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Make 2017 Your Year of Optimum Health & Well-being  P. 9

Success Secrets: Principles of Professionalism  P. 22
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, by email 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

Kent County

Sussex County

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Cover Photo Credit: © istockphoto.com/BrianAJackson
Welcome to February, the runt of the calendar. Although it is the shortest month, it packs a powerful punch. February is indeed a month of contradictions. Everyone knows the significance of February 14th. It is the day we all pay tribute for the love that we have found to various chocolatiers, jewelers, restaurants, and various other retail outlets. February is a time of expectation that somehow our loved ones will amaze us with their offering that should signify and demonstrate their love for us. Setting the retail sarcasm aside, during the Valentine’s Day season, we reflect on how blessed we are to have loved ones in our lives.

On the other hand, during the month of February we reflect on dead presidents, probably the polar opposite of romance. We honor George Washington and Abraham Lincoln, two of our most significant presidents...one for being first (among other things) and one for his courage and persistence during the most trying and volatile periods of our country’s history.

So, I hope you are thoroughly enjoying February, the month of love and dead presidents. These two notable qualities for February seem like a hopeless contradiction, don’t they? How do we deal with these two divergent focuses? For example, how do teachers decorate their rooms for February? I visualize classrooms with stately presidential pictures surrounded by hearts and paper flowers. Silliness aside, everyday we deal with contradictions in our practices and lifestyles. How do you deal with these contradictions and make them work?

One area of contradiction is the many roles that we as legal professionals play throughout our day. Many of us start our day as a loving spouse and parent spending the first couple of hours of our day scurrying around to supervise homework, packing lunches, and field trip slips. Once we are satisfied that we can bow out without starting an international incident, we jump in our vehicles and turn into professional race car drivers, knowing with precision (within 30 seconds anyway) how to get to our destination, possibly dictating, consuming a champion’s breakfast or just strategizing our day during the entire trip. We take time and pull ourselves together before striding from the car in superhero mode ready to “save the day”. We put on our lawyer’s masks and start our day, slaying one dragon at a time until we find respite in lunch, a school emergency or darkness, whichever comes first.

Next, we pack our briefcases full of optimism (like we can find another six hours somewhere in the day) and scurry to our cars to begin the second leg of the race, heading home. This time, we are planning dinner, making grocery lists and mentally trying to remember who has to be where and when tonight. We do the “Amazing Race” through our local grocery store accumulating pieces to create a culinary masterpiece, then race home, finding our smile and pleasant demeanor somewhere between the checkout line and the driveway. We rush in determined to be loving and supportive and pull together a dinner in 30 minutes that is miraculously both healthy AND tasty. We smile at the stories of our spouse and toddlers alike during dinner and any after-dinner family activities and then
People handle contradiction in three ways: (1) rationalization; (2) compartmentalization; and (3) synthesis. An example of rationalization is that if I work hard, I am allowed to play harder because I am such a hard worker. A way we may compartmentalize is that I can be a softer and more sensitive mom and tough and driven at work because I can compartmentalize my two different roles. Synthesis is somehow melding the contradictions together. I must say, it is a special person who is good at synthesis. Most people end up with a final product that looks like a science experiment gone wrong.

So, as February flies by, take a minute and evaluate the roles you currently play on a daily basis. If you can keep the plates in the air without fear of them falling, congratulations. Pat yourself on the back. However, if you are feeling overwhelmed with the number if plates you keep spinning because of expectations imposed by others or, even worse, yourself, take a good look at the plates and make sure they are really important enough to constantly demand your attention. There’s no shame in using the word “no.” The human mind is a complex and amazing organ. However, you are the only one who can nourish, maintain, and keep your mind healthy. Be authentically you whether you are father or mother of the year, an amazing coach, or Super Lawyer (cape included) and most of all, be thankful for those you have the opportunity to love, cherish and serve.

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.

“...I have found my secret to balancing contradictory roles is merely to be authentic...”
When I opened my own law practice, I initially focused on the critical decisions, but soon realized that there were hundreds of decisions to make. As a result, my checklist quickly grew and became pages long identifying the tasks that needed attention. Do I lease or buy a copier? What phone system should I use? What colors should I use in my logo? (What logo?) Where do I find a suitable desk that I can fit my legs under? You have read the same legal publications I have that contain no less than a dozen advertisements touting practice management software; which one to choose? Just as when I consulted my colleagues on a case, I turned to members of the Bar for their thoughts. The support and guidance was overwhelming. My colleagues in Delaware readily allowed me to benefit from their experiences, good and bad. Many of those I consulted told me they were glad I called and encouraged me to call again. And, I am glad I asked for the help. My new firm has benefited greatly as a result. It is okay to lean on your fellow attorneys when done in an appropriate manner. I tried to research and get the answer I needed first. When I was ready to act, I would vet my decisions with those who traveled this road before me. I tried not to impose on one particular colleague more than another; I understand everyone is busy.

Finally, I offered to reciprocate if an attorney I consulted ever needed my thoughts on any matter. When this does happen, I quickly recall the generosity of my fellow attorneys and make as much time as possible to listen and respond. Essentially, as it should be, it is one big “pay it forward” system where attorneys may be the questioner on one day and the one providing the answer the next. I am happy and proud to be a part of this informal component of the Delaware Bar. So, when starting a

Oh, if the trip and the plan come apart in your hand,
You look contorted on yourself your ridiculous prop.
You forgot what you meant when you read what you said
And you always knew you were tired, but then
Where are your friends tonight?

—LCD Soundsystem
Bar Journal Editor Jason C. Powell is the managing member of The Powell Firm, LLC, in Wilmington, Delaware. He may be reached at jpowell@delawarefirm.com and more information is available at delawarefirm.com.

Don’t let this happen to your life and career. Reach out to DE-LAP for help before you become a trainwreck or before you are contacted by ODC. Confidential, free help is a call away at (302) 777-0124 or e-mail cwaldhauser@de-lap.org.

First State Distinguished Service AWARD

SEEKING NOMINATIONS

The Delaware State Bar Association and the Awards Committee are seeking nominations for the First State Distinguished Service Award to be presented at the 2017 Bench & Bar Conference. The award is described below:

This award is given annually at the Bench & Bar Conference to a member of the Delaware Bar who, by exemplary leadership and service dedicated to the cause of good citizenship in civic and humanitarian service over a period of many years has maintained the integrity and honored recognition of the legal profession in community affairs and who, as an outstanding Delawarean, unceasingly advances the ideals of citizen participation and community accomplishment, thus reflecting high honor on both country and profession.

SUBMIT NOMINATIONS BY MARCH 3, 2017 TO:
Mark S. Vavala, Executive Director
Mail: DSBA, 405 N. King Street, Suite 100, Wilmington, DE 19801 or Email: mvavala@dsba.org

Please include: The name, firm, and title/occupation of the Candidate; name and contact information (firm, address, email, phone, and fax) of the individual nominating the Candidate; and a brief statement of the reasons the Candidate is deserving of the Award.

