



THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

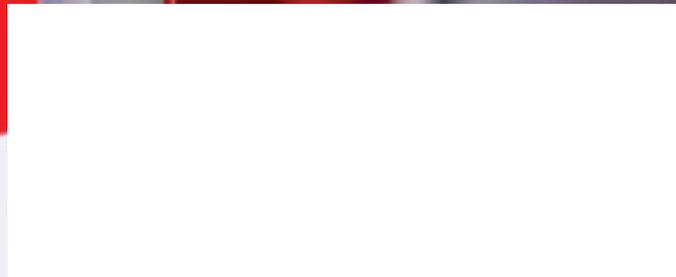
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Get Involved in DSBA Leadership!



The Delaware State Bar Association is looking for a number of talented members to join the 2017-2018 Executive Committee and lead DSBA to continued success.

The following positions on the Executive Committee of the Association must be filled for the year 2017-2018:

Vice President-at-Large; Vice President, New Castle County; Secretary; Assistant Secretary; Treasurer; Assistant Treasurer; Six Members-at-Large

Note: The Vice President, Kent County and the Vice President, Sussex County will be those persons selected by, respectively, the Kent County Bar Association and the Sussex County Bar Association.

The following position must be filled for the term as noted:

One (1) DSBA Representative to the Delaware Bar Foundation Board for a four-year term

The Nominating Committee wants to consider all interested candidates. If you are interested in serving on the Executive Committee or would like to recommend a candidate, please send your name or the candidate's name along with a CV and at least one letter of nomination to Mark S. Vavala, Executive Director (Interim), by e-mail at: mvavala@dsba.org or by mail at: Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE 19801 by **February 14, 2017**.

WE NEED YOUR HELP TO FIND STRONG LEADERS FOR THE FUTURE!

The Nominating Committee consists of:

Yvonne Takvorian Saville, Chair
Richard A. Forsten, Vice-Chair

New Castle County

H. Garrett Baker (2017)	Rebecca L. Butcher (2018)	Douglas J. Cummings Jr. (2019)
David L. Baumberger (2017)	Richard B. Carroll, Jr. (2018)	Alessandra Glorioso (2019)
Meghan Elizabeth Butters (2017)	Frederick L. Cottrell III (2018)	Tanisha Lynette Merced (2019)
Carolyn G. Connors (2017)	Joel Friedlander (2018)	Norman M. Monhait, (2019)
Michael B. Galbraith (2017)	Lisa B. Goodman (2018)	Mark Minuti (2019)
Andrew William Gonser (2017)	Timothy Jay Houseal (2018)	Michael P. Migliore (2019)
Albert J. Roop V (2017)		Michael G. Owen (2019)
Danielle K. Yearick (2017)		

Kent County

Reneta L. Green-Streett (2017)
Frederick A. Townsend III (2018)
Myron T. Steele (2019)

Sussex County

John F. Brady (2017)
Julianne E. Murray (2018)
Kathi A. Karsnitz (2019)



DSBA BAR JOURNAL

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The *Bar Journal* is the independent journal of the Delaware State Bar Association. It is a forum for the free expression of ideas on the law, the legal profession and the administration of justice. It may publish articles representing unpopular and controversial points of view. Publishing and editorial decisions are based on the quality of writing, the timeliness of the article, and the potential interest to readers, and all articles are subject to limitations of good taste. In every instance, the views expressed are those of the authors, and no endorsement of those views should be inferred, unless specifically identified as the policy of the Delaware State Bar Association.

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All correspondence regarding circulation, subscriptions, or editorial matters should be mailed to:

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405 North King Street, Suite 100
Wilmington, DE 19801
or emailed to: rbaird@dsba.org

Letters to the Editor should pertain to recent articles, columns, or other letters. Unsigned letters are not published. All letters are subject to editing. Send letters to the address above, Attention: Editor, Bar Journal.

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THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

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PRESIDENT'S CORNER

By Miranda D. Clifton, Esquire

The Boomerang Effect of Gratitude



As we enter into the Thanksgiving season, I am always reminded of how unique the Thanksgiving holiday actually is. Imagine, even before we had a constitution that recorded that all men are created equal, both Native Americans and new American settlers were able to cooperatively prepare and participate in a meal together, rising above the barriers that separated them with one purpose... to express gratitude for the bounty available to them.

Unfortunately, sometimes Thanksgiving gets lost being shuffled between Halloween and the December holidays (Hanukkah, Christmas, and Kwanza). There just does not seem to be enough commercial retail shelf space to properly recognize Thanksgiving. However,

Thanksgiving was never designed to have to fight for recognition, it truly was designed as a day to stop and acknowledge the gratitude we should have every single day of the year.

Gratitude is not a characteristic that humans are born with, it is a trait that must be taught. How many of us still hear our mother's voice in our ear prompting us to say "thank you." Gratitude is a trait that not only has to be taught and continuously reminded when we are young, but developed as an attitude as we grow older. Being thankful is not a waste of time, it is an essential aspect of a civilized society.

I was raised in a preacher's home where saying grace was a requirement to eat a meal. It was as necessary in our home as washing your hands before a

meal. Although at times it may have appeared rote and mechanical, saying grace taught me that every meal was a gift from God and not just an entitlement for being part of the human race. Further, taking a moment to acknowledge my thanks developed a gratitude within me for things that are so easily taken for granted.

Developing gratitude early in my life had other benefits as well. I learned that while we do not give to others merely to receive their gratitude; if they express it, we are more likely to give again. Stopping to be grateful is essentially pausing to give honor to the giver. This pause gives validation and acknowledgment to their effort. However, over the years, I have also discovered that gratefulness is even more beneficial to the person who is grateful. There is an aspect of a quality of life that comes from acknowledgment of a favor. When we stop to appreciate efforts from others given to enrich our lives, it brings humility and other consciousness into our lives that is an essential ingredient in order to effectively relate to other people.

Conversely, when not enough gratitude is acknowledged or shown, people will respond differently when you have need. People will respond with reluctance and attitude. Ungrateful people also seem to have tunnel-vision, only seeing their needs, leading to selfishness and isolation. The most dangerous consequence of living an ungrateful life is to begin to live life with a sense of entitlement.

Maybe an entitled life does not sound like such a horrible sentence in life. Who would not want to live like a

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king and have access to anything imaginable? Actually, an entitled life has little to do with position or provision, but more to do with attitude. Those with

an entitled attitude are convinced that no matter what their plight, they are entitled to special treatment and demand it from everyone with whom they come in contact.

Living entitled is synonymous with living dangerously. The problem with an entitled attitude is that there is no human that can meet all of an individual's needs. An entitled person's impossible expectations of others' constant service to them will never be met. He or she will live in frustration because they cannot take any responsibility for their own actions, they just shift blame to others. Finally, they will never be satisfied because they depend only upon themselves and have not discovered the power in being vulnerable sometimes.

“Gratitude is a trait that not only has to be taught and continuously reminded when we are young, but developed as an attitude as we grow older.”

However, the boomerang effect of a life of gratitude is that a grateful person is open to good relationships because he or she realizes that no one is truly self-sufficient and that we were created for community, not isolation. This causes a cyclic effect of being grateful for any gift or blessing from others. A grateful individual will also understand that all actions, whether good or bad, have consequences. When one is grateful for the good things that they understand they do not deserve, and also take responsibility for the bad, they are not afraid to learn from them and let them go.

So, here it is, the Thanksgiving challenge. I challenge you to be intentionally grateful until your December holiday (whatever, it may be). I have found that if I am especially grateful before a giving

my expectations from others drop, my expectations to others increase, and I am more likely to find joy when I approach life with gratitude rather than entitlement. Take the challenge and experience for yourself the boomerang effect of gratitude. ☺

holiday, it enhances the holiday exponentially. If I enter into the holiday season grateful for the little things,

Miranda “Mindy” Clifton has graduated from every college and university beginning with a “W” including Wesley (BS), Widener (JD) and Wilmington (MBA). She is the current President of the Delaware State Bar Association. In her spare time, Mindy is a Trial Attorney for Nationwide Mutual Insurance Company and represents its customers in almost every court in all three counties throughout the State. Mindy is also an adjunct professor for Wilmington University in their Graduate Business Studies. She can be reached at cliftom2@nationwide.com.

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EDITOR'S PERSPECTIVE

By David W. deBruin, Esquire

Making Time for Family Time

It has been my great pleasure to serve as an Editor of The Bar Journal for the past eight years. It has been a wonderful experience. I have worked with smart, wonderful, and talented people during that time. For a number of reasons, it is time for me to move along and allow for a fresh editor's perspective to take my place. I want to thank everyone at the Journal and everyone in the Delaware State Bar Association who has contributed to the publication over the last eight years. In parting, I will simply suggest that as lawyers we remember to never get so busy making a living that we forget to make a life. I am re-running the following column because it was the one that received the most positive feedback. Thank you all again and best regards.

• • •

I believe that it is vitally important to make a real and consistent effort to place your family and loved ones at the top of your list of priorities. As lawyers, we are forced to become quite adept at managing and prioritizing our time. If we are unable to do this, our supervising attorney or managing partner will be glad to assist. Of course, if she/he is given this opportunity, do not be surprised if your list looks something like this:

1. Billable Work
2. Possibly Billable Work
3. Business Development
4. *Pro Bono* Work
5. Your Family

Okay, I am mostly kidding. However, what we all need to remember is that it is more than likely that no one else at your

place of employment is going to genuinely encourage you to take more time away from your job and devote it to your family. The foregoing statement is true unless you have a very ambitious co-worker with an eye on your office. People like that usually encourage taking lots of time off.

I do not mean to come across as the ghost of Jacob Marley, but it is the holiday season. In that spirit, I do not want people reading this article today to wake up 5, 10, or 20 years from now and wonder how they lost their family and most of everything that they supposedly were working for, along the pathway of life. This is actually one time of year when many families do make an effort to gather together. My intent is not to try to convince you to spend time with your family this holiday season, but rather, to stress the import of participation in the day-to-day activities of your family's life.

It is honestly hard for me to remember what my life was like before I was blessed with four wonderful children. I do remember it included a lot of 200+ billable hour months. During that time period, I gained a ton of useful experience and learned a great deal about what it means to be a practicing attorney. I also made a vow to myself back then that I would continue to work as long and hard as I reasonably can, but that I would try my best not to let my job overtake the significance of my family.

You only get one shot at being the best parent that you can be to your kids. I hate to sound preachy, but try not to sacrifice real quality time with your family in favor of work. Certainly there are times when you have a time-sensitive pleading, project, or trial. Those truly important work items jump, by necessity, to the top of the list. That is when your efforts in the day-to-day life buy you a deserving "out" for all the time it takes to fully and properly complete your work. If you have laid the foundation, your family will understand.

