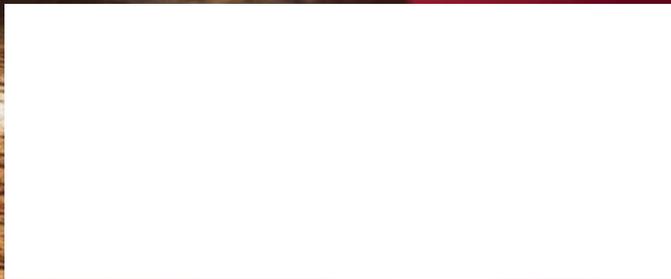
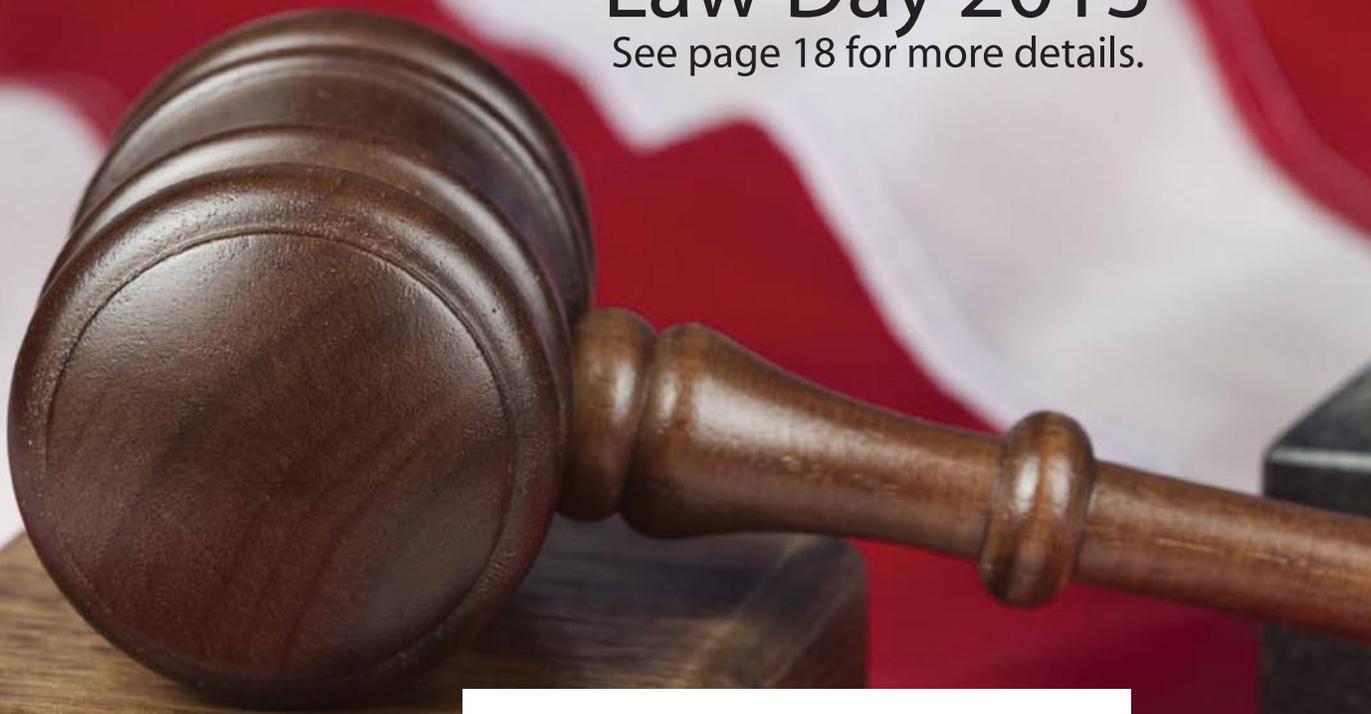




THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

Law Day 2013
See page 18 for more details.



Presorted Std.
U.S. Postage
PAID
Permit No. 408
Wilmington, DE

THE DARBY LAW FIRM, LLC

IS PLEASED TO ANNOUNCE THAT

THERESA V. BROWN-EDWARDS, ESQUIRE

HAS JOINED THE FIRM

AND THAT THE FIRM HAS CHANGED ITS NAME TO

**DARBY | BROWN-EDWARDS LLC
ATTORNEYS**

APRIL 2013

Ms. Brown-Edwards is the co-founder of DARBY | BROWN-EDWARDS LLC and will head the Firm's corporate bankruptcy and restructuring practice. Terri has received numerous professional awards, including multi-year recognition in both *Chambers USA: America's Leading Lawyers for Business* and *The Best Lawyers in America*, touted as the preeminent peer-review based referral guide to the legal profession in the United States.

Terri is the current President of the Delaware State Bar Association and serves as Ombudsperson to the Federal District Court.



MAIN 302-442-7820

FAX 302-442-7821

WWW.DARBYBROWNEWARDS.COM

**DARBY | BROWN-EDWARDS LLC
ATTORNEYS**

I.M. PEI BUILDING
1105 N. MARKET STREET
SUITE 1600

WILMINGTON, DELAWARE 19801

THE JOURNAL OF THE
DELAWARE STATE BAR ASSOCIATION
is published monthly with a combined July/August issue

by
Delaware State Bar Association
405 North King Street, Suite 100
Wilmington, DE 19801
302-658-5279
FAX: 302-658-5212
www.dsba.org

President
Theresa V. Brown-Edwards

Executive Director
Rina Marks

Editorial Board
David W. deBruin
Michael L. Sensor
Seth L. Thompson

Executive Committee Liaison
Yvonne Takvorian Saville
Vice President-at-Large

Publications Editor
Rebecca Baird

Publications Assistants
Janice Myrick
Susan Simmons

© Copyright 2013 by the Delaware State Bar Association. All Rights Reserved.

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.

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

Editor, DSBA Bar Journal
Delaware State Bar Association
405 North King Street, Suite 100
Wilmington, DE 19801
or e-mailed to: rbaird@dsba.org

All inquiries regarding advertising should be directed to the address above,
Attention: Advertising, Bar Journal.