25th Annual
Women and the Law Section Retreat
Friday, March 3, 2017 and Saturday, March 4, 2017
Atlantic Sands Hotel and Conference Center
Rehoboth Beach, Delaware

law firm, if you ever need advice on how to avoid filing your first Notice of Address Change in District Court that is not embarrassingly emblazoned with a huge watermark saying “PDF FREE TRIAL,” I am your guy. Thank you. 😊
In the Community

On Sunday, January 8, 2017, members of the Defense Counsel of Delaware (and their families) volunteered at the Ronald McDonald House — cooking and serving a delicious Italian dinner to those staying at the facility.

DSBA Members in attendance: Nick Skiles (Swartz Campbell), Frank Nardo (Tybout, Redfearn & Pell), Andy Carmine (Elzufon Austin Tarlov & Mondell, P.A.), Don Kinsley (Maron Marvel Bradley Anderson & Tardy LLC), Lou Rizzo (Reger Rizzo Darnall LLP), Brian Kasprzak (Legal Services Corporation of Delaware, Inc.), Eileen Ford (Marks, O’Neill, O’Brien, Doherty & Kelly, P.C.), Dawn Becker (The Law Office of Dawn L. Becker).
WHY I BELONG

Mary I. Akhimien
Connolly Gallagher LLP
EXECUTIVE COMMITTEE
MEMBER-AT-LARGE

“The DSBA offers attorneys support and serves as an additional conduit for connecting Bar leaders and organizations to relevant tools and resources. Through my involvement in the DSBA, I have met attorneys across all different practice areas who I can refer work to and vice versa. I have also made some great friends through the DSBA!”

Kate Harmon
Elliott Greenleaf, P.C.
EXECUTIVE COMMITTEE
MEMBER-AT-LARGE

“I belong to the DSBA to stay connected with colleagues, build new relationships, and support our profession.”

Announcing DSBA Certification as an Arbitrator

The first annual Arbitration Training program will take place on February 8, 2017, at DSBA, with webcasts to Kent and Sussex Counties. Certification in a particular area of law will be given to any attorney completing both the general training course and at least one additional specialty course.

Register now for the following, by going to www.dsba.org/CLE:
February 8, 2017 – Arbitration Training, General Course
March 7, 2017 – Arbitration Training in Commercial Law
April 6, 2017 – Arbitration Training in Personal Injury

And coming in March: DSBA will offer Superior Court Mediation Training (the Court’s training program is being managed by DSBA and will be offered on March 29-31, 2017). Registration will be available soon.

TOP 5 THINGS YOU SHOULD DO TO MAKE 2017 YOUR YEAR OF OPTIMUM HEALTH & WELL-BEING

1. Feed your body wholesome organic, unprocessed, mostly plant-based food, rich in vegetables, fruits, nuts, seeds, legumes, and good fats. If you eat meat, dairy, and eggs, make sure they come from grass-fed free-range animals.

2. The brain is a lawyer’s foremost tool. Keep it clear, sharp, and active, by minimizing, or better yet, eliminating sugars and simple carbohydrates, thereby enhancing your memory and clarity of thought.

3. Hydrate yourself by drinking pure, filtered water. Every system in your body depends on water to function properly. Do you want to curb cravings? Stop polluting your body and mind with junk masquerading as food. Drinking clean water will help you get there.

4. Move, move, move!!! The human body is made for motion, and being motionless for long periods of time causes irreparable harm. It is not only about working out 45 minutes each day, it is about taking every opportunity to move as much as possible throughout the day.

5. Give yourself a well-deserved, much-needed night’s sleep. Dim the lights, disconnect yourself from all screens, take time to express gratitude to your body and your mind for being there for you, and vow to support them the next day and every day.

Side Bar

1. Feed your body wholesome organic, unprocessed, mostly plant-based food, rich in vegetables, fruits, nuts, seeds, legumes, and good fats. If you eat meat, dairy, and eggs, make sure they come from grass-fed free-range animals.

2. The brain is a lawyer’s foremost tool. Keep it clear, sharp, and active, by minimizing, or better yet, eliminating sugars and simple carbohydrates, thereby enhancing your memory and clarity of thought.

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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
Karen Jacobs, Esquire, Co-Chair*
Victor F. Battaglia, Sr., Esquire
Dawn L. Becker, Esquire
Mary C. Boudart, Esquire*
Ben T. Castle, Esquire
David J.J. Facciolo, Esquire
David J. Ferry, Jr., Esquire
Robert D. Goldberg, Esquire
Bayard Marin, Esquire
James K. Maron, Esquire
Wayne A. Marvel, Esquire
Michael F. McTaggart, Esquire
Denise D. Nordheimer, Esquire
Elizabeth Y. Olsen, Esquire*
Kenneth M. Roseman, Esquire*
Thomas Doyle Runnels, Esquire
Janine M. Salomone, Esquire
Yvonne Takvorian Saville, Esquire
R. Judson Scaggs, Esquire*
David A. White, Esquire
Gregory Brian Williams, Esquire
Hon. William L. Witham, Jr.

Kent County
Crystal L. Carey, Esquire
Edward Curley, Esquire
Clay T. Jester, Esquire
Mary E. Sherlock, Esquire

Sussex County
Larry W. Fifer, Esquire
Eleanor M. Kiesel, Esquire
Dennis L. Schrader, Esquire

Carol P. Waldhauser, Executive Director
DSBA/DE-LAP Liaison

*Certified Practice Monitor

CALENDAR OF EVENTS

February 2017

Thursday, February 9, 2017
Business and Tax Considerations for Solo Practitioners and Small Law Firms
2.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Friday, February 10, 2017
22nd Annual Rubenstein-Walsh Seminar on Ethics and Professionalism 2017
6.5 hours CLE credit in Enhanced Ethics
Chase Center on the Riverfront

Wednesday, February 15, 2017
Fundamentals of Real Estate 2017
6.5 hours CLE credit including 0.5 hour Enhanced Ethics credit
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Thursday, February 16, 2017
Engagement Letter, Fee Agreement, Retainer, and Legal Research Agreement, Oh My!
2.0 hours CLE credit in Enhanced Ethics
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Wednesday, February 22, 2017
Arbitration Training and Certification in Employment and Labor Law 2017
2.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Tuesday, February 28, 2017
Treasure Islands: Demystifying Litigation and Asset Recovery in the Offshore World
2.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

March 2017

Thursday, March 2, 2017
What I Wish I Learned in Law School About…Oral Argument
1.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Kent County Courthouse, Dover, DE
Webcast to Tunnell & Raysor, Georgetown, DE

Friday, March 3, 2017 and Saturday, March 4, 2017
25th Annual Women and the Law Conference
9.8 hours CLE credits including 1.3 hours Enhanced Ethics credits
Atlantic Sands Hotel and Conference Center, Rehoboth Beach, DE

Visit www.dsba.org/cle for a complete list of upcoming CLE Seminars.
SECTION & COMMITTEE MEETINGS