The problem most often arises when attorneys jump from one imperative job to the next. Unfortunately, it is far too easy to fall into the habit of work, work, work, then head home late at night only to kiss the heads of everyone while they are asleep, and then collapse into your bed just in time to wake up and do it all over again. I think it is fair to say that "providing for your family," means doing a lot more than just working hard to improve everyone's life in the financial context. It means taking on part of the load by driving them to and picking them up from school, ballet, bas-

“Unfortunately, it is far too easy to fall into the habit of work, work, work, then head home late at night only to kiss the heads of everyone while they are asleep, and then collapse into your bed just in time to wake up and do it all over again.”

ketball, swimming, piano, and whatever other activities they have going on.

A big part of being in a family is participation in familial activities. If you are not there, it is awfully hard to participate. That being said, it is still possible to participate to a lesser degree if you are disconnected from your family by time and/or space. As any parent of a teenager can tell you, phone conversations can help sustain and even grow relationships. If you are truly interested in what your kids are doing, they will share things with you. Of course, there may be a time or two when you wish you had not really heard what they just said to you. But, if you make the effort, your conversations can turn into the highlight of their day and yours.

My four children are literally the best and most important part of my life. However, I must admit that there are some chaotic times when I would rather be getting a root canal without novocaine than enduring a loud argument amongst them or worse, when they “take a shot at the title,” by challenging my wife or me. It is usually some time later, long after we have resolved the argument, that I am overcome by a feeling of nirvana. Not because I think I am now or will ever be the best parent in the world, but simply because I was able to be there. Just being present for that argument allows you the opportunity to be a part of the solution. That is what family life is all about.

Face it, when you die, your family probably will not tell stories about your wonderful arguments in court. They will repeat the heartwarming stories about the times when you fell from the ladder while cleaning the gutters, hit the side of the garage while hurriedly backing out, and started a fire via too many lights on a tree...all of which invariably end with the line, “you had to be there.”

Happy Holidays to you and your family! 

Bar Journal Editor **David deBruin** is the founder of The deBruin Firm and his practice is dedicated to representing victims of mesothelioma, dangerous drug and medical devices, and select complex litigation. He can be reached at ddebruin@thedebruinfirm.com.



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SECTION CONNECTION



LITIGATION SECTION

Chair

Adam V. Orlacchio
Blank Rome LLP
orlacchio@blankrome.com

Regular Meeting

The Litigation Section typically meets the second Monday of every month at 12 p.m. at the DSBA offices. Please note, however, that the date of our meetings often changes to accommodate the schedules of our guest speakers.

Goals

It is the mission of the DSBA's Litigation Section to promote and advance the interests of attorneys and the judiciary in the litigation of civil matters, consistent with DSBA principles. The Section strives to: (i) enhance communication between the bench and the bar; (ii) promote the professional development and interests of its members; (iii) improve its members' public service in advancing civil matters in this State; and (iv) to serve the community in which its members live and practice. In seeking to promote a common meeting ground for all attorneys who represent litigants in this State, the Section promotes and enhances communication by and between its members in ways that both enrich their professional careers and foster professionalism and camaraderie.

What Can Members Expect?

Our monthly meetings generally feature a speaker, often an active Judge in the State of Delaware. In addition to these "Speaker Series" lunch meetings, our Section takes great pride in hosting our Annual Superior Court Bench and Bar Reception, where the Section socializes with the Superior Court Judges and Commissioners, as well as their law clerks.

Upcoming Events

The Litigation Section's Seventh Annual Superior Court Bench and Bar Reception will be held on March 9, 2017. Save the date!

Recent Events

The Section is honored that Vice Chancellor Slights joined us at our meeting on October 24, 2016 as part of our "Speaker Series" luncheons.

Our new feature, **Section Connection**, will highlight DSBA's Sections each month. Sections cover a wide array of practice areas and membership in DSBA Sections provides networking opportunities, social events, and CLE opportunities. Learn what your Sections are up to here at the Section Connection!

LABOR & EMPLOYMENT LAW SECTION

Chair

Mary I. Akhimien
Connolly Gallagher LLP
makhimien@connollygallagher.com

Regular Meeting

The Section typically meets the last Tuesday of every month. Meetings will be held at 12:30 p.m. at Connolly Gallagher LLP, 1000 West Street, Suite 1400, Wilmington, Delaware 19801. The next meeting is on November 29, 2016. We will not hold meetings in December and June because of the holidays/summer.

Goals

The purpose of the Labor & Employment Law Section is to provide information, support, and guidance to practitioners of labor and employment law from both the employee/union perspective and the management/employer perspective, with a particular focus on providing regular updates on developments in labor and employment law.

What Can Members Expect?

Our monthly meetings include a speaker discussing various aspects of and current developments in labor and employment law.

Upcoming Events

The ABA Annual Labor and Employment Law Conference on November 9-12, 2016 at the Sheraton Grand Chicago Hotel, in Chicago, Illinois. And, the DSBA Labor and Employment Law CLE Seminar at the DSBA Headquarters in Wilmington, Delaware will be in Spring of 2017.

Recent Events

Our most recent luncheon speaker featured Timothy M. Holly, Esquire, of Connolly Gallagher LLP and G. Kevin Fasic, Esquire, of Cooch & Taylor P.A. Tim and Kevin gave a very informative presentation on current legislative developments in labor and employment law.

Section Membership is a great way to connect at DSBA!

For information on how to join a Section, contact Janice Myrick, Director of Bar Services & Membership, at jmyrick@dsba.org.

TOP 5 REASONS YOU SHOULD ATTEND A SEMINAR AT DSBA

- 1 Quality education at competitive rates.
- 2 Good food, good company.
- 3 Really cool camera guy, Antonio.
- 4 Interesting topics no matter your field.
- 5 DSBA is your home. You are never a visitor to us.



A Seminar 100 Years in the Making

President Theodore Roosevelt stopped by the Delaware State Bar Association on Tuesday, October 18, 2016, to talk about the laws he passed during his two administrations. Roosevelt, a Progressive Republican, spoke about creating the National Parks System, devising Food and Drug Protection laws, breaking up monopoly corporations, and finding a way



to make the economic system more fair for those of lower incomes. And, of course, guided by his 21st Century interviewer, New Jersey attorney Donald Scarinci, the former President (portrayed expertly by actor Peyton Dixon) opined on the events and politics surrounding the 2016 election.

The seminar was received well by those who attended. Often, during a seminar, an observer will notice newspapers, cell-phones, and briefs capturing the attention of registrants; but, Roosevelt kept his audience captivated during the full three hours. Sam Hirzel was so excited by the seminar that he immediately posted on his Facebook page, "This was the best CLE that I have ever attended. Actor Peyton Dixon stayed in character for the entire presentation and made a better (and more appealing) presentation than any of our candidates today." Based on the success of this seminar, DSBA is considering more historical seminars.

CALL FOR BAR JOURNAL PARTICIPATION

The DSBA Bar Journal is looking for brief announcements about DSBA Members for a new feature called **DSBA Happenings**. We welcome brief news items and photos about your activities and accomplishments — examples include Honors, Appointments, Marriages, and Births. Notices are printed at no cost and must be submitted by email to Rebecca Baird at rbaird@dsba.org. If sending a photo, please send a high resolution photo (300 dpi).

Talks, speeches (unless they are of national stature), CLE presentations, political announcements, and announcements for new associates or firm changes are not accepted. In addition, the DSBA Bar Journal will not print notices of honors determined by other publications (e.g., *Super Lawyers*, *Chambers USA*, etc.). Paid professional announcements are also available. Contact Rebecca Baird at rbaird@dsba.org for a rate sheet.

WHY I BELONG



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"The DSBA offers the opportunity for attorneys from all practice areas and years of practice to engage with each other through programs, sections, and other professional activities."

Samuel D. Pratcher III
Weik, Nitsche & Dougherty
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"The DSBA allows me to share my ideas and hear other attorneys share their ideas about how to make the practice of law better in the First State. The Sections of the Bar all strive to improve the practice of law. It is a joy to see other attorneys that have so much passion for their work that it becomes contagious."



William Patrick Brady
The Brady Law Firm, P.A.
VICE PRESIDENT,
NEW CASTLE COUNTY

"I belong to the DSBA in order to increase my skills and knowledge as an attorney, to meet and interact with other members of the Bar, and to try and help play a part in the future success of the DSBA."

Thomas P. McGonigle
Drinker Biddle & Reath LLP
LEGISLATIVE LIAISON



"DSBA provides useful CLE opportunities, social events to interact with members of the Bar and Judiciary, and otherwise represents our industry well."

Illustrations by Mark S. Vavala

Would you like to share why you belong to DSBA? Please let us know what DSBA membership means to you! Email Rebecca Baird at rbaird@dsba.org.

Professional Guidance Committee

This committee provides peer counseling and support to lawyers overburdened by personal or practice-related problems. It offers help to lawyers who, during difficult times, may need assistance in meeting law practice demands. The members of this committee, individually or as a team, will help with the time and energy needed to keep a law practice operating smoothly and to protect clients. Call a member if you or someone you know needs assistance.

New Castle County

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*Certified Practice Monitor

CALENDAR OF EVENTS

November 2016

Wednesday, November 9, 2016

Panama Papers, Tom Brady, and The Good Wife; Recent Developments in Data Security and E-Discovery

3.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Thursday, November 10, 2016

Serving Those Who Serve

3.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Tuesday, November 15, 2016

Seize the Data: Effectively Communicating About E-Discovery

1.5 hours CLE credit

Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Tuesday, November 29, 2016

This Land is Whose Land? Can the Government Really Do That?

2.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE
Webcast to Tunnell & Raysor, Georgetown, DE

December 2016

Tuesday, December 6, 2016

2016 Awards Luncheon

Hotel du Pont, Wilmington, DE

Wednesday, December 7, 2016

What I Wished I Learned in Law School about...Depositions

1.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE

Thursday, December 8, 2016

Representing Claims Under the ADA

3.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Tuesday, December 13, 2016

When the Injury is Personal

6.0 hours CLE credit (including 1.0 hour Ethics)

Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Friday, December 16, 2016

Family Law Update

6.0 hours CLE credit

Christiana Ballroom, Christiana Hilton, Newark, DE

See page 23 for information about DSBA's lunchtime FREE CLEs every Thursday in December.

SECTION & COMMITTEE MEETINGS

November 2016

Monday, November 7, 2016 • 12:30 p.m.