Letters to the Editor should pertain to recent articles, columns, or other letters. Please limit to 250 words. Unsigned letters are not published. All letters are subject to editing. Send letters to 405 North King Street, Suite 100, Wilmington, DE 19801, *Attention: Editor, Bar Journal.*



THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

April 2013

Volume 36 • Number 9

FEATURES

- 11 **Report of the Nominating Committee**
- 17 **2013 Bench and Bar Conference Announcement**
- 18 **Law Day 2013: Luncheon Announcement and Registration**
- 19 **Delaware Lawyers Join Governor on Trade Mission to India**
By Rakesh H. Mehta, Ph.D., Esquire, Emilie R. Ninan, Esquire, and Andrea B. Tinianow, Esquire
- 26 **The Delaware Bar Foundation – Past, Present and Future**
By William H. Sudell, Jr., Esquire

COLUMNS

- 4 **President's Corner**
- 6 **Editor's Perspective**
- 10 **Tips on Technology**
- 12 **Ethically Speaking**
- 14 **Access to Justice Spotlight**
- 20 **DE-LAP Zone**
- 22 **Book Review**
- 24 **A Profile in Balance**
- 30 **Judicial Palate**

DEPARTMENTS

- 8 **Calendar of Events**
- 9 **Section & Committee Meetings**
- 16 **Disciplinary Actions**
- 23 **In Memoriam**
- 28 **Bulletin Board**

Cover Photo Credit: © istockphoto.com/ericphotography



By Theresa V. Brown-Edwards, Esquire

Highlight on the Women and the Law Section

As the sixth female President of the Association, it was with particular pleasure and privilege that I attended the 21st Annual Women and the Law Section Retreat. This yearly gathering of the Section takes place in Rehoboth Beach. What I have come to learn is that what began as a small meeting of women attorneys in the living room of a Delaware lawyer has now expanded to a large assembly of women lawyers and jurists of diverse ages, practice areas, and geographic location within the state. Topically, this year's meeting focused on a broad array of subjects ranging from ethical issues implicated by guardianship and probate and trust matters in the Court of Chancery to recent legislation and Supreme Court cases dealing with marriage equality, and spousal privilege. On equal footing, however, with the substantive benefit of the retreat, was the unparalleled sense of community, solidarity, and friendship shared among the women.

American Bar Association's Commission on Women in the Profession

The annual Section gathering in Rehoboth Beach during Women's History Month is invaluable to the attendees given the American Bar Association's Commission on Women in the Profession study. The ABA Commission is the foremost legal group whose mission it is to study, analyze, and provide recommendations based on collected data pertaining to women in the practice of law and the judicial system. The Commission conducted a comprehensive study in 2001, which has been the springboard for subsequent studies by it and many others. The 2001 Commission Report ex-

amined the major known barriers to women in the profession, namely, unconscious gender stereotypes, inadequate access to support networks, inflexible workplace structures, sexual harassment, and bias in the justice system. "Most attorneys equate gender bias with intentional discrimination, and the contexts in which they practice produce few overt examples. Yet, a wide array of research finds that women's opportunities are limited by factors other than conscious prejudice." Deborah L. Rhode, *The Unfinished Agenda: Women and the Legal Profession*, ABA Com-

It was abundantly apparent that the Retreat served as a wholesome and educational forum for the women to share ideas and experiences and offer instant collegiality and mentoring.

mission on Women in the Profession Report (2001), p. 4.

Stone Soup for the Delaware Practitioner

Through the formal and informal discussions during the Retreat, it was clear to me that the issues raised in the 2001 ABA Commission Report as barriers to women in the profession persist today. While not necessarily appearing on the conference agenda, each of the topics addressed in the ABA Commission Report found its way into the center of robust discussion between and among the panelists and the attendees. It was also abundantly apparent that the Retreat served as a wholesome and educational forum for the women to share ideas and experiences and offer instant collegiality and mentoring.

One of the more stirring CLE sessions during the Retreat was the Stone Soup session. The roundtable style session, included the Honorable Susan C. Del Pesco, former Judge of the Delaware Supreme Court, the Honorable Sherry S. Fallon, Magistrate Judge of the U.S. District Court, Kathleen Jennings, Esquire, Delaware Department of Justice, State Prosecutor, the Honorable Rosemary Betts Beaugard, the Court of Common Pleas, and the Honorable Andrea L. Rocanelli, Delaware Court of Common Pleas, served as moderator. True

to the folk lore for which it bears its name, this panel included contributions from each of the sage panelists on the topic of how the practice of law has changed for women in Delaware and addressed important practice related issues and practical advice for women navigating the increasingly difficult demands of law practice, family, and

community. This author must confess that prior to the Retreat, I was unfamiliar with the meaning of the phrase "stone soup" and the folk tale surrounding its background. After learning the lore of the hungry travelers who convince the local strangers to make small contributions of their food by demonstrating a willingness to share their "stone soup," I could not agree more that it was an apt description of the panel discussion and emblematic of the entire Retreat. In true Delaware fashion, the Women and the Law Retreat was an outstanding example of the first rate legal community we enjoy in Delaware and the camaraderie shared among Delaware lawyers.

True Leadership

In addition to the Retreat, the Section is active throughout the year in many other

areas including advocacy, mentoring, and community outreach. Credit for the effectiveness of this Section is due to its leadership. The Section is chaired by Laina M. Herbert of Prickett, Jones & Elliot, P.A. Laina's leadership shone brightly as the Retreat was an unquestionable success. I am certain Laina would agree that she had a tremendous supporting cast and I would like to express thanks to the entire Section membership for a job well done. In particular, I would like to highlight a few members whose contributions are deserving of individual note. Natalie S. Woloshin of Woloshin, Lynch, Natalie, Gagne, P.A. organized the meeting fastidiously and Kathleen Miller of Smith, Katzenstein & Jenkins, LLP deftly served as the meeting facilitator. I personally extend thanks to each of them, as well as express gratitude on behalf of the Association. I would strongly encourage all women lawyers and jurists who have yet to attend the Retreat to consider going next year. I have no doubt, and as its increasing attendance suggests, that it will continue to be educational, uplifting and rejuvenating for all involved.

Be well! ☯

Delaware State Bar Association in partnership with
Delaware Barristers Association
Delaware Hispanic Bar Association
South Asian Bar Association
present

**Joint Bar Associations
Justice Symposium
Widener University School of Law
Ruby Vale Moot Court Room
Monday, May 13, 2013**

CLE credit for Delaware and Pennsylvania attorneys

9:00 a.m.

Welcome by DSBA President, Theresa V. Brown-Edwards, Esq.

9:15 a.m.

Local Issues in Human Trafficking and Forced Labor

10:45 a.m.

The Intersection between Gun Control and Domestic Violence

12:00 p.m. - 1:30 p.m.

Lunch at Barristers Club

with keynote speaker Attorney General Beau Biden (invited)

We believe in building relationships.

KRUZA LEGAL SEARCH

Specializing in permanent attorney, paralegal and support staff placement services since 1980.

Kruza Legal Search
1845 Walnut Street, Suite 855
Philadelphia, PA 19103

215.981.5455 / phone
215.981.0662 / fax

www.kruza.com



PEGGY KRUZA



STEVEN KRUZA

By David W. deBruin, Esquire



Judge Eric M. Davis of the Superior Court

In light of the significant number of new judges in the Family Court, Court of Common Pleas, and Superior Court, the editors of the Bar Journal of The Delaware State Bar Association have decided to utilize their column space for profiles of all the new judges. This is the first such article in the series.

