latino Lawyer of the Year Award at the HNBA Gala Awards Dinner on Aug. 25 in Seattle.

Carlton L. Johnson, a partner with Archer & Greiner P.C., has been named a recipient of the 2012 Minority Business Leader Award from the Philadelphia Business Journal in recognition of his professional accomplishments, civic activism and commitment to diversity and inclusion.

Jon C. Sirulin, managing attorney and president of Sirulin Lesser & Benson, P.C., was a presenter at “Judgments – Just the Beginning” at the Pennsylvania Conference of State Trial Judges’ Annual Meeting on July 25-28 at The Hotel Hershey.

Reed & Armstrong, LLP, was a presenter at DELVACCA’s Ethics and Compliance CLE on Aug. 9 at the Union League where he spoke on “Attorney Pitfalls with Social Media and E-Mail: Ethics Considerations Raised by Social Media and Dangers to the Attorney-Client Privilege.”

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Christina D. Franceschi, counsel to Panitch Schwarze Belisario and Nadel LLP, was recognized Aug. 2 at the American Bar Association’s Intellectual Property Law Section Leadership Dinner in Chicago for her exemplary work in chairing its Trademark Legislation Committee and co-chairing its Task Force on Online Piracy and Counterfeiting.

Julia Swain, a partner with Fox Rothschild LLP, recently presented the webinar “Prenuptial Agreements for First, Subsequent and Later-In-Life Marriages” through Strafford Publications.

Major John F. Barrett, a member of Bennett, Bricklin & Salzburg LLC, planned and coordinated the Northeast Regional On-Site Legal Training Conference assisted by the staff of the 153rd Legal Operations Detachment of the United States Army Reserve under the direction of Colonel Craig T. Trebilcock, a judge in the York County Court of Common Pleas.

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

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