February 2017

Wednesday, February 8, 2017 • 4:00 p.m.
Real & Personal Property Section Meeting
The Kirsh Law Firm, 910 South Chapel Street, Suite 202, Newark, DE

Monday, February 13, 2017 • 12:00 p.m.
Litigation Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, February 14, 2017 • 4:00 p.m.
Small Firms & Solo Practitioners Section Meeting
The Law Offices of Denise D. Nordheimer, Esquire, LLC, 2001 Baynard Boulevard, Wilmington, DE

Wednesday, February 15, 2017 • 12:00 p.m.
E-Discovery and Technology Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, February 16, 2017 • 12:00 p.m.
Executive Committee Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, February 16, 2017 • 4:00 p.m.
Elder Law Section Meeting
Reger Rizzo & Darnall LLP, Brandywine Plaza East, Wilmington, DE

Tuesday, February 21, 2017 • 12:00 p.m.
Government & Consumer Law Section Meeting
Connolly Gallagher LLP, The Brandywine Building, 1000 North West Street, 14th Floor, Wilmington, DE

Wednesday, February 22, 2017 • 12:30 p.m.
Young Lawyers Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, February 23, 2017 • 4:00 p.m.
Family Law Section Meeting
Bayard, P.A., 222 Delaware Avenue, Suite 900, Wilmington, DE

Monday, February 27, 2017 • 4:00 p.m.
Taxation Section Meeting
Cooch and Taylor P.A., 3711 Kennett Pike Greenville, DE

Tuesday, February 28, 2017 • 12:30 p.m.
Labor & Employment Law Section Meeting
Connolly Gallagher LLP, The Brandywine Building, 1000 North West Street, 14th Floor, Wilmington, DE

March 2017

Monday, March 6, 2017 • 12:30 p.m.
Senior Lawyers Committee Monthly Luncheon Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, March 7, 2017 • 3:30 p.m.
Estates & Trusts Section Meeting
Connolly Gallagher LLP, The Brandywine Building, 1000 West Street, Wilmington, DE

Wednesday, March 8, 2017 • 12:00 p.m.
ADR Section Meeting
Wilson Sonsini Goodrich & Rosati, 222 Delaware Avenue, Suite 800, Wilmington, DE

Wednesday, March 8, 2017 • 4:00 p.m.
Real & Personal Property Section Meeting
The Kirsh Law Firm, 910 South Chapel Street, Suite 202, Newark, DE

Monday, March 13, 2017 • 12:00 p.m.
Litigation Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Please contact Janice Myrick at jmyrick@dsba.org or (302) 658-5279 to have your Section or Committee meetings listed each month in the Bar Journal.
TIPS ON TECHNOLOGY

By Richard K. Herrmann, Esquire

Avoid Lost Laptops and Briefcases
Help is Here

Our focus during the last 18 months has been on taking reasonable steps securing client information. We all have passwords; some have embraced dual authentication (for example, a temporary PIN is sent by text to your cell phone after you have entered your password). Many have learned how to use “Find My Phone” for misplaced cell phones or tablets.

However, few of us have taken advantage of technology like “Find My Phone” for laptops, computer bags, or even traditional briefcases. And, even if similar technology exists, how could it work if the device were switched off or if the only device in the briefcase was a yellow pad with client notes, but no power button at all? I am pleased to report the technology exists, it works and it is inexpensive. It is called Tile.

The Tile is a small electronic device slim enough for a wallet, pocket liner, in a bag, or in a briefcase. The device costs about $20 and connects to your cell phone via Bluetooth. Once you register the device with your Tile app, your app will remember the last time it was within Bluetooth range. For example, if you left your briefcase at Morris James LLP, but could not remember where you left it, just like “Find My Phone” you tell the Tile app you misplaced your briefcase. It will show you on a map the location where it was last within Bluetooth range of your phone.

Of course, you can name each Tile so you can distinguish between the one you have lost and the others. I have one in my computer bag and another in my iPad bag. I am thinking about attaching one to my iPad case itself. For the few of you who have read this far, I am sure you are asking, “Why would he attach a Tile to his iPad when he could just use ‘Find My iPad’?” Well, let me share with you what focused me on this subject. This fall, I could not find one of my iPads for about three months. It was one I kept in my car. I use it for my classes, my CLE talks, and administrative meetings. It is passworded and there is nothing client related on it. From a Rule 1.6 viewpoint, I was not concerned. But, it was, after all, a perfectly good iPad and new enough that I was not really interested in replacing it, unless I really had to do it. Of course, I tried “Find My iPad” and it did not appear. This meant it was simply “off” or someone had found it and reset it to factory specs, and it no longer knew it was mine. To narrow down the search I contacted my cell carrier and asked for an activity report for the last three months. There was no activity at all. This made it more likely that it was lost and no one had found it. I then did a complete search of the car for the tenth time. And, there it was, carefully tucked away in the apron behind the driver seat where I had stowed it when I was vacuuming the car three months before. The point is, even with “Find My iPad,” there are limitations which do not exist with Tile.

This does not mean that Tile is without limitations. For example, if you have your Tile in a suitcase and it was delivered to the wrong airport, how would Tile help if it would only tell you where you had it last when it was within
Bluetooth range to your phone? Well, the folks at Tile have developed a Tile Community. Should another person with a Tile app get within Bluetooth range of a Tile you marked as “lost,” a signal is passed to you and it appears on the map; all of this without the passerby member of the Tile Community knowing that she or he has helped. Magic!

It is hard to imagine that we now have the technology available to us which will assist in the avoidance of lost client information in briefcases and laptops. It is even harder to imagine we would not take advantage of the technology at a cost of only $20 per device. Take a tour at https://www.thetileapp.com/.

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.

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

The Second Annual SMALL FIRMS and SOLO PRACTITIONERS CONFERENCE

Presented by the Law Office Management Assistance Program and Small Firms and Solo Practitioners Section of the Delaware State Bar Association

Friday, March 24, 2017
Atlantic Sands Hotel & Conference Center
Rehoboth Beach, DE

5.0 hours CLE Credit including 3.0 hours of Enhanced Ethics Credit for Delaware and Pennsylvania Attorneys

Topics include
Your Mobile Phone, Software for Your Practice, and Social Media Strategies
Planning for Setbacks and Disasters
Practicing, Parenting and Your Home Life
Litigation Skills for the Small Firm Practitioner
Best Practices for Financial Management
The Past Year with the ODC
Negotiation Skills
....and more!

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Look for more information on the DSBA website at www.dsba.org.

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2017 Delaware High School Mock Trial Competition

Call for Judge Volunteers

The Delaware High School Mock Trial Committee and Delaware Law Related Education Center invite you to join us as a judge volunteer for the 2017 Delaware High School Mock Trial Competition. The Competition will take place at the Leonard L. Williams Justice Center, 500 N. King Street, Wilmington, Delaware on Friday, February 24, and Saturday, February 25, 2017. The time commitment to judge a round is approximately four hours. This time includes an orientation for volunteers prior to your scheduled round, judging the competition round, and student debriefing after the round. To learn more about the Delaware High School Mock Trial Competition and the Delaware Law Related Education Center, please visit www.delrec.org or contact Pat Quann at delrecntr@aol.com or Jason C. Jowers at jjowers@morrisjames.com.