• • •

The Honorable Eric M. Davis became a Judge of the Superior Court of the State of Delaware on December 21, 2012. Prior to his appointment to the Superior Court, Judge Davis was a Judge on the Court of Common Pleas of Delaware from April 14, 2010 until his appointment to the Superior Court. While on the Court of Common Pleas, he worked to create the innovative Special Election Expedited Docket (also known by the acronym "SPEED"), ensuring that litigants would be guaranteed specific judge assignment and resolution within five months of a defendant's response to the claims. In February of 2012, he was appointed by Chief Judge Smalls to oversee the civil proceedings in New Castle County.

Prior to being appointed to the Court of Common Pleas, Judge Davis was a partner in the law firm of Skadden, Arps, Slate, Meagher & Flom LLP. Judge Davis joined Skadden in 1996. As a partner with Skadden, Judge Davis represented corporations in commercial disputes in federal and state courts in Delaware and throughout the country. The focus of his practice was on corporate governance is-

suess and other disputes arising from bankruptcy and corporate reorganizations. Judge Davis also maintained an active *pro bono* practice. In fact, Davis was in charge of *pro bono* matters for Skadden's Wilmington office prior to ascending to the bench. From 1992 to 1996, he practiced law with the Baltimore law firm of Miles & Stockbridge, P.C.

Judge Davis received his B.A. from the University of Virginia in 1985 and his

published out-of-court quotes available to share with the members of the Delaware State Bar Association. However, at his investiture for the Superior Court, Judge Davis said, "[t]he articulated mission of the Superior Court is to provide superior service to the public in the pursuit of justice—in other words, to assist the people of Delaware and others in resolving their disputes in a fair, professional, efficient, and practical manner. I believe that my personal background, experiences and performance as a judge and, prior to that, as an attorney demonstrate that I have the necessary professional competence, temperament, life experiences, and commitment to further the mission of the Superior Court and to succeed in this judicial position."

"I hope that my work on the Superior Court will continue to enhance the Superior Court's already strong reputation. I promise to work hard, to be responsive, fair, judicious, and practical."

J.D. with honors from Emory University School of Law in 1992.

Delaware Governor Jack Markell has said of Judge Davis, "[t]he state is lucky that it has citizens like Eric willing to devote their substantial talents to serving the people of Delaware. Judge Davis has contributed on the bench of the Court of Common Pleas for almost three years, and he has already made an impact in the court's heavy criminal caseload and helped to expedite the important civil matters it handles. I have no doubt that Eric will continue the proud tradition of excellence in the Delaware courts."

Judge Davis is not one to seek out the spotlight in spite of his many accomplishments, so there honestly are not many

Judge Davis went on to say, "I approach my upcoming tenure on the Superior Court with great excitement. I would not have applied for a position on the Superior Court unless I thought that such a position would be satisfying. I hope that my work on the Superior Court will continue to enhance the Superior Court's already strong reputation. I promise to work hard, to be responsive, fair, judicious and practical. I will do my best to be kind, patient and to always remember that there is no such thing as an unimportant case. I understand that as a Superior Court judge, I am to provide a service to Delaware. I will do my best to be of service every day. It is from this perspective that I embark upon this undertaking and with God's

help and the help of others, I trust that I will succeed.”

Outside of the courthouse, Judge Davis enjoys spending quality time with his family and is quick to give credit to his wife, Lisa Davis, and their two sons, Sam and Max Davis, for their love and support. Among many other interests, Judge Davis volunteers his time coaching lacrosse with the Wilmington Wings lacrosse program. He was recently acknowledged by the Wings as a 1,000 hour coach.

In February 2013, Judge Davis was appointed by President Judge Vaughn to serve as one of the judges assigned to oversee the Delaware Asbestos Docket. Judge Davis' present term on the Superior Court ends December 21, 2024. ⚖️

MdA

The Law Offices of
Michele D. Allen, LLC

Michele D. Allen is pleased to announce the Firm's new location in Hockessin.

724 Yorklyn Road, Suite 310
Hockessin, Delaware 19707

The Law Offices of Michele D. Allen, LLC specializes in Labor & Employment Law, General Litigation and the representation of Health Care Professionals.



michele@micheleallenlaw.com

302-234-8600
www.micheleallenlaw.com



**Mark Your
Calendars!**

**Bench & Bar
Conference**

Wednesday
June 5, 2013

Chase Center
on the Riverfront

Registration brochure to follow.



**Science & Engineering
Expert Witnesses**

- Serving solo practitioners to Am Law 50 firms for 28 years
- Free custom searches by industry veterans
- 24/7 Assistance

**www.cecon.com
302-994-8000**

Experts at Finding Technical Experts™

Calendar of Events

Remember that CLE Videos are shown for CLE credit five days a week at the DSBA in Wilmington! Call 302-658-5279 to make an appointment.

April 2013

Thursday, April 11, 2013

Short Topics in Real Estate 2013

3.5 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to CLASI, Dover and Tunnell & Raysor, Georgetown

Tuesday, April 16, 2013

Labor and Employment Law Update 2013

5.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to CLASI, Dover, DE and Tunnell & Raysor, Georgetown, DE

Thursday, April 18, 2013

The Council of Europe's International Fight Against Corruption

2.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to Tunnell & Raysor, Georgetown

Wednesday, April 24, 2013

Environmental Law 2013

3.8 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to CLASI, Dover and Tunnell & Raysor - Georgetown