Senior Lawyers Committee Monthly Luncheon Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, November 8, 2016 • 12:15 p.m.

Small Firms & Solo Practitioners Section Meeting

The Law Offices of Denise D. Nordheimer, Esquire, LLC, 2001 Baynard Boulevard
Wilmington, DE

Wednesday, November 9, 2016 • 4:00 p.m.

ADR Section Meeting

Wilson Sonsini Goodrich & Rosati, 222 Delaware Avenue, Suite 800, Wilmington, DE

Wednesday, November 9, 2016 • 4:00 p.m.

Real & Personal Property Section Meeting

The Kirsh Law Firm, 910 South Chapel Street, Suite 202, Newark, DE

Monday, November 14, 2016 • 12:00 p.m.

Litigation Section Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, November 17, 2016 • 12:00 p.m.

Executive Committee Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, November 17, 2016 • 4:00 p.m.

Elder Law Section Meeting

Doroshov Pasquale Krawitz & Bhaya, 1202 Kirkwood Highway, Wilmington, DE

Friday, November 18, 2016 • 12:00 p.m.

Health Law Section Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Friday, November 18, 2016 • 12:00 p.m.

Workers' Compensation Section Meeting

Marshall Dennehey Warner Coleman & Goggin, 1007 North Orange Street, Suite 600,
Wilmington, DE

Monday, November 28, 2016 • 4:00 p.m.

Taxation Section Meeting

Coch and Taylor P.A., 1000 West Street, 10th Floor Wilmington, DE

Tuesday, November 29, 2016 • 12:30 p.m.

Labor & Employment Law Section Meeting

Connolly Gallagher LLP, The Brandywine Building, 1000 North West Street,
14th Floor, Wilmington, DE

December 2016

Monday, December 5, 2016 • 12:30 p.m.

Senior Lawyers Committee Monthly Luncheon Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, December 6, 2016 • 3:30 p.m.

Estates & Trusts Section Meeting

Connolly Gallagher LLP, The Brandywine Building, 1000 West Street, Wilmington, DE

Wednesday, December 7, 2016 • 12:30 p.m.

Women and the Law Section Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Monday, December 12, 2016 • 12:00 p.m.

Litigation Section Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, December 13, 2016 • 12:15 p.m.

Small Firms & Solo Practitioners Section Meeting

The Law Offices of Denise D. Nordheimer, Esquire, LLC, 2001 Baynard Boulevard
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By Kevin F. Brady, Esquire

Old Habits Die Hard...Even After the Rules Change

Almost a year ago, on December 1, 2015, Federal Rule of Civil Procedure 26(b) (1) was amended, among other things, to eliminate language that had been improperly used to describe the scope of discovery, and to highlight the role of proportionality in determining the proper scope of discovery. Chief Justice John Roberts, in his 2015 Year-End Report on the Federal Judiciary, referred to these changes as “crystaliz[ing] the concept of reasonable limits on discovery through increased reliance on the common-sense concept of proportionality.” However, it appears that not everyone got the message.

Rule 26(b)(1) Changed; Old Discovery Standard is No Longer Applicable

In a recent decision, Judge David G. Campbell, who sits on the Federal District Court in Arizona (he also chaired the Advisory Committee on Rules of Civil Procedure when the 2015 amendments were being developed), observed that, while the 2015 amendments to Rule 26 eliminated the “reasonably calculated to lead to the discovery of admissible evidence” phrase from the definition for the scope of permissible discovery, many courts are not following the new language. In particular, he noted:

Despite this clear change, many courts continue to use the phrase. Old habits die hard. In this circuit, courts cite two Ninth Circuit cases ... for the proposition that information is relevant for purposes of Rule 26(b)(1) if it is “reasonably calculated to lead to the discovery of admissible evidence.” But these cases, and others like them, simply applied the earlier version of Rule 26(b)(1).¹

While you might think that citing two cases may not be noteworthy, Judge Campbell included a footnote identifying ten cases in one recent month in which courts either relied on the “reasonably calculated” language to define the scope of permissible discovery or referred to the language as though it was still part of Rule 26(b)(1).

Judge Campbell also emphasized that the 2015 amendments to the Rules clarified that proportionality is a requirement for permissible discovery, stating that “[r]elevancy alone is no longer sufficient — discovery must also be proportional to the needs of the case.”

Four days after Judge Campbell issued his decision, Chief Judge Joy Conti of the Western District of Pennsylvania raised similar concerns. In *Cole’s Wexford Hotel, Inc. v. Highmark, Inc.*,² Chief Judge Conti, reviewed and critiqued (in part) a report and recommendation of a special master, stating: “[c]ontrary to the analysis in the [special master’s] amended report and recommendation no. 4, *discovery requests are not relevant simply because there is a possibility that the information may be relevant to the general subject matter of the action.*”³ The court went on to note that “the special master reached the correct conclusion that Cole’s Wexford failed to satisfy its burden under Rule 26 to show that its discovery request is relevant, but did not properly construe the term ‘relevant’ as contemplated by Rule 26. The special master considered relevancy to be as broad as the subject matter, which is broader than the scope of discovery contemplated by Rule 26.”⁴

Following a comprehensive review of rules’ amendments during the last 70 years, Chief Judge Conti noted that too many courts continue to hold — erroneously — that discovery is permissible under Rule 26(b)(1) if there is “any possibility” that the information requested may be relevant to the general subject matter of the action. “This statement of the law prior to the 2015 amendment was —at best — incomplete, and, now, following the 2015 amendments is erroneous. That interpretation of Rule 26(b)(1), furthermore, is contrary to the advisory committee’s pervasive and continuing concerns about the abuse of discovery, which stem back to the 1980 amendment to Rule 26.”⁵

1. *In re: Bard IVC Filters Products Liability Litigation*, No. MDL 15-02641, 2016 WL 4943393 (D. Ariz. Sept. 16, 2016).

2. *Cole’s Wexford Hotel, Inc. v. Highmark, Inc.*, Civ. No. 10-1609, 2016 WL 5025751 (W.D. Pa. Sept. 20, 2016)

3. *Id.*, at *1 (emphasis added).

4. *Id.*

5. *Id.*, at *10 (internal citation omitted).

“Hopefully, with such clear and compelling guidance as Judges Campbell and Conti have provided, the 2015 changes will begin to make a difference — once we all get on the same page.”

Scrutinize Pre-Rule Amendment Cases that Address the Scope of Discovery

Even after December 1, 2015, a number of courts have cited a 1978 United States Supreme Court decision in *Oppenheimer Fund v. Sanders*, 437 US 340, 351 (1978) for the proposition that discovery under 26(b)(1) should be broadly construed. Chief Judge Conti specifically rejected that approach stating:

The reliance on *Oppenheimer*, however, is misplaced. The Supreme Court in *Oppenheimer*, did not construe just the term “relevant;” rather, the Supreme Court construed the phrase “relevant to the subject matter involved in the pending action,” which is a phrase that no longer ap-

pears in amended Rule 26(b)(1). *The Court’s definition of “relevant to the subject matter involved in the pending action,” therefore, has no application to the text of amended Rule 26(b)(1), and it would be inappropriate to continue to cite to Oppenheimer for the purpose of construing the scope of discovery under amended Rule 26(b)(1).* As set forth in the advisory committee notes to the 2015 amendments to Rule 26(b)(1) and the standing committee’s commentary with respect to its proposed 2015 changes to Rule 26(b)(1), the scope of discovery is limited to matter that is relevant to claims or defenses and is proportional to the needs of a case.⁶

6. *Id.* (emphasis added).

Conclusion

In his Year-End Report, Chief Justice Roberts emphasized that “[t]he amendments may not look like a big deal at first glance, but they are.” As Judge Conti recounts in detail, the changes to Rule 26(b)(1) are an intentional attempt to focus discovery on key issues and address continuing abuses of discovery that date back to the 1980s when excessively costly and time-consuming activities that were disproportionate to the needs of the case began to impede the fundamental goal of Rule 1, which is the “just, speedy, and inexpensive determination of every action.” Hopefully, with such clear and compelling guidance as Judges Campbell and Conti have provided, the 2015 changes will begin to make a difference — once we all get on the same page. 

Kevin F. Brady is Of Counsel at Redgrave LLP in Washington D.C. and can be reached at kbrady@redgravellp.com.

“Tips on Technology” is service of the E-Discovery and Technology Law Section of the Delaware State Bar Association.

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The Evolution of eFiling and the Rules of Professional Conduct

By Richard K. Herrmann, Esquire

It is difficult to imagine that electronic filing has been evolving for more than 25 years. It is equally difficult to imagine that the same issues which plagued us in 1991 continue to haunt us. There is a major difference; now we have a new technology focus on competency and confidentiality under Rules 1.1 and 1.6. The learning curve should now be complete and those who engage in electronic filing should finally be getting it right. A brief refresher is definitely appropriate.

The History

Electronic filing was first introduced in 1991 in Delaware to manage the immense dockets created by the insurance coverage cases filed by many of the Fortune 100 companies, seeking coverage for the cost of environment reclamation. Instead of a typical 25 record docket in a civil case, the records in the insurance coverage disputes could exceed 10,000. In those days docket entries were recorded manually. Electronic filing was the solution introduced by the Delaware Courts. Lexis was selected as the vendor and the product became known as File and Serve. Within a few short years, the Southern District of New York created what is now known as Pacer.

“Staying awake to review late filings has become a right of passage to some and a way of life to others.”

Major Challenges

While most lawyers do not actually file the documents themselves, we are responsible for supervising our staff and we own their errors under Rule 5.3. As a supervisor, it is important to create a checklist or practice to avoid mistakes such as:

Upload the correct file

There are two common problems that might keep you up at night. Was the correct document filed? In other words, did you file the wrong answer and counterclaim? Since most law firms use document management systems, the naming convention is usually a number rather than a description. Numbers can be

easily transposed or inverted. At 11:30 p.m. it is not difficult for a legal assistant to file the sensitive contract Doc ID 3482 instead of the answer to the complaint Doc ID 3842. It would also be wise to file the final version rather than an older draft. Develop a failsafe practice to avoid these errors. Otherwise you have both a Rule 1.1 and a Rule 1.6 issue.

Be Sure Redactions Are Redacted

Many of us are in litigations requiring the filing of documents under seal as well as redacted public versions. The practice for creating redactions is through the use of tools in a PDF application such as Adobe Acrobat. Staff training on the proper use of these tools is critical. Unless the redactions are created properly, they can either be reversed or the redacted text can be copied and pasted into another document. Yet another Rule 1.1 and 1.6 issue, as well as a possible violation of a Protective Order.