Please complete the form below and fax it to Margie Touchton, Judge Volunteer Coordinator, at 302-571-1750, or download a copy of the form from www.delrec.org, and email it to mtouchton@morrisjames.com. Confirmation of assignments will be sent out by email by early February, along with a confidential bench brief, competition details, and information about obtaining CLE credit for your participation.

2017 Judges Interest Form
Delaware High School Mock Trial Competition

Name: ________________________________________________________
(as it appears in the Legal Directory)

Address: ______________________________________________________
Firm, Court, or Agency
________________________________________________________________

Phone: ____________________________     Fax: ______________________________

Email Address ______________________________________________________

Have you participated before as a scoring judge? ______ as a presiding judge? ______

Dates you are available for the 2017 Competition
(if you are available for more than one date or time, please indicate your preference)

Friday 2/24 AM _____________  Saturday 2/25 AM _________________
Friday 2/24 PM _____________  Saturday 2/25 PM _________________

Questions about signing-up to judge a round? Please contact Margie Touchton at mtouchton@morrisjames.com or 302-888-6976.
Save the Date

The St. Thomas More Society of the Diocese of Wilmington

Will Celebrate its Annual Award Dinner on

Sunday, May 21, 2017
Cocktails at 5:00 P.M. (cash bar)
Dinner at 6:00 P.M.

Location
The Wilmington Country Club
4825 Kennett Pike
Wilmington, Delaware

Further Details to Follow
Disciplinary Lists: Do’s and Don’ts

Even if your New Year’s Resolutions have already been kept or forgotten, here are three lists to help guide you in 2017.

How to Attract the Attention of ODC

1. Don’t return client calls.
This remains the #1 disciplinary complaint, although it does not typically result in a disciplinary matter. However, if the Office of Disciplinary Counsel receives enough calls or complaints, it is almost certain to prompt additional concerns involving diligence, competency, and general communication with clients which often leads to a Lawyers’ Fund for Client Protection audit.

2. Fail a Lawyers’ Fund audit.
Not all non-compliance results in a referral to ODC. However, if the non-compliance issues are numerous or serious (or both) and the efforts at remedial measures are lacking, the LFCP can and does refer audit reports to ODC. Historically, more attorneys are sanctioned for books and records issues than any other Professional Conduct Rules violations.

3. Violate a Court Order/Obligation.
While not as numerous as books and records violations, judicial referrals to ODC of attorney violations of court rules and obligations occur often.

4. Sue a client to collect a fee.
Almost guaranteed to result in a counterclaim alleging misconduct, malpractice, or both. Consider using fee dispute mediation through the Delaware State Bar Association instead.

Too many respondents in disciplinary cases admit that they have not reviewed the Rules since passing the Bar Exam and rely solely on the “smell test” to guide their practice.

How Attorneys React to Complaints

(Borrowed from the 7 Stages of Grief Process)

1. Shock and Denial
How can this happen to me? Don’t they know my reputation? It happens. It happens to attorneys in some areas of practice (I’m talking to you Criminal Law and Domestic Relations practitioners!) more than others.

2. Pain and Guilt
Not always bad things, but do not let them drive you to rash behavior in responding to the complaint — or avoidance in failing to respond.

3. Anger and Bargaining
“How dare this client complain! He should be grateful. I want to sue for defamation.” You can’t. Complainants have immunity. Rule 8 of the Rules of Disciplinary Procedure.

“I’ll refund your legal fees if you withdraw your complaint.” They can’t. Rule 15(h) of the Rules of Disciplinary Procedure.

“I’ll give you money to settle your claims against me.” You probably can’t and maybe shouldn’t. Rule 1.8(h)(2) of the Delaware Lawyers Rules of Professional Conduct.

4. Depression, Reflection, and Loneliness
Attorneys often become obsessively and negatively focused on their disciplinary matter. This is especially true when they fail to disclose the matter to their spouses or law partners/employers. While disciplin-
ary matters are confidential, you are not precluded from consulting with counsel or receiving confidential help from the Lawyer’s Assistance Program. Rule 8.3(d) of the Delaware Rules of Professional Conduct.

5. Upward Turn
The fear of the unknown can start to ease after the disciplinary investigation ends and a petition is filed. While the outcome may still be uncertain, the “worst case scenario” can usually be predicted by reviewing the typical discipline imposed in prior, similar matters.

6. Reconstruction
Attorneys can and should use the time from complaint to resolution by beginning or completing remedial measures regardless of the outcome of the matter.

7. Acceptance and Hope
Discipline happens. Unless the discipline is disbarment, it rarely ends careers.

How to Become a Disciplinary Statistic

1. Panic—Don’t.
Most disciplinary complaints are dismissed at the initial Evaluation stage.

2. Fail to Respond to the ODC’s Evaluation or Investigation of the Complaint.
It will not go away and a failure to respond is a new violation. Rule 8.1(b) of the Delaware Professional Conduct Rules.

3-A. Represent yourself.
(*Disclaimer: I do disciplinary defense) Check your malpractice policy. It probably provides disciplinary defense coverage.
or

3-B. Represent Yourself in Ways that You Would Never Represent a Client.
(e.g. respond to ODC without reviewing the facts or familiarizing yourself with the Professional Conduct Rules, the Rules of Disciplinary Procedure, and the applicable case law).

4. Respond with the Aforemen tioned Anger and Resentment That You Received a Complaint and That You Have to Respond.
A copy of your response will usually be sent to the complainant for comment so you may not have the last word.

5. Respond to a Complaint with Excessive and Unnecessary Disclosure of Client Confidences.
Know the limits of the exception to Rule 1.6(b)(5) (duty not to reveal confidential information).

Moving to disqualify Disciplinary Counsel is unlikely to be successful and even less likely to assist your defense. You do not have a right to have the Investigator/Prosecutor like you. No, it is not a conflict if ODC has concluded that you have violated a Professional Conduct Rule.

I hope you never need these lists, but I also hope they help if you do.

“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.
THE DELAWARE STATE BAR ASSOCIATION

DR. MARTIN LUTHER KING, JR.
Annual Breakfast & Statewide Day of Service
Monday, January 16, 2017 • Chase Center on the Riverfront
1. Attendees at the 2017 Dr. Martin Luther King, Jr. Annual Breakfast & Statewide Day of Service.  
2. Keynote Speaker Dr. Clarence B. Jones, Advisor & Speechwriter for Dr. Martin Luther King, Jr.  
3. DSBA Past President Gregory B. Williams, Esquire, gave the Welcome Address.  
4. DSBA President Miranda D. Clifton, Esquire, delivered Introductory Remarks.  
5. MLK Event Committee Co-Chair Mary I. Akhimien, Esquire, introduced the keynote speaker.  
9. United States Senator Christopher A. Coons.  
11. Attorney General Matt Denn.  
12. Former Governor Jack Markell.  
13. Chief Justice Leo E. Strine, Jr.  
14. MLK Event Committee Co-Chair Wali W. Rushdan II, Esquire, gave the Closing Remarks.