May 2013

Tuesday, May 7, 2013

Workers' Compensation

6.5 hours CLE credit

Chase Center on the Riverfront, Wilmington

Wednesday, May 8, 2013

Law Day Luncheon

Hotel du Pont, Wilmington

Monday, May 13, 2013

Joint Bar Associations' Justice Symposium

3.0 hours CLE credit

Widener University School of Law, Wilmington

Wednesday, May 22, 2013

Recent Developments in Delaware Corporate and Alternative Entity

4.0 hours CLE credit

Chase Center on the Riverfront, Wilmington

EXECUTIVE COMMITTEE MEMBERS

THERESA V. BROWN-EDWARDS
PRESIDENT

GREGORY BRIAN WILLIAMS
PRESIDENT-ELECT

YVONNE TAKVORIAN SAVILLE
VICE PRESIDENT-AT-LARGE

ROBERT J. KRAPP
**VICE PRESIDENT,
NEW CASTLE COUNTY**

ADAM MARSHALL PERZA
**VICE PRESIDENT,
KENT COUNTY**

JAMES PATRICK SHARP
**VICE PRESIDENT,
SUSSEX COUNTY**

DAVID A. FELICE
SECRETARY

DAVID J. FERRY, JR.
ASSISTANT SECRETARY

MIRANDA D. CLIFTON
TREASURER

KAREN JACOBS LOUDEN
ASSISTANT TREASURER

JAMES G. MCGIFFIN, JR.
PAST PRESIDENT

THE HONORABLE
CHARLES H. TOLIVER IV
JUDICIAL MEMBER

MICHAEL HOUGHTON
LEGISLATIVE LIAISON

WILLIAM PATRICK BRADY
CRYSTAL L. CAREY
SANTINO CECCOTTI
DONEENE KEEMER DAMON

JOHNNA M. DARBY

JILL S. DI SCIULLO

RICHARD A. FORSTEN

STEPHEN A. HAMPTON

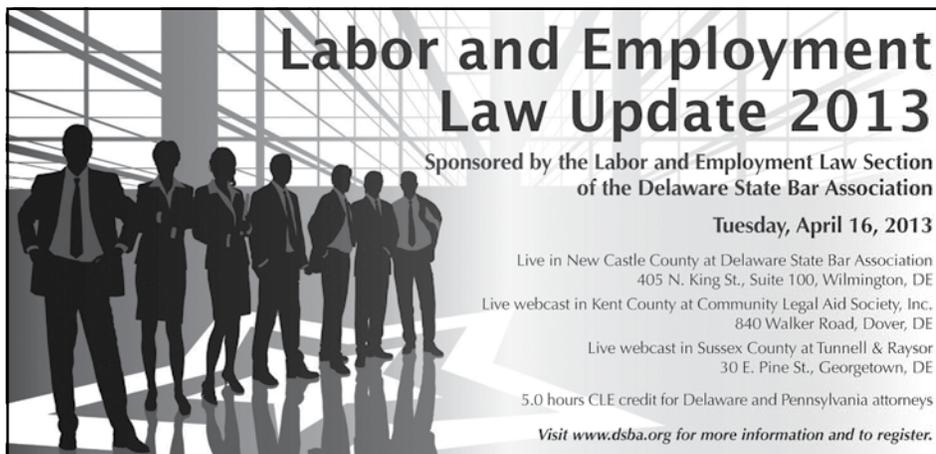
BRENDA JAMES-ROBERTS

EMILIE R. NINAN

MICHAEL F. MCTAGGART

MEMBERS-AT-LARGE

RINA MARKS
EXECUTIVE DIRECTOR



Labor and Employment Law Update 2013

Sponsored by the Labor and Employment Law Section
of the Delaware State Bar Association

Tuesday, April 16, 2013

Live in New Castle County at Delaware State Bar Association
405 N. King St., Suite 100, Wilmington, DE

Live webcast in Kent County at Community Legal Aid Society, Inc.
840 Walker Road, Dover, DE

Live webcast in Sussex County at Tunnell & Raysor
30 E. Pine St., Georgetown, DE

5.0 hours CLE credit for Delaware and Pennsylvania attorneys

Visit www.dsba.org for more information and to register.



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.

Karen Jacobs Loudon, Co-Chair
I. Barry Guerke, Co-Chair
Dennis L. Schrader, Co-Chair
Sidney Balick
Victor F. Battaglia, Sr.
Dawn L. Becker
Robert K. Beste, Jr.
Vincent A. Bifferato, Sr.
Mary C. Boudart
Crystal L. Carey
Michael D. Carr
Ben T. Castle
Thomas P. Conaty IV
Edward Curley
Gary R. Dodge
Shawn Dougherty
Mark F. Dunkle
David J. Ferry, Jr.
David C. Gagne
Robert D. Goldberg
Thomas Herlihy III
Glenn E. Hitchens
Clay T. Jester
Hon. Peter B. Jones
Richard I. G. Jones, Jr.
Rebecca Batson Kidner
Bayard Marin
James J. Maron
Wayne A. Marvel
James G. McMillan III
Michael F. McTaggart
Francis E. Mieczkowski, Jr.
Paulette Sullivan Moore
Michele L. Muldoon
Frank E. Noyes II
Elizabeth Y. Olsen
Donald E. Reid
David B. Ripsom
Kenneth M. Roseman
Thomas D. Runnels
H. Murray Sawyer, Jr.
R. Judson Scaggs, Jr.
Mary E. Sherlock
Edward A. Tarlov
Hon. Charles Toliver
Piet H. van Ogtrop
Kevin E. Walsh
David A. White
David N. Williams
Helen L. Winslow
Hon. William L. Witham, Jr.
Psychiatrist - Dr. Carol Tavani

Section & Committee Meetings

April 2013

Wednesday, April 10, 2013 • 8:30 a.m.

Multicultural Judges & Lawyers Section and Young Lawyers Section
Business Development Breakfast
Young Conaway Stargatt & Taylor LLP, 1000 North King Street, Wilmington

Thursday, April 11, 2013 • 4:30 p.m.

Worker's Compensation Section Meeting
Young Conaway Stargatt & Taylor LLP, 1000 North King Street, Wilmington

Thursday, April 11, 2013 • 5:30 p.m.

Young Lawyers Section Happy Hour
Cafe Mezzanotte, 1007 North Orange Street, Wilmington

Tuesday, April 16, 2013 • 5:30 p.m.

Torts & Insurance Section Meeting
Weik, Nitsche & Dougherty, 305 North Union Street, Second Floor, Wilmington

Thursday, April 18, 2013 • 12:30 p.m.

Executive Committee Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington

Thursday, April 18, 2013 • 4:00 p.m.

Elder Law Section Meeting
Gonser & Gonser, P.A., Hagley Building, Suite 203, 3411 Silverside Road, Wilmington

Friday, April 19, 2013 • 4:00 p.m.

Health Law Section Meeting and Happy Hour
Timothy's of the Riverfront, 930 Justison Street, Wilmington

Monday, April 22, 2013 • 4:00 p.m.

Taxation Section Meeting
Cooch and Taylor P.A., 1000 West Street, 10th Floor, Wilmington

Thursday, April 25, 2013 • 12:00 p.m.

Litigation Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington

Thursday, April 25, 2013 • 4:00 p.m.

Family Law Section Meeting
Cooch and Taylor P.A., 1000 West Street, 10th Floor, Wilmington

May 2013

Wednesday, May 1, 2013 • 12:30 p.m.

Women and the Law Section Meeting
Prickett Jones & Elliott, P.A., 1310 King Street, Wilmington

Thursday, May 2, 2013 • 8:30 a.m.

Multicultural Judges & Lawyers Section Haile Alford Breakfast
DuPont Country Club, 1001 Rockland Road, Wilmington

Thursday, May 2, 2013 • 4:00 p.m.

Real & Personal Property Section Meeting
TBD

Monday, May 6, 2013 • 12:30 p.m.

Senior Lawyers Committee Monthly Luncheon Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington

Tuesday, May 7, 2013 • 3:30 p.m.

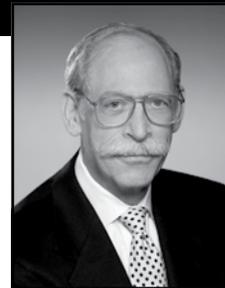
Estates & Trusts Section Meeting
Morris Nichols Arshnt & Tunnell LLP, 1201 North Market Street, Wilmington

Thursday, May 9, 2013 • 5:30 p.m.