Make Sure Track Changes Have Been Accepted

Microsoft Word has an incredibly useful tool called Track Changes. This permits the user to review changes in the document during its various iterations. It is not uncommon for a document to be filed without proper attention to accepting all of the changes so that earlier drafts cannot be reviewed. We continue to see Rule 1.1 and 1.6 violations.

Protect your eFiling Password

This has become an increasing problem as national law firms continue to grow their many locations, and as practice groups work in virtual teams. You may find a young associate in the forum office on the east coast working with a partner in California. It is 11:45 p.m. in Delaware and the early evening lights have just been turned on in San Francisco. The partner in the San Francisco office tells the associate in Delaware to call it a night and leave the last draft and filing to those in California. All it requires is giving the partner the associate's eFiling password. A very difficult position for the associate. Courts look to the signer for any errors, or missteps in civility or professionalism. In fact, in Delaware, by way of example, use of a password is no different than a signature under Rule 11. To

the partners of this world, please do not put your young lawyers in this awkward position. To the associates, anticipate the issue, seek guidance in advance from a mentor, and devise a comfortable way to “just say no.”

Quality of life

One of my favorite expressions is “What goes around comes around.” In 1991, the clerk’s office closed at 4:30 p.m.. Of course, there was a drop box for emergency filings, but generally if the document was not filed by COB it was considered as filed the next day. For the next 25 years eFiling has permitted us to expand our workday to midnight. The clerk still goes home at 4:30 p.m., but the virtual lights remain on until 12:00 a.m. Staying awake to review late filings has become a right of passage to some and a way of life to others. Those courts sophisticated in the ways of life have realized that both the quality of life and the quality of the final draft have suffered. There is now a trend beginning to turn off the virtual lights at a reasonable hour — 6:00 p.m. is good. If it has not happened in your court yet, anticipate it; if you are one of those involved in eFiling rule making, consider implementing it. The quality of the final product will improve, as will the quality of life. ☺

Richard K. Herrmann is partner at Morris James LLP, handling many forms of complex litigation, including intellectual property, commercial, and technology. He can be reached at rherrmann@morrisjames.com.

Your Name in Print



For information on submitting articles for publication, please contact Rebecca Baird at rbaird@dsba.org.

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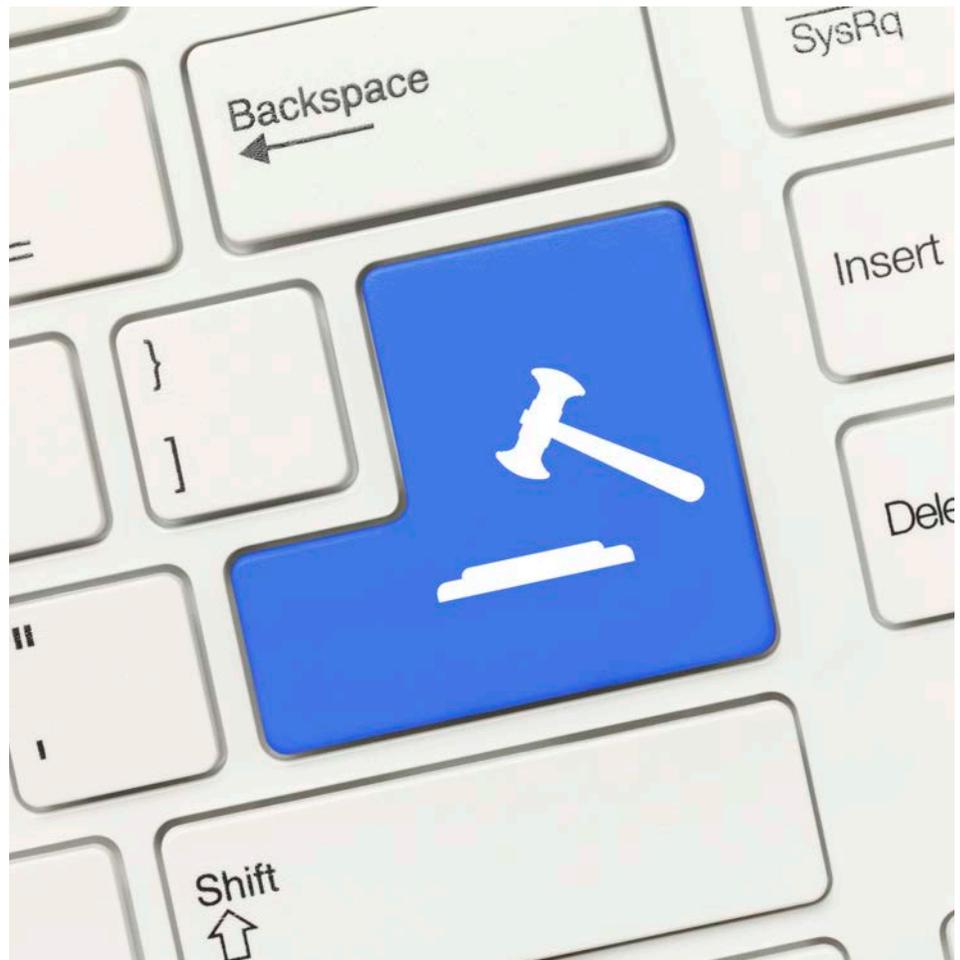
By Charles Slanina, Esquire

Getting Ready for T-CLE

It appears that we have not heard the last about technology as it relates to our professional conduct obligations. Past “Ethically Speaking” columns have dealt with the duty of technology competence in a variety of contexts.

The February 2013 column previewed the then-proposed rule change to add Comment [8] to Rule 1.1 which requires that “to maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.” The March 2016, “Ethically Speaking” dealt with the Rule 1.1 technology competency requirements in connection with the dangers of blind copying emails. The danger is that the client will use “Reply All” and thereby inadvertently respond to adverse parties, revealing attorney-client confidences. In May 2016, I discussed the rampant rise of Ransomware and the potential disciplinary liability for both the failure to safeguard client records as well as, again, the implications as to the required Rule 1.1 technology competency.

It is probably unlikely that Delaware will see a disciplinary matter specifically based on a failure to maintain technology competency citing Comment [8]. First, there have been none since the Comment was adopted. Second, the Delaware Supreme Court has stated that the Comments are not authoritative and



are meant only for interpretive guidance as the Preamble to the Rules states. *In re Barakat*, 99 A.3d 639 (Del. 2013).

Despite this, technology competence has found its way back into the news. The Florida Supreme Court recently adopted two amendments to the Rules regulating the Florida Bar to increase the number of CLE hours required in a three-year period by adding a three-hour requirement of approved technology programs. The Florida Bar Board of Governors approved the amendment. The Vision 2016’s Technology Committee of the Florida Bar had recommended a required six credits rather than three. The three hours of technology CLE in every three-year reporting requirement was not sufficient to bring an attorney up to speed, and the Committee acknowledged that the change was more symbolic than substantive and was intended to get

attorneys' "juices going." The changes are scheduled to go into effect on January 1, 2017.

Delaware is going a different way. Rather than amend the current Professional Conduct or Commission on Continuing Legal Education Rules to make technology CLE mandatory, Delaware has added technology competence programs to the definition of "enhanced ethics" as that term is used in the CLE requirements.

Delaware attorneys have a 24 credit requirement for each two-year reporting period. During the two-year period, at least 4 of the 24 of the approved CLE credit hours must consist of approved enhanced ethics credit.

By Order of the Court dated June 14, 2016, the Court amended Rule 2(H) of the Rules of the Commission on Continuing Legal Education to read: "Enhanced Ethics" means both legal and judicial ethics. It also means professionalism, which is a broader concept embodying attitude and a dedication to ethics, civility, skill, business-like practices, **such**

as competence in the use of technology and a focus on service, which encompasses obligations to other Attorneys, obligations toward legal institutions, and obligations to the public whose interests Attorneys must serve."

I look forward to seeing you all at a seminar featuring the Bar's own home-grown technology guru, Richard Herrmann. I also predict that the Richard Herrmann Technology Inn of Court will have a deserved boost in membership.

Happy Thanksgiving!

"Ethically Speaking" is intended to stimulate awareness of ethical issues. It is not intended as legal advice nor does it necessarily represent the opinion of the Delaware State Bar Association.

"Ethically Speaking" is available online. The columns from the past three years are available on www.dsba.org.

Charles Slanina is a partner in the firm of Finger & Slanina, LLC. His practice areas include disciplinary defense and consultations on professional responsibility issues. Additional information about the author is available at www.delawgroup.com.

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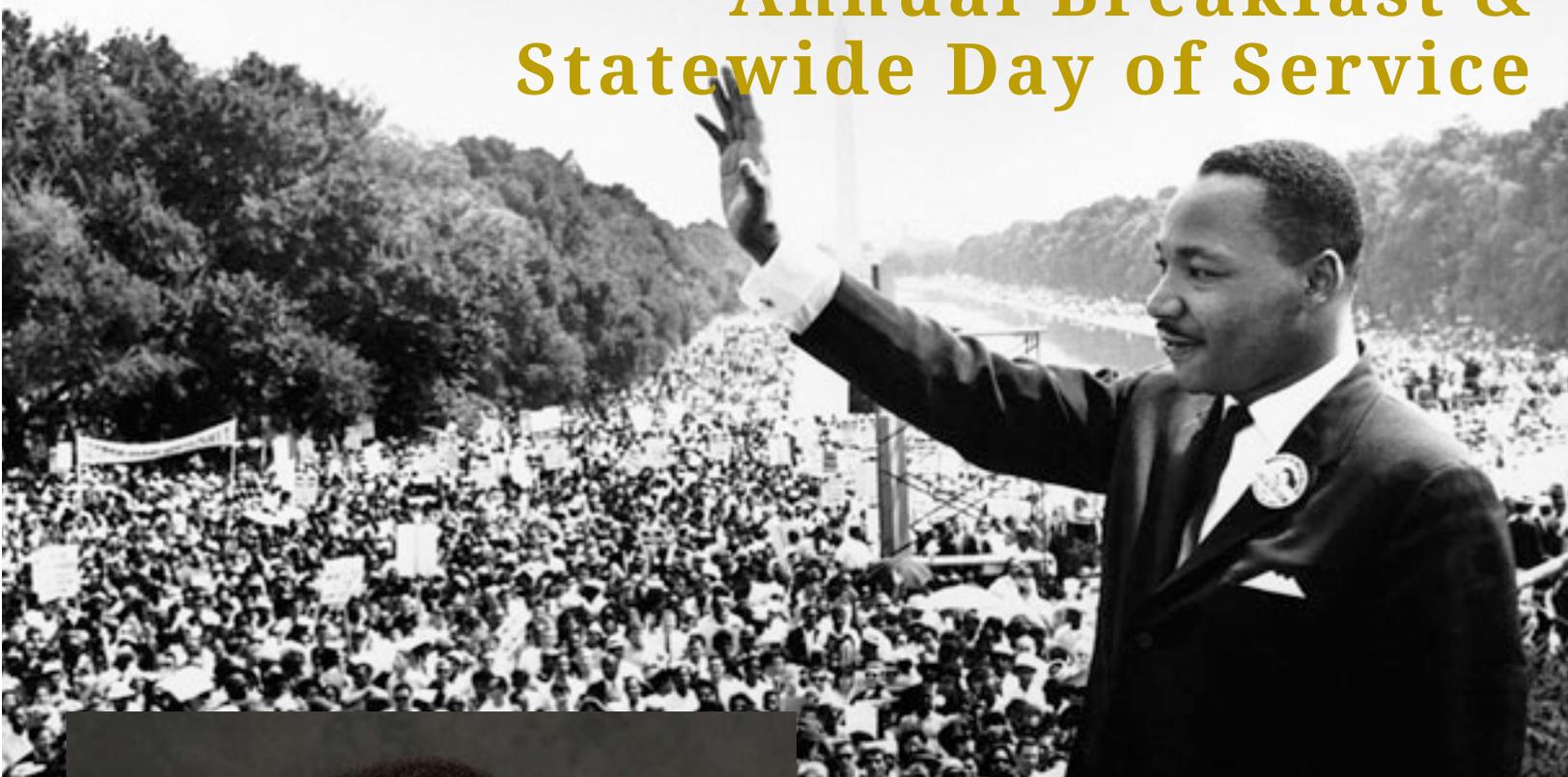
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DR. MARTIN LUTHER KING, JR.