Statewide Day of Service Projects

Volunteers at the Food Bank of Delaware in Newark.  
Volunteers at the Food Bank of Delaware in Milford.  
Attorneys and paralegals working with Seniors at the Will’s for Seniors Service Project at the Chase Center.

Volunteers at the Sunday Breakfast Mission in Wilmington.  
Volunteers at Habitat for Humanity in Wilmington.  
Volunteers at the Ronald McDonald House.
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DR. MARTIN LUTHER KING, JR.
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Learning law in law school is but a prelude to the real test — how do we become the best and most respected of lawyers? This is where professionalism comes in. Professionalism is a set of principles by which we govern our conduct with others — courts, clients, colleagues, and other counsel. Professionalism shows itself as respect for the process by which we aid others in their legal affairs. A consummate professional treats others 100% as they wish to be treated as long as it is not a violation of ethical principles.

Professionalism is a growth experience and is rarely achieved quickly. Here are seven principles of professionalism that I’ve learned from experience:

1. Find a mentor. Find someone who, as former Coach Lou Holtz has said, “you can trust, who cares about you, and who will guide you in doing the right thing.”

2. Acquire a sense of history. Do you know who Judge Collins Seitz was? He is among the greatest, if not the greatest, Delaware jurists in its history. He was the first judge in America to integrate a public school system. His decision in Belton v. Gebhart was the only case affirmed by the U.S. Supreme Court in Brown v. Board of Education. In addition, in 1950, at age 35, he ordered the integration of the University of Delaware.

3. Prepare. Good research, good writing and good oral presentations begin with preparation. As they say in the military, "prior proper planning prevents poor performance."

4. Read. Read non-legal material and apply its lessons to your work. Reading is the collecting of intellectual capital; writing and speaking are the spending of it. In addition, reading (along with experience) helps impart judgment.

5. Park your ego at the door. The legal profession is one of service — serving others and serving them well. Do not be, as my father used to say, "a good investment." When I asked him what he meant, he responded "I'd like to buy him for what he's worth, and sell him for what he thinks he is worth. It would be a good investment."

6. Treat others with civility and dignity. Ned Carpenter, formerly of Richards Layton & Finger, was one of the best trial attorneys in America. I never saw him lose patience with a client or opposing counsel. All were treated with great respect. No less is demanded of us, no matter how contentious the situation.

7. Tell the truth. Credibility is the coin of the realm in determining how others will judge you. If you are credible, people listen; if not, they will not. To be credible, you must be believed; to be believed you must be believable; and to be believable, you must tell the truth.

Next month: Principles of Professionalism – Part II: How will you know when you have achieved the full measure of professionalism?

"Success Secrets" is curated by Emilie R. Ninan, Esquire. If you have a success secret to share, please contact her at ninane@ballardspahr.com.
When I was a law student many years ago, there were no courses in banking law, although there were courses on the Uniform Commercial Code, an area of the law governing certain core bank functions. The position of bank compliance officer did not exist, and for good reason. In those days, banks were not heavily freighted with laws and regulations that govern every aspect of their business, as they are today. That situation has changed dramatically. By 1989, bank regulation had become so onerous that the American Bankers Association commissioned a study on the Burden of Bank Regulation. The study concluded that banking regulation was pervasive, noting that internal operations, product offerings, and relations with customers were all subject to intervention. Since then, there has been wave after wave of major banking laws that have spawned many thousands of pages in implementing regulations, and banking regulation has become vastly more pervasive. From today’s perspective, 1989 seems like the good old days.

Curiously, today most bank compliance officers are not attorneys. Perhaps this is because at the dawn of the age of compliance, compliance officers were plucked from the bank’s auditing department. Originally, the position was typically ranked at the Assistant Vice President level. Over the years, the position has grown in importance, to a point where a bank’s Chief Compliance Officer is a key member of the senior management team. Young attorneys may want to consider a career as a bank compliance officer. Having represented banks and worked with their compliance officers for many years, I have a pretty good idea about what such a career would entail and I would be happy to share my insights with any young Delaware attorneys who might be interested.
A Pro Bono Primer

What is Pro Bono?

Although the term is used in different contexts to mean “the offering of free services,” it has a very specific meaning to those in the legal profession.

Rule 6.1 of the American Bar Association’s Model Rules of Professional Conduct, lays out the obligation of attorneys to engage in pro bono:

Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (50) hours of pro bono legal services per year. In fulfilling this responsibility, the lawyer should:

▪ Provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:
  ▪ Persons of limited means or
    ▪ Charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and
  ▪ Provide any additional services through:
    ▪ Delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization’s economic resources or would be otherwise inappropriate;
    ▪ Delivery of legal services at substantially reduced fee to persons of limited means; or
    ▪ Participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

As the DSBA begins 2017, we remind our members that there are many opportunities to fulfill your aspirational goal of delivering legal services to the underserved in our community.

Do you want to volunteer to provide pro bono legal assistance? No matter your practice or practice setting, there are opportunities for you. Through the DSBA resources, you will find the program, the case, the issue, the client, and the location best suited for your needs and interests.

As a member of the Delaware State Bar Association, Bar leaders are encouraged to work with the judiciary, legal services organizations, funders, law firms, other social services providers, and client groups in our community to design integrated strategies for addressing the unmet legal needs of low and moderate income persons.

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to influencing the structure of the Bar to promote *pro bono* activities, Bar leaders and candidates for Bar leadership positions should demonstrate their support for *pro bono* and legal services through *pro bono* service, and service on boards that provide legal services to persons of limited means.

In 2017, please make *pro bono* and Access to Justice for the underserved a priority! 

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

THE ELEPHANT IN THE ROOM: THE POSITIVE (AND NEGATIVE) WAYS TO MANAGE LAWYER STRESS

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at least 18 percent of lawyers may be dealing with the issues of chemical and alcohol abuse disorders. Furthermore, the legal profession rates high in the category of incidences of major burnout, depression, as well as suicide, when compared among the various professions.

How DE-LAP Works

Generally, these conditions are treatable and recovery can be a reality. That is why, person by person, the Delaware Lawyers Assistance Program (DE-LAP) reaches out to help judges and lawyers by working with them to: identify issues and problems; facilitate treatment for those issues/problems; support in those changes; and monitor when needed. In other words, by identifying problems, facilitating treatment, and supporting change, the Delaware Lawyers Assistance Program (DE-LAP) fulfills its mission:

The mission of the Delaware Lawyers Assistance Program (DE-LAP) is to provide confidential assistance to judges and lawyers. Our goal is to help individuals identify problems affecting their work productivity and/or quality of life while assisting them in developing effective solutions to those problems thereby culminating in a workplace atmosphere that encourages health, balance, and professional growth and maintains the integrity of the legal profession.