Young Lawyers Section Happy Hour
Cafe Mezzanotte, 1007 North Orange Street, Wilmington

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*.

By Richard K. Herrmann, Esquire



Cell Phone Etiquette: The Rules Withstand the Test of Time

There are many things we find to be timeless, and a small handbook on the Rules of Civility written by George Washington in 1745 is one of them. The Rules are the same, although the technology may have changed a bit. Less timeless may be my Bar Journal article published in the February 2003 issue. However, there are certain Rules which are just as applicable today:

. . .

As I have mentioned on a number of occasions, in many instances, technology has passed us culturally. We need to apply and embrace the technology, but we have not been educated in its appropriate use. What may seem like common sense to many, is not even on the radar screen of others. Let's face it, some folks are simply oblivious to the world around them. As you can tell from the title of this piece, I am referring to the cell phone.

I will be the first to admit, "It is not the cell phone that annoys people, it is the user of the cell phone that annoys people." In 1745, at the age of thirteen, George Washington learned the basic elements of politeness required of a lad of the times. His manuscript, *Rules of Civility*, has been edited and published by John T. Phillips, II. In the 4th Rule, George wrote:

"In the presence of others, sing not to yourself with a humming noise; nor drum with your fingers or feet."

Without doubt, George should have added:

"... nor should you converse with others on any cellular device." [18th Century grammar added.]

George Washington's *Rules of Civility* are so compelling, I have taken the liberty to supplement them here:

111th: When partaking of victuals at any tavern or eatery, public or private, park your horse, your weapon, and your cellular device with the keeper at the door.

Commentary: Horses may smell and be disorderly; and weapons will, no doubt, cause women to fear and eat unbalanced. The cell phone has the same tendency to ruin the proper flow of digestive juices of the user and those within ears' proximity.

112th: When in public places, play not your horn without invitation. Nor should you permit any devices on your person to ring, toot or chime, other than your ancestry watch, the sound of which is expected and welcomed.

Commentary: Pollution of the ear is now the commonest of troubles and concerns as the Colonials urbanize in close proximity to one another. Human reaction to unwelcomed sounds can cause malaise, loss of sleep, and ill moods. The introduction of the cell phone has increased the sensitivity of fellow citizens to this problem. Understandably, the Governor's Guards require all such devices to be posited at the door before entering the Palace and being received.

113th: When traveling upon any public conveyance, whisper not, nor

undertake any means of conversation on your cellular phone, to the exclusion of those about you.

Commentary: Causing those in close proximity to eavesdrop on your communications with others can lead to no good thing. At best, a gentleman or gentlewoman will attempt to avoid such discourtesies at all costs and will find it very disquieting to be compromised in this manner. At worst, the weaker set of our breed will find this a habitually enjoyable pastime and will have difficulty avoiding such indulgences in the future.

114th: Take not the reign of your horse in one hand and your cellular device in the other.

Commentary: No matter how well bred or trained, all of God's creatures have their own way at one time or another. Your duty, when managing your movement, is on the safety of yourself and those about you. Stones and dips can come upon you quickly, requiring full attention and responsiveness. Those, who are better with numbers than I will tell you that a loss of a horse is more likely to occur if you are engaged in conversation remotely. It is of utmost importance that your mind is on the trail and that your hands are on your steed.

115th: Spit not on the floor, nor spittle on your cellular devise, lest others will get close to it and succumb to your maladies.

Commentary: The rural ways of men should be left behind and not be visited in the cities. Such vulgarities belong in prisons, galleys, and rings for wrestling

and other sports. This is particularly so when the means of portable communications are shared with the weaker sex.

And, there it is. Whether we think of it in the parlance of the Greats or in the lingo of today, courtesy, safety and common sense need to be exercised. The Bar should set an example. We have the capacity. We have the obligation. ☺

Report of the Nominating Committee

The Nominating Committee met on March 13, 2013 and nominated the following for officers and membership on the Executive Committee for the year July 1, 2013 to June 30, 2014:

Vice President-at-Large:	Richard A. Forsten
Vice President, New Castle County:	Miranda D. Clifton
Secretary:	David J. Ferry, Jr
Assistant Secretary:	Michael F. McTaggart
Treasurer:	David A. Felice
Assistant Treasurer:	William P. Brady
Members-at-Large:	Santino Ceccotti
	Johnna M. Darby
	Laina M. Herbert
	Brenda James Roberts
	Robert J. Krapf
	David A. White

In addition, the Committee nominated:

William H. Sudell to a 4-year term as the Delaware State Bar Association representative to the Delaware Bar Foundation.

William D. Johnston as the Delaware State Bar Association representative to the ABA House of Delegates.

This report is being filed pursuant to Section 6.16(e) of the Association bylaws. Section 6.16(f) of the Bylaws of the Association provides:

“Any ten members of the Association may nominate other members in good standing of the Association for any office for which nominations have been made by the committee by filing a signed written petition with the Secretary of the Association within ten days after the report of the Committee has been published. If a petition nominating other candidates be duly filed the Secretary shall publish notice, in a Bar Association publication or by any other reasonable means of notification, of the petition with the name(s) of the candidate(s) proposed so that the membership has notice of at least fourteen days prior to the election of the names of all candidates so nominated. There shall be no other nominations.”

Environmental Law 2013

**Wednesday
April 24, 2013**

**Sponsored by the
Environmental Law Section
of the Delaware
State Bar Association**

Live in New Castle County at
Delaware State
Bar Association

Live webcast in Kent County at
Community Legal Aid
Society, Inc.

Live webcast in Sussex County at
Tunnell & Raysor

3.8 hours CLE credit
for DE and PA attorneys

Visit www.dsba.org for more
information and to register.

WEBER GALLAGHER SIMPSON STAPLETON FIRES & NEWBY LLP

**Available for Arbitration and
Mediation Services**

30 years experience as a Trial Attorney

Mary E. Sherlock, Esquire
302.346.6377 | msherlock@wglaw.com



By Charles Slanina, Esquire



Disciplinary Believe It or Not

In an attempt to give the Lawyers Behaving Badly format a rest, this month's column reports a few cases that may leave you wondering whether this is an "Ethically Speaking" version of April Fools. Readers are welcome to check the cites to confirm the accuracy of my reporting.

The Virginia State Bar recently ruled that an attorney who received a phone call from a distraught litigant did not act unethically by permitting the caller to talk about the case even though he was representing her opponent. During the call, she engaged in "an outpouring of emotion." The attorney was charged with violating the Virginia rule prohibiting *ex parte* contacts with represented parties.