Annual Breakfast & Statewide Day of Service



Keynote Speaker
Dr. Clarence B. Jones
Advisor & Speechwriter
for Dr. Martin Luther King, Jr.

DATE/TIME

Monday, January 16, 2017
Breakfast: 8:00 a.m.

LOCATION

Chase Center on the Riverfront
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\$35.00/person

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By Susan Simmons

Effectively Representing the Veteran Client



When addressing *pro bono* work for veterans, some of who have answered the call to serve in war zones multiple times, we are talking about American heroes, often offering life and limb for the cause of our country. We need to treat veterans well. Which brings me to volunteer assistance to Delaware's veterans, which may take several forms: initial intake interviews at veterans' clinics, one-on-one counsel, mentoring other attorneys, providing *pro bono* or low-cost assistance, and supervising law students in legal clinics, in addition to promoting awareness of veterans' legal issues and needs. I recently attended an ABA webinar, from which I have learned much about the needs and demographics of our veteran community:

Who is a Veteran?

- Experience (social definition)
- Eligibility-qualifying service (legal definition)
- State statutes (statutory definition)
- Duration of service (180 days or state mandate)
- Fully honorable discharge
- Align with state values, mandates, and community needs

Key Legal Issues/Top Unmet Needs

- **Homelessness**
- **Child Support/ Family Law/ Estate Planning**
Many homeless or near-homeless veterans are non-custodial parents with child support issues. Child support debt can make it more difficult for veterans to find employment and housing and can also be a psychological barrier to reestablishing family relationships. Homeless veterans have identified the need to resolve child support issues as one of their major concerns.

- **Relicensing**

- **Foreclosure/Eviction/Housing**

The overwhelming majority of VA housing assistance focuses on home ownership. This approach has excluded from housing assistance, women, non-whites, people who can't satisfy regulations of private lenders, and all those veterans who cannot afford or who do not want (for whatever reason) home ownership. The major housing issue for low-income veterans is homelessness. A top priority for homeless veterans is secure, safe, clean housing that offers a supportive environment free of drugs and alcohol. The Commission on Homelessness and Poverty educates the Bar and the public about homelessness and poverty and the ways in which the legal community may assist. The Commission and VA have partnered on three initiatives aimed at addressing homelessness among veterans:

1. Fostering replication of Veterans Treatment Courts;
2. Supporting the Veterans Justice Outreach Initiative; and
3. Removing barriers to housing and self-sufficiency by addressing child support arrears.

- **Discharge upgrades**

- **LFO/Warrants**

- **Pensions (income through civil process)**

- **Taxes**

- **Benefits**

- **Employment**

States with the highest unemployment rate among veterans were Michigan and New Jersey, both with over 10%. States with the lowest rates were Delaware, Iowa, North Dakota, Vermont and Virginia, all under 4%.

- **Civil Rights**

- **Education/ College Assistance and Substandard schools**

- **Disability**

Disability significantly increases the veteran poverty rate; the rate of increase is nearly twice that of the non-veteran disabled population. The poverty rate of disabled veterans is 29.1%; the poverty rate of the non-veteran disabled population is 16.9%. Even those veterans who receive Social Security Disability or Supplemental Security Income benefits have incomes under \$9,000 per year.

- **Health Care**

Over a million veterans — or 1 in 10 veterans under age 65 — and nearly a million of their family members lack health insurance coverage nationwide. Veterans often have distinct health care needs and health insurance options. While health care through the VA is available to many veterans, priority and access are based

on service-related disabilities, income level, and other factors. This means that many low-income veterans are eligible for VA health care, but don't live close to VA facilities or don't know that VA care is available.

- **Immigration**

Best Practices for Lawyers/Cultural Competence

- Avoid asking, "Are you a veteran?" Instead ask, "Have you ever served in and been discharged from an Active Duty, Reserve, or National Guard component of the US Army, Navy, Air Force, Marines, or Coast Guard?"
- Be mindful of veterans' diversity, duration, nature and recency of service.
- Empathize without excusing and have a plan for "War Stories."
- Be careful telling people, "Thank you for your service" — it is well-intentioned, but tends to end conversation.
- Help Veterans understand that they must advocate for themselves.
- Take suicide seriously.
 - 1-800-273-8255, Press 1
 - www.veteranscrisisline.net

Reference: Guide to Veterans Legal Issues 2d Edition © 2014 Benchmark Institute

In closing, I must reiterate that lawyers are needed to volunteer to provide advice in bankruptcy, commercial litigation, construction, consumer issues, criminal law, domestic relations, education law, employment, business law, general civil litigation, health care, immigration, intellectual property, juvenile law, landlord-tenant, personal injury, real estate, social security, taxation, veterans' disability claims, and wills, trusts and estates.

Please volunteer to help our worthy veterans. 🙏

Susan Simmons is the Director of Development & Access to Justice Coordination at the Delaware State Bar Association and can be reached at ssimmons@dsba.org.



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Lewis H. Lazarus, Esq., presented the Access to Justice Tribute to Miranda D. Clifton, Esq., DSBA President, and Susan Simmons, who accepted on behalf of DSBA.



Lewis H. Lazarus, Esq., presented the Pro Bono Celebration Week Tribute to Jacquelyn A. Chacona, Esq., who accepted on behalf of DVLS.



Leadership Award: Law Offices of Blakely, Gregory & Pappoulis.



Achievement Award: Michael R. Nestor, Esq. of Young Conway Stargatt & Taylor, LLP.



Commitment Award: Denise Del Giorno Nordheimer, Esq. of The Law Offices of Denise D. Nordheimer, Esquire, LLC.



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Legal Professional Pro Bono Service Award: Rose L. Green, DCP, Pro Bono Director/Delaware Paralegal Association, Cooch and Taylor P.A.

The Christopher J. Battaglia Memorial Awards



The Small Firm Participation award was presented to Benesch Friedlander Coplan & Aronoff LLP.



The Large Firm Participation award was presented to Potter Anderson & Corroon, LLP.



The Emerald Award for Most Tocqueville Society members was presented to Potter Anderson & Corroon, LLP.

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This December, we've got an opportunity to get those ethics credits fulfilled. Each Thursday, DSBA will offer a free one-hour video from past ethics and professionalism courses to all members. If you are interested in obtaining these free ethics credits, make sure you register because seating is limited. Then, on the seminar day, pack a lunch and enjoy the show. Popcorn will be provided. These free CLEs will be offered on the dates:

Visit www.dsba.org for registration information.

Thursday, December 1, 2016
**Ethical and Strategic Considerations of
Cloud Computing in the Practice of Law**
Originally presented June 9, 2015
12:00 p.m. to 1:30 p.m. | 1.5 hours EE

Thursday, December 8, 2016
Ethics in Litigation
Originally presented February 9, 2015
11:30 a.m. to 12:30 p.m. | 1.0 hour EE

Thursday, December 15, 2016
Healthy Lawyers Make for a Healthy Profession
Originally presented as part of 4 hour seminar on
April 15, 2015
12:00 p.m. to 1:00 p.m. | 1.0 hour EE

Thursday, December 22, 2016
**Cyber Security for Law Firms: Ignorance
is Not a Defense**
Originally presented September 30, 2015
12:00 p.m. to 1:00 p.m. | 1.0 hour EE

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DE-LAP ZONE

A Message from the Delaware Lawyers Assistance Program

By Carol P. Waldhauser, Executive Director

It's Here! DE-LAP's Holiday Survival Guide

Suddenly, but with warning, the holiday season is upon us yet again. As my tradition has been for the past 10 years, I intend to assist those individuals, who like me, need a holiday survival guide!

Why the frantic tone? For many, the holidays are a time of unending planning and festive partying; while for others, it is a time of stress and anxiety. It is a time of varied and complex emotions: joy and nostalgia, as well as hope and sadness. Just in time for this year's season, new research helps to explain how these feelings — both positive and negative — affect us — while offering practical tips for making the season brighter and more meaningful for all.

Let's face it, many of us fantasize that our holiday celebrations will be a photocopy of a Norman Rockwell print. Fortunately, some individuals succeed. Unfortunately, some do not. For many, our holidays are an emotional trap of family issues such as: relationships (many love their brothers, sisters, and extended family but do not necessarily like spending the day with them.); to weight gain (from Thanksgiving to New Year's Day, the average American gains six pounds); to contemplating that perfect gift for hours.

While you cannot totally relieve yourself of all the stress in your preparations for the season, you can keep your stress under control. When stress is at its peak, it is difficult to stop

and regroup. Try to prevent stress and depression in the first place — especially if the holidays have taken an emotional toll on you in the past. In other words, coping with holiday stress can be dealt with in the same way as other, more serious pressures.