DE-LAP includes a paid professional on staff that works with both the DSBA’S Lawyers Assistance Committee and the DSBA’S Professional Guidance Committee. Together, we are here not to police, but to help the legal professional.
Confidentiality

Because of the sensitive nature of these issues, judges and lawyers who may need help are very reluctant to seek it. Therefore, in order to foster early and confidential contact with DE-LAP, the Delaware Supreme Court acknowledges the work of the Program and its need for confidentiality. More specifically, Rule 8.3 states:

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform the appropriate professional authority. (b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge’s fitness for office shall inform the appropriate authority. (c) This Rule does not require disclosure of information otherwise protected by Rule 1.6. (d) Notwithstanding anything in this or other of the rules to the contrary, the relationship between members of either (i) the Lawyers Assistance Committee of the Delaware State Bar Association and counselors retained by the Bar Association, or (ii) the Professional Ethics Committee of the Delaware State Bar Association or (iii) …shall be the same as that of attorney and client.

Therefore, DE-LAP is designed to provide a confidential, non-disciplinary and non-judgmental help to Delaware’s judges and lawyers. Equally as important to understand — referrals are confidential. Accordingly, any legal professional that seeks assistance as a self-referral can be assured that their information will be held in the strictest of confidence. Similarly, those who are concerned about a co-worker, peer, or other legal professional are guaranteed the same confidentiality.

SECOND GENERATION DE-LAP SERVICES

The Delaware Lawyers Assistance Program (DE-LAP) services include many of our core services and have added what we refer to as Second Generation Services which are basically Prevention.

- **Initial Assessment:** A trained member of the DE-LAP staff will meet with the legal professional either at the DE-LAP office or off-site to evaluate the situation/problem and offer recommendations for solutions. DE-LAP maintains an extensive, up-to-date network of licensed health care professionals who are familiar with the unique issues involved in working within the legal profession.

- **Interventions:** In appropriate situations, a member of the staff will plan, rehearse, and facilitate a formal intervention to assist with the impaired or problem individuals.

- **Wellness Coaching and Transition Support:** A certified Wellness Inventory Coach is available to help you design a personal blueprint for change and support you in that change. DE-LAP provides educational and other outreach activities to members of the Delaware Bar.

- **Peer Support Network:** The person in need of assistance or help may be paired with a member of the Lawyers Assistance Committee and/or Professional Guidance Committee to help in the support and/or monitoring stage.

- **Structured Rehabilitation Program:** In cases involving formal action against the legal professional or a supervisory referral, DE-LAP can implement a structured rehabilitation program that documents the legal professional’s efforts and success in making changes in their life. Furthermore, and only if releases are signed, DE-LAP under such a program can report compliance and non-compliance under a formal monitoring agreement.

- **Attorney Support Meetings/Workshops:** DE-LAP sponsors weekly and monthly meetings where attorneys help each other deal with the problems and stresses of practicing law while maintaining balance in their personal lives. These support groups are not only closed to the public, they too are confidential.

- **Educational Outreach:** The Delaware Lawyers Assistance Program (DE-LAP) also provides educational and other outreach activities/seminars.

Carol P. Waldhauser is the Executive Director of the Delaware Lawyers Assistance Program and can be reached at cwaldhauser@de-lap.org.
The Delaware Bar Foundation
By Melissa W. Flynn, Executive Director, Delaware Bar Foundation

The Delaware Bar Foundation was incorporated in 1981 and recently celebrated its 35th anniversary. The Foundation’s mission is to improve the administration of justice by providing legal services to the poor, enhancing public respect for the rule of law, fostering knowledge of citizenship rights and responsibilities, and promoting study and research in the field of law. Of critical importance is the Foundation’s work managing and distributing funds from Delaware’s Interest on Lawyer Trust Accounts (IOLTA) Program, in furtherance of its mission to provide legal services to the poor.

In 2010, the Delaware Supreme Court entered an order amending Rule 1.15 of the Delaware Lawyers’ Rules Of Professional Conduct, as it relates to its IOLTA program, in two ways. First, the amendment to Rule 1.15 mandated that lawyers who hold IOLTA-eligible funds maintain those funds in IOLTA accounts. As a result of this rule change, Delaware’s number of IOLTA accounts has increased by more than 40%. Second, the amendment to Rule 1.15 required that IOLTA funds be maintained in financial institutions that provide “interest rate comparability” to IOLTA accounts. Interest rate comparability means that the interest rate payable by financial institutions for IOLTA accounts must be comparable to rates paid by the same institution on its other accounts with similar attributes.

IOLTA accounts may be maintained only at “eligible” financial institutions (i.e., those which offer interest rate comparable IOLTA accounts). As the Court’s designated administrator of the IOLTA program, the Foundation certifies institutions eligible to hold IOLTA accounts and maintains a list of such eligible financial institutions on its website.

Each year, the Foundation recommends to the Delaware Supreme Court amounts for grants of the IOLTA funds, which the Court then authorizes. The grantees receiving IOLTA funds each year are: Community Legal Aid Society (CLASI), Legal Services Corporation of Delaware (LSCD), and Delaware Volunteer Legal Services (DVLS). A grant is also given each year to the Legal Help Link (LHL), a centralized intake system for callers with legal issues. From 1983 through 2015, the Foundation has granted over $26 million to Delaware’s legal services agencies to provide legal services to the poor.

In addition to the work with the IOLTA program, the Foundation strives to promote study and research in the field of law through two key programs, Delaware Lawyer and Stargatt Legal Ethic Writing Competition. Over the past 34 years, Delaware Lawyer, a quarterly journal, has addressed issues of interest to members of the Delaware Bar, including human trafficking, notable changes in Delaware corporation law, and the pursuit of work-life balance for lawyers. All issues are available on our website.

In 2015, the family of the late Bruce M. Stargatt, one of Delaware’s preeminent practitioners, established a writing competition through a generous gift to the Foundation.

Consistent with its mission, the Foundation continues its outreach, with over $15,000 granted to community programs in the past year.

Consistent with its mission, the Foundation continues its outreach, with over $15,000 granted to community programs in the past year. These programs are funded largely through donations and membership dues from the legal community. The response from the Bar has been generous, raising over $300,000 over the past ten years. The Foundation utilizes a formal grants application to assess grant requests which is available on our website.

Some of the Foundation’s community programs are listed below:

▪ The Foundation partners with Howard High School of Technology to provide their Legal Administrative Assisting Program’s students with placement in local law firms for a job shadowing day.
The Foundation provides funding for the Senior Lawyer Video Project. This project captures the recollections of some of Delaware’s most prominent attorneys and judges.

The Foundation supported the Mural Project in Family Court in Kent and New Castle Counties. The murals were created by children from Delaware’s foster care program and include images that reinforce and nurture self-confidence, education, and resilience. In the summer of 2016, the final mural on the second floor of New Castle County’s Family Court was completed.