The attorney successfully defended the disciplinary charge with the claim that he did not want to hang up sooner because he did not want to be rude. Ruling that Rule 4.2 "does not require lawyers to be discourteous or impolite," the Committee concluded at the disciplinary hearing that the lawyer had violated Rule 4.2 but that the conduct warranted a "dismissal *de minimis*" meaning that although the lawyer had engaged in misconduct, it was not serious enough to require disciplinary action. The Supreme Court reversed the judgment and dismissed the disciplinary charge. *Zaugh v. Virginia State Bar, Va.*, No. 121656, 2/28/13.

• • •

The Iowa Supreme Court ruled recently that the duties of candor and fairness do not apply to an attorney in his own divorce case. Rule 3.3 requires candor to the tribunal and Rule 3.4 requires fairness to opposing parties. The

Court concluded that a lawyer's fraudulent concealment of assets, specifically the potential income from two contingency fee cases, during his own divorce action did not violate Rules 3.3 or 3.4 because he was not serving as an advocate representing a client. The hearing panel found that the concealment of these assets violated those Professional Conduct Rules. The Court disagreed finding that although lawyers are generally required to obey ethics rules even when acting *pro se* in a personal capacity, some rules target only the conduct of a lawyer while serving as a client's advocate. The Court specifically found that Rules 3.3 and 3.4 are such rules.

However, the Court did find that the attorney's concealment of the assets violated Rule 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation). The Court also concluded that the conduct violated Rule 8.4(d) (conduct prejudicial to the administration of justice) because the concealment necessitated additional hearings after the assets were discovered. The Court noted as a factor in that finding that the misconduct occurred in a court in which the attorney practiced regularly.

• • •

The imputation of conflicts of interest received an unusual interpretation in another Virginia case recently. Rule 1.10 prohibits any lawyers in a firm from representing a client if any one of the attorneys in the firm have a conflict of interest which would prohibit the representation. The Court overturned a disciplinary board's conclusion that a lawyer violated Virginia's Rule 1.10 when he continued to represent a husband in a divorce case after learning that his partner had met

with the wife about the case. The decision did not reference the relatively new Rule 1.18 dealing with initial client consultations and all of the analysis was under the original Rule 1.10 imputation. The Court concluded that the mere fact that the lawyer knew that his partner had met with the wife did not support a conclusion that the lawyer knew his partner had a disqualifying conflict of interest.

The wife had separated from her husband and met with attorney Lynwood W. Lewis, Jr. to discuss hiring him for a divorce action. During the meeting, she told Lewis sensitive details about what led up to the separation. Lewis took a page of notes during the initial interview before asking if her husband had hired an attorney. When she said that he had hired Thomas L. Northam, he terminated the meeting. Mr. Northam is a partner in Mr. Lewis' law firm.

After his meeting with the wife, Lewis spoke with Northam to confirm that Northam was representing the husband and to let him know that he had met with the wife. After that conversation, Lewis had the firm's receptionist contact the wife to advise that Lewis could not represent her. The Board affirmed the Hearing Committee's determination that Northam, in doing so, violated Rule 1.10(a), but the Supreme Court reversed and dismissed the charges. The Court rejected the Bar's argument that Lewis' knowledge of his conflict was automatically imputed to Northam explaining that Rule 1.10(a) is not a rule of strict liability. The use of "knowingly" in Rule 1.10(a) is not without a purpose, but it is a separate and distinct element of the rule that must be proven before a violation can be imposed.

The Virginia Supreme Court and the Virginia Bar did not address the issue as to whether or not the firm had in effect or employed a conflicts screening mechanism which would have alerted him to the potential for a conflict before he met with and obtained confidential information from the wife. It is unlikely that the Delaware Supreme Court would have reached the same conclusion. *Matter of Mekler*, Del.Supr., 689 A.2d 1171 (1996).

No April Fools here, but remember, your results may vary.

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

***"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.*

****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.* 

Remodel • Restore • Refine

- **Tenant Fit Outs**
- **Offices**
- **Design & Build**
- **Kitchens**
- **Baths**
- **Additions**



Free Healthcheck

Complimentary For Small and Medium Legal Firms



The 4Sight Group is an information technologies (IT) company that specializes in serving law firms in Delaware. Give us a call for a no obligation IT system review.

4SIGHT GROUP LLC
4023 Kennett Pike, Suite 233
Wilmington, DE 19807
Phone: 800-490-2131 X88
www.4sightgroup.com



Del Pizzo Construction • (302) 838-6701 • DelPizzoConstruction.com



Workers' Compensation

Sponsored by the Workers' Compensation Section of the Delaware State Bar Association and the Industrial Accident Board

Tuesday, May 7, 2013 • 8:30 a.m. – 4:30 p.m.

Chase Center on the Riverfront, 815 Justison Street, Wilmington, Delaware

6.5 hours of CLE Credit (including 1.0 hour of Enhanced Ethics) for Delaware and Pennsylvania attorneys
6.0 DE Insurance Continuing Education licensee credits (including 1.0 credit hour in Ethics)

Visit www.dsba.org for more information and to register.

By Susan Simmons
Director of Development & Access to Justice Coordination



April is National Child Abuse Prevention Month in the United States

The Delaware State Bar Association's lawyers have a unique opportunity to prevent child abuse when they represent children and children's best interests in the Courts. Families who are involved in our court systems are often there because they have abused or neglected a child. Families who are engaged in high conflict family disputes are often at risk of child abuse and neglect. When children and children's interests are well represented, the legal system can take the protective measures necessary to protect the children.

Lawyers act as Guardians *ad Litem* in Family Court. As a *pro bono* volunteer, you are charged with representing the best interests of children whose parents or other caregivers are engaged in contested custody disputes. You will act as the officer of the court to investigate and make recommendations that will keep a child safe and well.

Pro bono lawyers representing children's best interests can help to prevent child abuse by recognizing the risk factors and then urging—or asking the court to order—the parents to seek help. Parents who were raised with abuse or neglect often do not understand how to care for their own children or they may have unrealistic expectations for their child's behavior and abilities. A Guardian *ad Litem* frequently suggests that parents take parenting classes, and a parent's willingness to work towards improving their parenting skills can be a critical factor in a court's decision on custody and parenting time. Parents who abuse alcohol or drugs are significantly more likely to abuse or neglect a child. A Guardian *ad Litem* who identifies a potential substance abuse problem can

request that parents submit to a professional evaluation, which can lead to a parent recognizing and addressing addiction. Guardians *ad Litem* often refer parents to counseling to help parents overcome stress and anxiety.

Volunteer lawyers representing children are often assigned to clients who have already been neglected by their parents. Volunteers represent neglected children after Family Services have already intervened into the family due to parental neglect. The parents commit to take affirmative steps to address the underlying cause of the neglect—parental substance abuse. Volunteer lawyers advocate for the children's care and well being while the parents are striving towards recovery. Through their legal representation, volunteer lawyers help to ensure that the children receive proper education, medical care, and emotional support during the difficult time in their lives, but perhaps even more important, the volunteer lawyers advocate for the children's desire to be reunited with safe and stable families. The parents attend drug treatment, and they submit to random and frequent drug screens. The court oversees the parents' recovery and the care of the children. The children visit with their parents and receive counseling to help them deal with the anguish of being separated from their parents.