Begin by identifying the things that really stress you and then develop a plan for dealing with those situations. Take one small action step at a time.

For example, the majority of us enjoy decorating, buying and making gifts, going to parties, baking cookies and pies, watching football games and seeing friends. However too much — even of these good things — can cause a lot of stress to an already hectic life. Furthermore, not everything about the holiday season is pleasant — and keeping up may drain you. Bottom

line: you need to draw a line between preparing for the holidays and enjoying them.

Nostalgia and the Holidays

Unfortunately, the holiday season can magnify aspects of unpleasant feelings too. If we sometimes feel lonely; during the holidays we may feel especially lonely. If we miss a friend and/or family member (including our cherished pets) we miss them most of all during the holiday season.

According to Matthew Hutson in his short essay "Here Come the Holidays," in *Scientific American Mind*: "So if you

TIPS FROM THE MAYO CLINIC

Prevent Holiday Depression and Stress

1. Acknowledge your feelings.

If someone close to you has recently died or you cannot be with loved ones, realize that it is normal to feel sadness and grief. It is okay to take time to cry or express your feelings. You cannot force yourself to be happy just because it is the holiday season.

2. Reach out.

If you feel lonely or isolated, seek out community, religious, or other social events.

3. Be realistic.

The holidays do not have to be perfect or just like last year.

4. Set aside differences.

Try to accept family members and friends as they are, even if they do not live up to all of your expectations.

are feeling a bit discombobulated over the holidays, pull out a photo album and spend some time revisiting your past.”

Mr. Hutson elaborates that in a series of studies to be published in the *Journal of Association for Consumer Research*, hundreds of online subjects described rituals they performed with their families during Christmas, New Year’s Day and Easter, from tree decoration to egg hunts. Those who said they performed collective rituals, compared with those who said they did not, felt closer to their families, which made the holidays more interesting, which in turn made them more enjoyable. Most surprising, the types of rituals they described — family dinners with special foods, religious ceremonies, watching the ball drop in Times Square — did not have a direct bearing on enjoyment. But, the number of rituals did. Apparently, having family rituals makes the holidays better and the more the merrier.

Embrace the nostalgia and whichever method you choose, take hold of your holiday stress and the emotional traps before it takes hold of you. Finally, do seek professional help if life does not seem worth living. Symptoms of depression are: depressed or empty mood; loss of interest or pleasure in ordinary activities; changes in appetite or weight; disturbed sleep; slowed or restless movements; fatigue; loss of energy, feelings of worthlessness or guilt; trouble in thinking, concentrating, or making decisions; and recurrent thoughts of death and suicide.

Should you or anyone you know want more information or help regarding this subject and other issues that may be affecting either your work productivity or personal life, call: The Delaware Lawyers Assistance Program (DE-LAP) at (302) 777-0124 or visit our confidential web site at www.de-lap.org or email me at cwaldhauser@de-lap.org. 

Carol P. Waldhauser is the Executive Director of the Delaware Lawyers Assistance Program and can be reached at cwaldhauser@de-lap.org.

DE-LAP’S HOLIDAY SURVIVAL GUIDE:

To help you clarify what really gets under your skin about the holidays, Harvard stress expert Alice Domar, PhD, has put together a list of Family Do’s and Don’ts below:

- **Don’t cling to visions of a Norman Rockwell family moment.** That happens only in paintings. (In other words – ditch the perfectionism.)
- **Do consider family problems when planning celebratory gatherings.** If your brother drinks too much avoid a dinner party and throw a dry holiday brunch instead.
- **Don’t travel out of guilt.** Have an honest conversation with your family about how difficult it is for you to make a trip during the holidays. Suggest visiting say, in February, when you’ll have more time to really see one another. If they do not understand, consider that there may be something wrong on their end.
- **Do be flexible with you partner.** Some traditions are definitely worth fighting for while others you may be able to let go.
- **Don’t force yourself to revel.** If office parties or family gatherings are painful, honor your need to celebrate in your own private way.
- **Don’t isolate yourself.** Seek out kindred souls and spend time with them. If you’re newly divorced, join a support group, volunteer at a homeless shelter, or shop for elderly neighbors so you have some human contact.
- **Don’t spend randomly.** Set a limit for gifts and stick to it.
- **Do talk with your children.** Have a conversation before the season begins about realistic expectations.
- **Don’t hesitate to buy the same gift for several people on your list.** As long as they don’t know one another, who cares?
- **Do take one vacation day early in the holiday season to get all your shopping finished.** You can avoid the crowds or 11th hour pressure.

EXPECTATION DO’S AND DON’TS

- **Do remind yourself** that the holidays may have been so wonderful in childhood because you had no responsibility for making the magic. If you have grown-up expectations, you will not be so disappointed.
- **Do make a list of all your traditions**, from decorating to caroling. Keep the ones you love (forget about impressing other people), and cross off the ones you do not.
- **Don’t feel sorry for yourself** if you have no parties to go to. Throw your own, and feel good inviting others who may not have invitations themselves.
- **Do have compassion for yourself** during the holidays. If you are not in a celebratory mood – you are not the only one.
- **Do try returning to your old church, synagogue or mosque** if you are feeling spiritually disconnected; if that does not work, go with friends to their place of worship.
- **Don’t feel pressured to make a spiritual connection** during this holiday. Set it as a goal to work on next year. Knowing you have a plan will help you feel better immediately.

By Alison W. Macindoe

Resources for Small Firms and Solo Practitioners

Resources! Per Dictionary.com, the meaning of the word is “a source of supply, support, or aid, especially one that can be readily drawn upon when needed” That is where LOMAP is headed.

The small firm and solo practitioner does not have many readily available resources for law office management issues. Some questions take lengthy research, making phone calls, and writing emails, which take time; time a small firm and solo practitioner does not have. The small firm practitioner does not have a legal administrator, nor a more experienced attorney in the next office, nor an inhouse tech rep to answer questions. Fortunately, we live in a technological world where we can Google anything and with reputable sites, get an answer. We’ll start where most of us begin when searching for information: our computers.

For general information about starting, running, or closing a law practice, draw upon the resources offered by other states. Many states have a law practice management division in their bar associations. Their websites are loaded with information. Just remember, and I know you would know this anyway, they do not follow Delaware Rules. Check out these sites:

- Maryland (<http://www.msba.org/practicemanagement/default.aspx>)
- Massachusetts (<http://masslomap.org/>)
- Washington (<http://www.wsba.org/Resources-and-Services/LOMAP>)
- Arizona (<http://www.azbar.org/professionaldevelopment/practice20/>)

Articles from other bar association are invaluable. Not only do I and many others rely on them but, just recently, they were recommended by our own Promoting Representation Subcommittee of the Access to Justice Commission. Per the Commission’s report, “These LOMAPs offer, among other things, helpful information and checklists on firm start-up, firm dissolution, acceptance of credit cards, marketing, technology, and social media.”

From the above law practice management websites, check out “Sharing the Wealth: Tips from the Best in the U.S.”, by Patricia Yevics, recently retired Law Practice manager from the Maryland State Bar Association. Some tips are common sense such as “Understand Your Role,” “Walk in Your Client’s Shoes,” and “Hire the Best Employees You Can,” but still can be refreshing reminders. Some are instructional: “Charge for Your Initial Consultation,” for example. Pat’s advice in this last article signals that you will know the potential client’s level of commitment, that an initial consultation fee weeds

out clients that may not be able to pay for legal services, and also sets expectations on your value. Common sense, but also a good reminder.

The Delaware State Bar Association has started a resource center of its own on the Small Firm and Solo Practitioner webpage on the Delaware State Bar Association’s website: <https://www.dsba.org/pages/sections-of-the-bar/>. Check it out when you need answers with escrow account questions, information about internet scams, and many others. New resources will be continually added.

There are blogs galore. For thoughts about current topics affecting small firms, try (and these are just a few):

- Jim Calloway’s Law Practice Tips Blog: <http://jimcalloway.typepad.com/lawpracticetips/>
- Law Practice Management by Ellen Freedman: <http://pa-lawpracticemanagement.com>
- MyShingle.com: <http://myshingle.com>

Of course, there are CLE seminars from, notably, the Delaware State Bar Association, where there are upcoming seminars on starting a law practice, writing an engagement letter, taxes for the small firm, using courtroom technology, accounting for the small firm, and the annual Small Firm and Solo Practitioner Conference in Rehoboth Beach on March 24, 2017. The Fundamentals of Law Practice Management and Technology will be presented on May 10, 2017. And, the ODC presents seminars in all three counties about topics such as “How to Be Successful in a Small Firm or Solo Practice” or “Rule 1.15 Audits.”

For those continual days of heavy workloads, long hours, demanding clients, and constant

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deadlines, your first stop for information should be the Delaware Lawyers Assistance Program. Executive Director Carol Waldhauser has a wealth of information about stress reducing practices that will help you cope, and she can also assist with and provide resources for you about matters such as retirement, changing firms, changing careers, managing grief, financial stress, as well as provide much needed confidential services for substance abuse, gambling addition, and depression issues. Presently, there are transitioning workshops every month. Check out her website at: <http://www.de-lap.org/>.

The Delaware State Bar Association’s own *Bar Journal* offers articles on ethics, *pro bono* work, stress and stress management, and a couple of articles each month on technology. Keep in touch with the

Delaware law scene through the *Bar Journal*, which is in itself a resource for you.

Your best resources, however, are other Delaware lawyers, especially those in Sections. Ask questions. And lastly, there is the easiest “go to” resource, Ask Alison, at amacindoe@dsba.org. I will get an answer for you or at the very least tell you to whom you should speak to get your answer. I can save you valuable time and do the legwork for you. Take advantage of this new service from the Delaware State Bar Association. We are here to help you. 

Alison W. Macindoe is the Director of the Law Office Management Assistance Program for the DSBA. She can be reached at amacindoe@dsba.org.

DISCIPLINARY ACTIONS

PRIVATE ADMONITION

ODC File No. 112894-B

Effective Date: September 12, 2016

A Delaware lawyer was privately admonished for violation of Rule 1.8(j) of the Delaware Lawyers’ Rules of Professional Conduct (engaging in sexual relations with a client). The lawyer agreed to represent a client in a civil matter. Approximately nine months after the representation began, the lawyer and client resumed an intimate personal relationship from twenty years prior and had consensual sexual relations. The sexual relationship and lawyer-client relationship continued for two months until the lawyer terminated the representation and self-reported to ODC. 