As it has done annually since 2013, the Foundation, together with the Delaware State Educational Association, supports Liberty Day. Liberty Day provides fifth graders in the public school system with a pocket Constitution and all fifth grade teachers receive specialized curriculum about our Constitution.

The Foundation has also contributed to Sisters in Success, St. Thomas More Academy, the Combined Campaign for Justice Golf outing, the Delaware Law Related Education Center, Inc., and the Delaware Council on Gambling Problems, Inc.

The Foundation is pleased to announce that it will be awarding a total of approximately $1 million in grants to civil legal service providers in Delaware for foreclosure prevention legal assistance programs and/or community development legal assistance programs. These funds were allocated to Delaware pursuant to settlement of mortgage-related litigation between the U.S. Department of Justice and Bank of America Corporation. Application deadline is April 1, 2017, and further details are available on the Foundation’s website.

Interested in learning more about the Delaware Bar Foundation? Please visit our website at www.DelawareBarFoundation.org.

Melissa Flynn is the Executive Director of the Delaware Bar Foundation. She can be reached at mflynn@delawarebarfoundation.org.
Abraham Lincoln is universally regarded as one of our greatest presidents — but what made him such a great president? One might answer that he got us through the Civil War (not a bad answer), but, according to Professor Arthur Rizer, it was Lincoln’s skill as a lawyer, and, in particular, his ability as a courtroom speaker, that made him so great. In *Lincoln’s Counsel: Lessons from America’s Most Persuasive Speaker*, Rizer makes his case. Part biography, part tutorial, Rizer’s book is a series of lessons on the art of lawyering and the art of public speaking drawn from Lincoln’s life, with a few choice lessons on simply being a better person thrown in as well.

Nothing about Lincoln’s early life suggested he would be a great lawyer or a great president. Lincoln had little formal schooling as a child. He never attended college. He never attended law school. He never “clerked” with another attorney before being admitted to the bar. He worked a variety of different jobs and professions (shopkeeper, surveyor, river pilot). However, he read voraciously and attended trials whenever he could — he was, in short, entirely self-taught when it came to the law. So, what made Lincoln a great lawyer?

Despite his lack of a formal legal education, Lincoln had all the right tools to succeed at law. He had a strong voice that could carry (important in an age before microphones). He was friendly, gregarious, easygoing, and had a good sense of humor — he was renowned for his stories. More importantly, his reading and studies had taught him command of the English language. Lincoln understood the power of brevity and directness. A colleague once said of Lincoln that “[h]e was so straightforward, so direct, so candid, that every spectator was impressed with the idea that he was seeking only truth and justice.” The sixteenth President also had a way with words and memorable phrases. Some of his more famous quips include:

- “Better to remain silent and be thought a fool, than to speak out and remove all doubt.”
- “Whenever I hear anyone arguing for slavery, I feel a strong impulse to see it tried on him personally.”
- “You cannot escape the responsibility of tomorrow by evading it today.”
- “Let us neither express, nor cherish, any harsh feeling towards any citizen who, by his vote, has differed with us. Let us at all times remember that all American citizens are brothers of a common country, and should dwell together in the bonds of fraternal feeling.”

Lincoln’s gift for language especially comes through in his speeches and debates, including, of course, the Gettysburg Address — a speech that comes in at only 272 words, but may be the most famous and memorable speech in history. Lincoln’s Second Inaugural Address is equally admired and remembered, and if the Gettysburg Address is the greatest speech in history, the Second Inaugural Address should certainly be in the top ten; its closing is one of the best:

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind the nation’s wounds; to care for him who shall have borne the battle, and for his widow, and his orphan — to do all which may achieve and cherish a just and lasting peace, among ourselves, and with all nations.
Although Lincoln never formally studied oratory, he had a grasp of all the tools orators use. He understood the power of threes and his Gettysburg Address uses this power (for example, “government of the people, by the people, and for the people, shall not perish from the Earth,” and “we cannot dedicate, we cannot consecrate, we cannot hallow this ground”).

With various examples from Lincoln’s legal and political career, Rizer describes the traits and habits and skills every good lawyer should have. Preparation, diligence, a love for what you do. Humility, honesty, common sense. Knowing your audience, respecting your audience, speaking to your audience. Lincoln possessed all the traits of a great courtroom lawyer. He is estimated to have handled over five thousand cases, although court records survive from only 169.

Of course, no lawyer is perfect, and Lincoln too erred from time to time. In one instance, his cross-examination of a witness, in a battery case, where Lincoln’s client was accused of biting off another man’s ear, could have gone better:

Q (Lincoln): You said in your direct testimony that you witnessed the altercation between plaintiff and my client.
A: Yes.
Q: You testified that you were concerned with your safety, and because of this you sought shelter.
A: Yes.
Q: You further stated that while you were seeking shelter you turned your back to the fight.
A: Yes, I did.
Q: So you were across the street when the incident took place?
A: Yes.
Q: Sir, is it not also true that you have worn glasses for myopia since you were eight years old?
A: Yes, that is true.
Q: And, is it not also true that your view of the incident was blocked by trees?
A: Yes.
Q: Well, that begs the most interesting question, does it not — if you were seeking shelter and your back was to the fight, you were across the street with trees in your way and your eyesight suffers from myopia, how are you so sure it was in fact my client who bit off the plaintiff’s ear?
A: Well . . . I saw him spit it out.
Lincoln: No more questions Your Honor.

And so, in the foregoing instance, Lincoln broke one of the cardinal rules of cross-examination: never ask a question you don’t know the answer to.

If there is any shortcoming to Rizer’s entertaining and educational book, it may simply be that there is very little focus on the presidency or the Civil War. There is much that can be learned from an examination of Lincoln’s legal career, but Rizer does not really attempt to make the case that Lincoln’s legal skill and experience is what led to his successful presidency, although Lincoln certainly made use of his legal talents during the Civil War. Still, this is only a minor criticism at most — Rizer easily accomplishes the subtitle of his book by providing dozens of worthwhile lessons from America’s most persuasive speaker.

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.
ATTORNEY: Legal Services Corporation of Delaware, Inc., seeks an Attorney for its Wilmington office. Litigation experience and Delaware Bar admission preferred. Please fax resume to (302) 575-0478 or e-mail to karen@lscd.com. EOE.

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BERGER HARRIS LLP is seeking a Delaware-licensed attorney with 2-5 years’ experience to join its growing business litigation group. All candidates must have superior academic credentials, a strong work ethic plus a commitment to professional development, strong oral and written communications skills, and first-hand experience practicing in the Delaware Court of Chancery. Candidates should e-mail a confidential resume and writing sample to abrennan@bergerharris.com.