The volunteer lawyer helps to assure that the children are returned to their home as soon as the court can be reasonably certain that parent is able to properly care for the child.

Lawyers who represent children contribute substantially to the prevention of child abuse in our community. The work of representing a child and advocat-

ing for a child's best interest is not easy work. Volunteer lawyers who step up and accept a child's case make a tremendous commitment to the child, the court, and the community. The cases may take many hours and significant emotional energy. On the other hand, the work is not thankless. The judges and the court staff express consistent appreciation for the *pro bono* efforts of volunteers. More important, however, is the knowledge that a child has been helped.

Sign up to become a Guardian *ad Litem* by contacting the Office of the Child Advocate:

Wilmington
900 King Street, Suite 210
Wilmington, DE 19801
Voice (302) 255-1730
Fax (302) 577-6831

Georgetown
6 West Market Street, Suite 1
Georgetown, DE 19947
Voice (302) 856-5720
Fax (302) 856-5722

If you or your firm are interested or already participates in *pro bono*, let us know:

Susan Simmons
Director of Development
& Access to Justice Coordination
Delaware State Bar Association
405 North King Street, Suite 100
Wilmington, DE 19801
ssimmons@dsba.org
302-658-5279 ext. 101 

Delaware's Premier Litigation Support Team



Stephen M. Conyers, CPA
Stacey A. Wynne, CPA, CFE, CICA

Edward P. Byrnes
William A. Santora, CPA

- Review & Analysis of Documents
- Damage Calculation
- Detailed Expert Report Preparation
- Deposition & Court Testimony
- Rebuttal Reports
- Forensic Accounting



Call 302-737-6200 or toll free 800-347-0116

CLE Videos

In addition to live seminars, the Delaware State Bar Association presents accredited Continuing Legal Education videos every weekday.

Call the DSBA at (302) 658-5279 for an appointment to view one of the many recorded DSBA seminars.

A complete list of all CLE videos is available on our website at: www.dsba.org

3,500 LAWYERS SEE THIS AD!

For current advertising rates, contact Rebecca Baird at (302) 658-5279 or rbaird@dsba.org.

Delaware State Bar Association
405 N. King Street, Suite 100
Wilmington, DE 19801

Please Volunteer to go to a High School for Law Week April 29 - May 3, 2013

Delaware's Law Day in the Schools Program is endorsed by the Supreme Court of Delaware and the Department of Education. Over the past several years, the Delaware Law Related Education Center (DELREC) has expanded Law Day in the High Schools from May 1 and now it covers a week. The goal is to place one or more attorneys or judges in each of the public and private schools in Delaware.

The ABA Theme for this year's Law Day is Realizing the Dream: Equality for All. It was chosen to mark the 150th anniversary of the issuance of the Emancipation Proclamation by President Lincoln. We will be using portions of a lesson developed by the Delaware Law Related Education Center, Inc. from its Desegregation in Delaware Unit. The unit is now a part of the DE Department of Education's Core Curriculum.

Many of you helped with the program last year and we hope you will join us again. If you are interested in being a volunteer, please send an e-mail to Pat Quann at delrecntr@aol.com.



POTTER ANDERSON & CORROON LLP is pleased to announce that the following attorneys have become Partners of the firm



JONATHAN A. CHOA practices in the firm's General Litigation Group. He represents clients in complex commercial disputes, focusing primarily on intellectual property litigation and corporate disputes. jchoa@potteranderson.com; 302.984.6189



JEFFREY B. SAFRAN, PH.D. practices in the firm's Intellectual Property Group. He concentrates his practice on the preparation and prosecution of biotechnology and chemical patent applications in the U.S. and worldwide, as well as licensing, opinion work and due diligence. jsafran@potteranderson.com; 302.984.6132



JENNIFER C. WASSON practices in the firm's General Litigation Group. She represents clients in insurance coverage cases, commercial contract disputes, and employment litigation in state and federal court. jwasson@potteranderson.com; 302.984.6165

ASSOCIATES JOINING THE FIRM IN 2012

J. Matthew Belger, Corporate
Nicholas J. Brannick, Litigation
Janine L. Hochberg, Litigation
Christopher N. Kelly, Corporate
Bindu A. Palapura, Litigation
Alan R. Silverstein, Litigation
James G. Stanco, Corporate
Joseph G. Walker,* Corporate

*not admitted in Delaware

ASSOCIATES ADMITTED IN DELAWARE IN 2012

Jacqueline A. Rogers
The College of William & Mary
Marshall-Wythe School of Law

Catherine A. Schmierer
George Mason University
School of Law

www.potteranderson.com

Disciplinary Actions

INTERIM SUSPENSION: SUPREME COURT NO. 108, 2013. EFFECTIVE DATE: MARCH 12, 2013.

By order dated March 12, 2013, the Delaware Supreme Court suspended Joseph A. Gabay, Esquire, immediately from the practice of law in Delaware pursuant to Rule 16 of the Delaware Lawyers' Rules of Disciplinary Procedure pending final disposition of attorney disciplinary proceedings. In its Order, the Court concluded that Gabay, a solo practitioner, had engaged in professional misconduct which demonstrates he poses a significant threat of substantial harm to the public and to the orderly administration of justice.

The Court of Chancery appointed Joseph W. Benson, Esquire, (302) 656-8811, Receiver of Mr. Gabay's law practice.

DISABILITY INACTIVE: JOHN E. O'BRIEN

SUPREME COURT NO. 28, 2013 EFFECTIVE DATE: MARCH 20, 2013

On March 20, 2013, the Delaware Supreme Court transferred John E. O'Brien to disability inactive status pursuant to Rule 19(b) of the Delaware Lawyers' Rules of Disciplinary Procedure. Mr. O'Brien was previously suspended on an interim basis from the practice of law by Order of the Delaware Supreme Court on January 15, 2013. Mr. O'Brien was transferred to disability inactive status based on Mr. O'Brien's incapacity to defend disciplinary proceedings. All disciplinary proceedings are stayed.

Constantine F. Malmberg, III, Esquire, (302) 672-5600 has been appointed Receiver of Mr. O'Brien's law practice. Ⓡ

SAVE THE DATE
June 5, 2013
Delaware State Bar Association
Bench and Bar Conference
Chase Center on the Riverfront ■ Wilmington, Delaware

Bench and Bar Registration • 4:00 p.m.

DSBA Annual Meeting • 4:30 p.m.