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BOOK REVIEW

Reviewed by Richard A. Forsten, Esquire

The Game Is Afoot

Sherlock Holmes For Lawyers

By Cecil C. Kuhne III (ABA Publishing, 2016)

How To Think Like Sherlock

By Daniel Smith (MJF Books, 2012)

Sherlock Holmes is enjoying something of a renaissance these days. Movies with Robert Downey Jr., a BBC television series with Benedict Cumberbatch, and a CBS series with Johnny Lee Miller — all attest to the resurgence of interest in one of literature’s greatest and most original characters. Following up on all this interest, two recent books apply the wit and wisdom of the great detective to the legal profession.

In *Sherlock Holmes For Lawyers*, attorney Cecil C. Kuhne III offers 100 pithy quotes from various Sherlock Holmes stories with an explanation of what the quotes mean and how to apply them to everyday practice. For fans of the great detective, it is simply fun to read the quotes, but it can also be inspirational and entertaining to see how to apply them to the practice of law.

Consider the following quotes:

“It has long been an axiom of mine that the little things are infinitely the most important.”

“A Case of Identity,”
The Adventures of Sherlock Holmes (1892)

“Nothing clears up a case so much as stating it to another person.”

“Silver Blaze,”
The Memoirs of Sherlock Holmes (1893)

“It was a net from which it seemed to me, a few hours ago, that there was no possible escape. But he had not that supreme gift of the artist, the knowledge of when to stop. He wished to improve that which was already perfect and so he ruined all.”

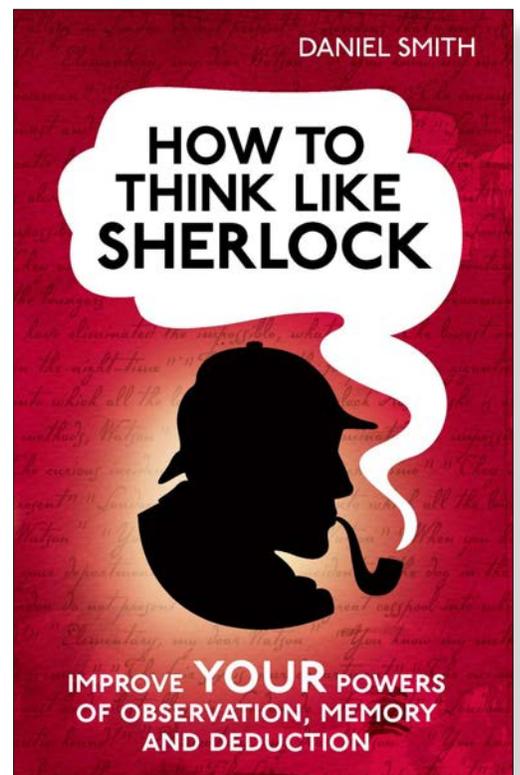
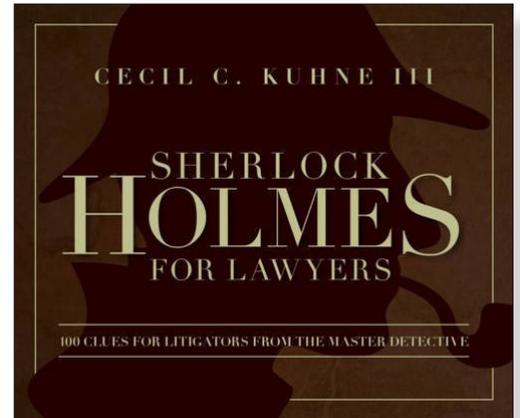
“The Adventure of the Norwood Builder”
The Return of Sherlock Holmes (1905)

“I ought to know by this time that when a fact appears to be opposed to a long train of deductions it invariably proves to be capable of bearing some other interpretation.”

A Study In Scarlet (1887)

“Why should you, for a mere passing pleasure, risk the loss of those great powers with which you have been endowed?”

The Sign of the Four (1890)



For these, and 95 other quotes, Kuhne tells us many things we can learn from Holmes, including the fact that we should rehearse our arguments with others and should not go longer on a point than needed, lest we end up losing the point. The great detective was full of wonderfully phrased observations and Smith dishes them up in a way sure to satisfy both ardent fans of Sir Arthur Conan Doyle, as well as those with only a passing interest but nonetheless looking for some light entertaining and inspirational reading.

Meanwhile, in *How To Think Like Sherlock*, author Daniel Smith, writing for a broader audience, offers advice, exercises, and suggestions on how to improve your powers of observation, memory, and deduction. All of this is done in a very light and entertaining style.

“Being alert to the world around you” is one of the subchapters of Smith’s book, inspired by many of Holmes’ comments, including, from “A Scandal in Bohemia” (*The Adventures of Sherlock Holmes* (1892)), that “[y]ou see, but you do not observe. The distinction is clear.” Holmes makes the point again in “Silver Blaze” (*The Memoirs of Sherlock Holmes* (1893)) when he engages in the following colloquy:

[Gregory]: “Is there any point to which you would wish to draw my attention?”

[Holmes]: “To the curious incident of the dog in the night-time.”

[Gregory]: “The dog did nothing in the night-time.”

[Holmes]: “That was the curious incident.”

And, in *The Hound of the Baskervilles* (1902), Holmes observed that “[t]he world is full of obvious things which nobody by any chance ever observes,” while in “The Boscombe Valley Mystery” (*The Adventures of Sherlock Holmes* (1892)), he explains: “You know my method. It is founded upon the observation of trifles.”

What are these trifles? In “The Adventure of the Blue Carbuncle” (*The Adventures of Sherlock Holmes* (1892)), the detective instructs:

Never trust to general impressions, my boy, but concentrate yourself upon details. My first glance is at a woman’s sleeve. In a man, it is perhaps better to take the knee of the trouser. Chance has put in our way a most singular and whimsical problem, and its solution is its own reward.

Similarly, in *A Study in Scarlet* (1887), Holmes teaches:

By a man’s finger-nails, by his coat-sleeve, by his boots, by his trouser-knees, by the callosities of his forefinger and thumb, by his expression, by his shirt-cuff — by each of these things a man’s calling is plainly revealed. That all united should fail to enlighten the competent inquirer in any cases is almost inconceivable.

Indeed, in *A Study in Scarlet*, when Holmes meets Watson for the very first time, he deduces that Watson is a medical doctor recently injured in Afghanistan. Watson is amazed, but Holmes quickly provides his reasoning:

I knew you came from Afghanistan...The train of reasoning ran, “Here is a gentleman of a medical type, but with the air of a military man. Clearly an army doctor, then. He has just come from the tropics, for his face is dark, and that is not the natural tint of his skin, for his wrists are fair. He has undergone hardship and sickness, as his haggard face says clearly. His left arm has been injured. He holds it in a stiff and unnatural manner. Where in the tropics could

an English army doctor have seen much hardship and got his arm wounded? Clearly in Afghanistan.”

Smith’s book, like Kuhne’s, is full of pithy quotes and observations, but he is focused on helping the reader learn to think like Sherlock (hence the title of Smith’s book) and so he provides various advice and exercises on how to develop better powers of observation and deduction. If only one or two of these exercises is helpful (and one would hope that more than that would be), then this short book will have been worth time.

Holmes once commented: “I am an omnivorous reader with a strangely retentive memory for trifles” (“The Adventure of the Lion’s Mane,” *The Case-Book of Sherlock Holmes* (1926)). None of us have all the time we might like, whether to read or pursue other things. But, in *Sherlock Holmes For Lawyers* and *How To Think Like Sherlock*, we have two short, very quick reads that might help all of us to pay better attention to the world around us and better our practices — and, we might even be inspired to go back and read (or read for the very first time) a Sherlock Holmes story or two. Come, Watson, come. The game is afoot. ♁

Richard “Shark” Forsten is a Partner with Saul Ewing LLP, where he practices in the areas of commercial real estate, land use, business transactions, and related litigation. He can be reached at rforsten@saul.com.



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A PROFILE IN BALANCE

By Kara M. Swasey, Esquire

The Honorable James G. McGiffin, Jr. A Renaissance Man

If I aspire to be the best lawyer I can be, I must first try to be the best person I can be. I am fortunate to know many lawyers who have succeeded in their work, in part, because they are excellent people. This column in The Bar Journal will feature an article on one such lawyer. Each featured lawyer will exemplify the art of balance in life. I have learned much from these people. Perhaps readers will also benefit.

- Jim McGiffin, Former "Profiles in Balance" Columnist

Author's Note: Jim is giving up his "Profiles in Balance" column in favor of the Bench. He is hopeful it will continue without him.

• • •

Although he has never worked a billable hour, Jim McGiffin can keep time with anything. He specializes in the electric bass, but he also plays the bass fiddle, the guitar, the Irish tenor banjo, the congas, the tambourine, and the Bodhran (an Irish drum). His musical talents have made him a member of the Dover Symphony Orchestra, a five-piece Irish Band called Celtic Harvest, the choir at his church, the Delaware Friends of Folk, and most importantly, a duo with his wife Kathy.

Outside of his work as a staff attorney at Community Legal Aid Society, Inc., where he has worked continuously from his graduation from law school until now (with the exception of a four-year term as a Family Court Commissioner), Jim's activities have very little to do with work. His time away from the office is spent on his family, his music, international soccer, and his church.

Jim and Kathy have two children, each of whom resemble the best of Jim in their own way. His oldest child, Bridget, has dedicated her talent to improving the lot of an underserved population. Bridget is a master's level social worker in Washington, D.C., who works with children in foster care. She is sophisticated and intellectual, but believes her father (a self-described "east coast liberal") is conservative. Conor, age 22, is a talented and passionate singer and actor. He is based in New York City, but is frequently on the road. He is about to begin a national tour as Mr. Bundles in Annie.

Although Jim is a big international soccer fan and has been a soccer referee since his teenage years, neither Conor nor Bridget inherited Jim's love for soccer. Youth soccer was a preview of their adult lives: Bridget was busy introducing herself and making friends and Conor would do puppet shows with his mittens on the field. No matter. Conor is a black belt in Tae Kwon Do. Although he is not an athlete in the traditional sense, Jim brags that Conor could "kick your butt."



Photo credit: Jan Crumpley

Like Conor, Jim loves music and, at one point, thought it would be his future. As a senior in high school in Fairfax, Virginia, without a plan for the future, Jim applied to six colleges with six different majors and was accepted to all six colleges. He decided to bide his time until he knew what he wanted at George Mason University because it was closest to him. Jim took a variety of liberal arts courses — history, philosophy, English, and of course, music.