LITIGATION ATTORNEY: The Wilmington office of White and Williams LLP, a large multi-practice law firm, is moving to new expanded offices at Courthouse Square. The office is seeking a litigation associate with 1-4 years of experience to work on cases in the areas of healthcare, professional liability and tort defense, including asbestos and product liability matters. Delaware Bar admission required along with excellent writing skills and academic credentials. We offer a competitive salary, an excellent benefits package and the opportunity for professional growth. Great opportunity to join a growing and busy team in newly renovated office space. Please email resume and cover letter to: Shannon Burgess at burgesss@whiteandwilliams.com.

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WILMINGTON, DE – FINANCIAL RESTRUCTURING & BANKRUPTCY ASSOCIATE: Fox Rothschild LLP has an opening in the Wilmington, DE office for an associate in the Financial Restructuring & Bankruptcy Department. The ideal candidate will have at least 2 to 4 years of experience in all aspects of financial restructuring & bankruptcy. Representation of chapter 11 debtor experience is a plus. Candidates must be licensed to practice in the State of Delaware. Strong academic record and excellent writing skills are required. We are currently not accepting resumes from search firms for this position. EOE. If you are interested please email your resume to recruitment@foxrothschild.com.

WE ARE AN ESTABLISHED LAW FIRM in Dover DE. We are searching for an associate attorney with 0-5 years’ experience to expand our firm. The position is in the area of workers’ compensation law. The successful candidate will have excellent oral and written communication, time management and negotiation skills, as well as the ability to analyze complex cases. We offer a competitive compensation package and benefits including medical, long term disability and 401K. Interested parties may submit a cover letter, writing sample and your resume to gquell@schmittrod.com.

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**OF NOTE**

Condolences to the family of William J. Wier, Esquire, who died on January 15, 2017.

Condolences to the family of The Honorable David P. Buckson who died on January 17, 2017.

Condolences to the family of The Honorable Alfred Fraczkowski who died on December 21, 2016.

Condolences to the family of Thomas L. Little, Esquire, who died on December 25, 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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THE DELAWARE STATE BAR ASSOCIATION ANNOUNCES THE

2017 Fiction Writing COMPETITION DEADLINE FEBRUARY 28, 2017

The Delaware State Bar Association is pleased to announce the 2017 Fiction Writing Competition in accordance to the rules below. An impartial panel will pick the three best stories. The winners will receive awards and have their stories published in *The Bar Journal*. You are encouraged to send in your best work of fiction, with the following provisions:

1. The contest is open to all current Delaware State Bar Association members.
2. Authors may collaborate, but no more than one submission from each member will be considered.
3. An impartial panel of lawyers will choose the final three winners without knowledge of the identity of the authors. The decisions of the judges are final.
4. Your entry must be previously unpublished and original. The short story may be on any fictional topic (humorous, anecdotal, mystery, science fiction, etc.). Among the criteria considered in judging the articles are: quality of writing, originality, and creativity. The judges will not consider any article that, in the sole judgment of the panel of judges, contains matter that is libelous or that violates accepted community standards of good taste and decency.
5. Entries must be 2,000 words or fewer (entries over 2,000 words will not be considered) and must be submitted electronically.
6. All entries submitted will become the property of the DSBA and, by submitting the article, the author warrants that all people and events in the article are fictitious and that any similarity to actual people or events is purely coincidental.
7. The winning entries, if any, will be published in *The Bar Journal*. The Editorial Board of the *The Bar Journal* reserves the right to edit articles and to select no winner and to publish no article from among those submitted if the submissions are deemed by the Editorial Board and the judges not to be of notable quality.
8. All entries must be received no later than February 28, 2017 in proper form. Submissions received after that time will not be considered. Please direct all submission to: Rebecca Baird at rbaird@dsba.org (a confirmation email acknowledging your entry will be sent). Only the authors of the top three entries, as determined by the judges, will be contacted by the DSBA at the conclusion of the contest and before publication.

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**SAVE THE DATE**

BENCH & BAR CONFERENCE JUNE 9, 2017 // WILMINGTON, DE

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DSBA Bar Journal | February 2017 35
After 30 years in downtown Wilmington, the law office of Jacobs & Crumplar is moving to the Riverfront.

We are excited to announce that as of Tuesday, January 17th we will be operating from our new location at

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**ataxophobia**

*n.* fear of disorder or untidiness

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Bifferato Gentilotti LLC is pleased to announce the relocation of our Newark Office, effective January 1, 2017 to:

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Fax: 302-832-7540

This change should be noted for the following attorneys of the firm:

Vincent A. Bifferato, Jr., Esquire
Jeffrey M. Gentilotti, Esquire
Matthew M. Bartkowski, Esquire
Robin P. Moody, Esquire
I had heard of the luxurious Southern dish “chicken and waffles” — waffles made savory by topping with fried chicken. However, I did not realize that savory waffles are now à la mode (and I don’t mean with ice cream!). When my former math student now friend (actually, one of the top foodies I know) who lives and works in New York City told me about this food phenomenon, I decided to experiment with some ingredients.

Now, I understand that there is much ado about something delicious. I recommend the delectable combinations below for a unique Valentine’s day breakfast, lunch, or even dinner. Since your sweetheart will surely expect something sweet, you should go with a savory surprise. The basic waffle recipe that follows will make 8 to 10 classic round waffles.

**Waffle Batter Recipe**

**Ingredients:**
- 2 jumbo eggs
- 1 3/4 cup half and half
- 8 Tablespoons unsalted butter, melted
- 2 teaspoons vanilla extract
- 1 3/4 cups all purpose flour
- 3 teaspoons baking powder
- 1 teaspoon salt

In a large mixing bowl, beat the eggs, half and half, butter, and vanilla. In another bowl, mix the flour, baking powder, and salt. Then, add the dry ingredients to the egg mixture and stir until smooth. Do not worry if you have a few lumps!

Now be creative. I suggest several themed waffles, each including a ham, cheese, and herb or spice, but feel free to mix and match.

Once you prepare the batter, preheat and grease the waffle iron and arrange your fixings. Use one large ladle full of batter to make a classic round waffle. Spoon the batter into the center of the iron. Then, sprinkle the savory ingredients on top of the batter. Close the lid and cook until your waffle iron indicates “ready”. I would advise against mixing the fixings into the batter rather than placing them on top. You will lose the colorful ham, spices, and herbs peeking through the top of the waffle — it will look like an ordinary waffle, which it most certainly is not!

Top with additional butter along with fresh ground pepper and maple syrup for a heavenly juxtaposition of sweet and savory.

Happy Valentine’s Day!

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**Try These Options!**

- **Ti amo **| **Italian Waffle Fixings**
  - Prosciutto, pulled apart into small pieces
  - Fontina cheese, shredded
  - Basil, in a chiffonade (cut into strips)

- **J’adore** | **French Waffle Fixings**
  - Jambon de Bayonne (French ham similar to prosciutto), pulled apart into small pieces
  - Gruyère cheese, shredded
  - Piment d’Espelette (derived from dried chilis from the Basque region of France)

- **Te amo** | **Spanish Waffle Fixings**
  - Serrano ham, pulled apart into small pieces
  - Manchego cheese, shredded
  - Jalapeño, chopped into small pieces

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.
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