At age 19, he auditioned for and won a part in the Disney All-American College Singers and Show Band as a bass player. He spent 11 weeks in show biz in Orlando, Florida. As he finished his Disney gig, his life's direction became clear. Jim was accepted to the prestigious music program at North Texas State University (now, the University of North Texas). Jim played the bass and improved from having nearly 20 students at

North Texas State better than him at bass to having only 10 or 11 students better than him as he neared graduation. Jim was concerned that being 10th or 11th best would make for a difficult life as a musician and although his friends and his studies were wonderful, Texas was not hospitable to this east coast liberal.

As a student in a college in Texas, he was required by law to take a course in political science. The professor, also an east coast liberal, saw Jim for several semesters of study. After confirming that Jim wrote well, spoke well, and did well on his SAT, recommended that Jim talk to the pre-law advisor at North Texas. The pre-law advisor confirmed that Jim wrote well, spoke well, and did well on his SAT and recommended that Jim take the LSAT. Jim did well on his LSAT.

Jim moved back to the east coast for his 1L year at Boston College — the most miserable year of his life. He chose a musician roommate who turned out to be more of a distraction than a musical inspiration. Jim ignored the musician's antics and studied hard. In his second year at Boston College, he was accepted into the clinic. The heavens opened and God smiled. For the first time, it was clear that Jim was where he was supposed to be — working as a poverty lawyer. In his third year, the heavens opened further. The Boston College Legal Clinic was the only place a Marxist feminist with an undergraduate degree from UMass could be gainfully employed. The clinic hired that Marxist feminist, Kathy Doyle, as a temporary secretary. Kathy worked side by side with Jim for three months until she was ready to leave for her graduate studies at Brown University. Two days before she left for Brown, Kathy asked Jim out on a date. He said yes. They stayed together as Jim finished his J.D. and Kathy received her master's degree in teaching.

They graduated a day apart from one another and searched for jobs together. They agreed that each would follow whoever got a job first. It was Jim. He was hired with IOLTA funds as a staff attorney for the Community Legal Aid Society in Georgetown, Delaware to

handle housing, public benefits, and family law matters. Jim and Kathy married and moved to Milford, Delaware. Jim served as a CLASI attorney, a manager of the Dover CLASI office, and, after a four-year stint serving as a Commissioner on the Family Court of the State of Delaware, the Executive Director of CLASI for seven years until the late Christopher White took over as the Executive Director seven years ago. For the past 11 years, Jim has been a staff attorney for CLASI in the Dover office. From 2011-2012, Jim was the president of the Delaware State Bar Association. Jim has also been a long-time contributor to *The Bar Journal* as writer of the "Profiles in Balance" column.

Jim has been a campaign volunteer, a campaign treasurer, and a Dover city councilman. In addition to his work at CLASI, Jim is counsel to the Delaware State Senate majority caucus. In these positions, he earned the trust and respect of the public and the legislature. Jim jokes that he earned the recognition of Governor Markell before the Governor recommended him to serve as a Family Court Judge this September. On a winter day in Dover, the Governor was entertaining guests in a park where Jim was volunteering as Santa Claus. Santa's elf was late to open the workshop, where Santa McGiffin would sit and greet the children of Dover. As Santa Claus sat on a park bench, trying to hide his personal

belongings and avoid ruining the magic of the season, the Governor stared hard and asked, "Is that you, Jim?"

On October 13, 2016, the Senate unanimously confirmed Jim to serve as the newest judge on the Delaware Family Court. Jim will soon begin his work at the Family Court where he will bring his considerable experience fighting for procedural fairness and the joy of music to his chambers. ⚖️

Kara M. Swasey is a director at Bayard, P.A. and concentrates her practice in family law matters. She can be reached at kswasey@bayardlaw.com.

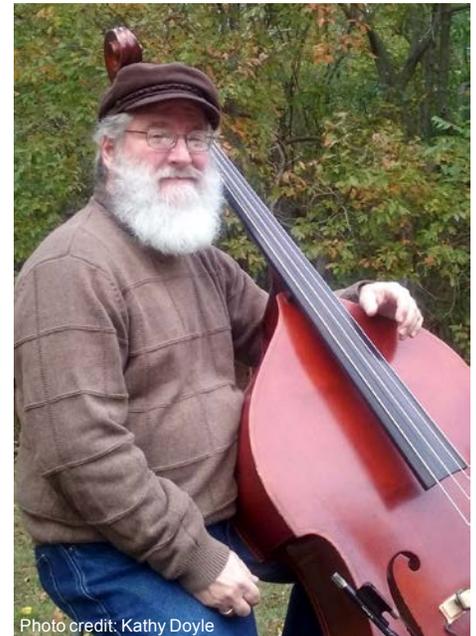


Photo credit: Kathy Doyle



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— OF NOTE —

Condolences to **Kelly A. Phillips Parker, Esquire**, on the death of her father, William Patrick Phillips, who died on October 2, 2016.

Condolences to **Stephen P. Casarino, Esquire**, on the death of his mother, Nancy T. Casarino, who died on October 17, 2016.

Condolences to **Richard M. Beck Jr., Esquire**, on the death of his father, Richard M. Beck, who died on October 18, 2016.

If you have an item you would like to submit for the Of Note section, please contact Rebecca Baird at rbaird@dsba.org. ⚖️

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Squid The Other White Fish

While the season for squid in the Northeast is spring and summer, the season in the Pacific Northwest is now through winter. Squid may seem intimidating not just due to its menacing appearance, but because it must be flash cooked or braised for a long time. Yet, squid makes for an easy weeknight meal and is one of the least expensive items at the fish market (about \$7.99 per pound). Below are a few fall and winter recipes to showcase my favorite cephalopod. So, will you add squid to your repertoire – tentacles and all?

Calamari and Kiwi

- 1 jalapeño
- 1 kiwi
- Extra virgin olive oil
- Sesame oil
- 4 medium squid bodies, cut into rings
- 4 squid tentacles
- Sea salt

Crispy fried calamari is a standard appetizer at Italian restaurants, but this dish lets the squid shine sans flour and splattering oil.

Chop as many thin slices of jalapeño as you wish. Slice the kiwi into eight slices, and fan them along the bottom of an appetizer bowl or plate. (I used two small antique vaseline glass bowls).

Heat a few tablespoons of extra virgin olive oil and sesame oil in a wok until it sizzles. Then, add the jalapeño and sauté for about two minutes. Add the squid and cook for two minutes. While the squid is cooking, move it around with a wooden spoon and coat it in the oils. Spoon the squid atop the kiwi along with the oils and jalapeño, and season with sea salt to taste. The sweetness of the kiwi is a bright balance to the kick of the jalapeño.

Chorizo Stuffed Braised Squid

- 3 links fresh chorizo, casing removed
- Extra virgin olive oil
- 1/2 medium onion, chopped
- 3 cloves garlic, sliced
- Zest of one lemon
- 1 cup white wine
- 1 cup chicken stock
- 1 14 ounce can of whole, peeled tomatoes
- 1 bay leaf
- 1 dozen medium sized squid bodies

I served this as an appetizer course during a recent Spanish themed cooking session with some of my colleague teachers. They were pleasantly surprised by how tender the squid became after braising.

In a nonstick pan, sauté the chorizo until browned, breaking it up with a wooden spoon. Transfer to a bowl using a slotted spoon.

Heat several tablespoons of olive oil in a large pot. Add the onion, garlic, and lemon zest. Cook until the onions are golden, about seven minutes. Then stir in the wine, chicken stock, and tomatoes. Also add the bay leaf. Season with salt and pepper to taste and bring to a simmer.

Stuff the squid bodies with the chorizo, then nestle them in the liquid. Cover and simmer until the squid is tender, which will take about one hour. Transfer the squid to each appetizer dish, pouring some liquid and tomatoes on top. Serve with toasted focaccia.

Calamari Fra Diavolo

- Extra virgin olive oil
- 3 cloves garlic, sliced
- 1 box Pomi chopped tomatoes
- Sea salt
- Red pepper flakes
- Dried chili pepper
- Cipriani Tagliarelle pasta
- 6 medium squid bodies, cut into rings
- Fresh oregano, roughly chopped
- Fresh parsley, roughly chopped

Cipriani is my favorite brand of pasta. You may recognize the name as Cipriani restaurants are spread across New York City. What started as Harry's Bar in 1931 off Venice's Piazza San Marco has grown to an international hospitality group. About half a box (4 ounces) is plenty for two. For this recipe, I recommend the Tagliarelle, a thin flat noodle which takes only four minutes to cook.

Begin by sautéing the garlic in olive oil in a pan that has a lid. Then add a box of Pomi chopped tomatoes and salt to taste. Stir. Now create the "Fra Diavolo" – several dashes of red paper flakes as well as a dried chili pepper. When the sauce comes to a boil, reduce the heat to simmer and cover. While preparing the sauce, bring a large pot of water to a boil.

As the water comes to a boil, add a pinch of salt and focus. This part requires quick reflexes and your undivided attention. Add the pasta to the boiling water and stir. After two minutes, add the calamari and the fresh herbs to the sauce. Adjust the heat to medium and cover for two minutes.

At this point, both the pasta and calamari are cooked. Quickly, yet carefully, add the pasta to the sauce pan using tongs, tossing it with the calamari and sauce. Serve the Calamari Fra Diavolo in pasta bowls with grated Parmesan and more red pepper flakes. I know the tradition is not to pair fish with cheese; however, I believe this rule is passé. (Also, I guarantee you will see it on menus!) 



Susan E. Poppiti is a mathematics teacher at Padua Academy High School and managing member and cooking instructor for La Cucina di Poppiti, LLC and can be reached at spoppiti@hotmail.com. Other recipes and cooking tips are available on Susan's food blog at www.cucinadipoppiti.com.

DELAWARE STATE BAR ASSOCIATION 2016 Awards Luncheon

Tuesday, December 6, 2016 | 12:00 Noon
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Morris James LLP is pleased to announce

Ryan T. Keating

has joined the firm effective September 26, 2016 as an associate in its
Professional Liability Litigation Practice Group

Mr. Keating will focus his practice on the defense of doctors, hospitals and other healthcare providers in medical negligence matters. He will also represent healthcare providers in matters before regulatory boards. Prior to joining Morris James, Mr. Keating represented institutional investors in shareholder litigation and prior to practicing corporate litigation, he defended physicians in medical negligence matters for another law firm.

Mr. Keating graduated from George Washington University Law School in 2010 and received his B.S. in Political Science from Florida State University in 2004. He was a judicial intern and a judicial clerk for the Superior Court of Delaware. Mr. Keating was admitted to practice law in Delaware in 2010. He can be reached at 302.888.6948 or rkeating@morrisjames.com.

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