Presided over by Theresa V. Brown-Edwards, Esquire, Delaware State Bar Association President

State of the Judiciary Address

Presented by The Honorable Myron T. Steele, Chief Justice of the Supreme Court of Delaware

Elections of Executive Committee Members

Passing of the Gavel to the new Delaware State Bar Association President, Gregory Brian Williams, Esquire

Cocktail Reception • 5:30 p.m.

Dinner • 6:30 p.m.

Hosted by

The Honorable Myron T. Steele, Chief Justice of the Supreme Court of Delaware
Justices Randy J. Holland, Carolyn Berger, Jack B. Jacobs, Henry du Pont Ridgely
and by The Delaware Judicial Conference

Welcome

The Honorable Myron T. Steele, Chief Justice of the Supreme Court of Delaware

Keynote address by Scott Turow

Scott Turow is a writer and attorney. He is the author of eight best-selling novels, including *Presumed Innocent*, *The Burden of Proof*, *Pleading Guilty*, *The Laws of Our Fathers*, *Personal Injuries*, and *Reversible Errors*. Mr. Turow's books have won a number of literary awards, including the Heartland Prize in 2003 for *Reversible Errors* and the Robert F. Kennedy Book Award in 2004 for *Ultimate Punishment*.

Mr. Turow continues to work as an attorney. He has been a partner in the Chicago office of Sonnenschein Nath & Rosenthal, LLP, a national law firm, since 1986, concentrating on white collar criminal defense, while also devoting a substantial part of his time to *pro bono* matters.



Registration Brochure to follow.

CLE Afternoon Program

Wednesday, June 5, 2013

Chase Center on the Riverfront

CLE Program

1:00 p.m. – 4:15 p.m.

3.0 hours of CLE credit in Enhanced Ethics for DE and PA attorneys

Registration Brochure to follow.

Law Day Luncheon

Wednesday, May 8, 2013 • 12:00 noon
Gold Ballroom • Hotel du Pont

Keynote Address by
The Honorable Thomas L. Ambro
U.S. Court of Appeals, Third Circuit
Speaking on "How Judges Decide"

Thomas L. Ambro is a Judge on the United States Court of Appeals for the Third Circuit. Prior to becoming a Judge in 2000, Judge Ambro was a member of the firm of Richards, Layton & Finger, Wilmington, Delaware (where he headed up its Bankruptcy Group), having first joined the firm in 1976 after a judicial clerkship with Delaware Supreme Court Chief Justice Daniel L. Herrmann.

Judge Ambro is a past Chair of the Section of Business Law of the American Bar Association and past Editor of The Business Lawyer. He is also a member of the American Law Institute and a past member of the Board of Trustees of the American Inns of Court Foundation, where in Delaware he is the immediate past President of the Richard S. Rodney Inn of Court and previously co-chaired the Collins J. Seitz Bankruptcy Inn of Court. Within the Delaware State Bar Association, Judge Ambro is a former Chair of the Commercial Law Section and chaired for 20 years that Section's Committee on the Uniform Commercial Code.



Awards Presentation

Liberty Bell Award

Presented to

Carole Kirshner

Administrator

Court of Common Pleas (retired)

Community Service Award

Presented to

George Tsakataras, Esquire

Law Offices of Blakely, Gregory & Pappoulis

Myrna L. Rubenstein Professional Support Recognition Award

Presented to

Catherine A. James

Paul, Weiss, Rifkind, Wharton & Garrison LLP

Law Day Luncheon • Wednesday, May 8, 2013 • 12:00 noon

Please reserve _____ place(s) for me at the Wednesday, May 8, 2013 Law Day Luncheon to be held at 12:00 noon at the Hotel du Pont.
Please include names and DE ID numbers of all attendees with response.

Name: _____ DE ID No.: _____

Firm: _____ Phone: _____

E-mail: _____

Address: _____

Check/Charge in the amount of \$ _____ enclosed. (\$45/per person) **Please make checks payable to DSBA.**

MasterCard Visa Amex Discover Expiration date: _____ Card number: _____

Signature: _____ (Required if card purchase) Billing Zip Code: _____

Please fax to (302) 658-5212 or mail by May 3, 2013 to: Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE 19801
Refund Policy: Refunds will not be issued unless cancellation is received no later than one week prior to the luncheon.

Delaware Lawyers Join Governor on Trade Mission to India

By Rakesh H. Mehta, Ph.D., Esquire, Emilie R. Ninan, Esquire, and Andrea B. Tinianow, Esquire

Delaware lawyers are taking to heart Chief Justice Steele's admonition to bar members to have a more "global perspective." Three members of the DSBA, Rakesh Mehta, Emilie Ninan, and Andrea Tinianow, were part of the delegation (at no cost to the State) that accompanied Delaware Governor Jack Markell on his trade mission to India to foster trade between Delaware and India. State representatives included Secretary Shailen Bhatt, Delaware Department of Transportation and Felicia Pullam, Deputy International Trade Director. Dr. Patrick Harker, President of University of Delaware, joined the delegation in Mumbai (f/k/a Bombay).

The trade mission started from Delhi, stopping in Bangalore, Pune, and Mumbai. Members of the delegation participated in several meetings with business executives of multi-national corporations and engaged in round table discussions and receptions with owners of small and medium enterprises interested in establishing a presence in the U.S. and hiring locally. The Delaware attorneys also met with lawyers from some of India's most prominent law firms who have clients looking to expand in the U.S.

The economic growth in India in two short decades since its economy was liberalized in 1991 is nothing short of stunning (particularly in light of the economic forces that have depressed much of the global marketplace). North America is a favorite destination for Indian companies seeking growth opportunities for several reasons: it is the largest market in the world with a strong demand, it is a relatively easy place to conduct business, and the business environment is predictable and stable.

The Governor's well-received message was that Delaware is open for business and should be given strong consideration in light of its skilled work force, strategic geographic location between New York and Washington, and reasonable cost of living.

The legal team further supported this message by stressing the advantages of Delaware entities, our unique business environment, our specialized business court and nationally-renowned judiciary, and of course, our highly-competent professional bar and service providers.

Highlights of the trip included a visit to a pharmaceutical packaging company that already has a site in Delaware and the Governor signing a dialogue agreement with the State of Karnataka, home to Bangalore—the hotbed of IT innovation—to build ties focused around areas of mutual interest such as cyber security, social media, IT start-ups, biotechnology, clean technology, advanced materials, and corporate governance.

Another event of note was the Governor's address at a plenary session at The National Association of Software and Services Companies (NASSCOM) Leadership Forum. The Leadership Forum brought together 1500 leaders including CEOs from India's leading technology companies, senior members of Indian government, and other leaders and innovators.

The lawyers who participated in this trade mission are confident that the seeds that were planted on this trip will grow into increased business traffic from India to North America, in and through Delaware.

Dr. Mehta, born in India and currently an IP lawyer at Potter Anderson & Corroon LLP, is very familiar with the business environment in India and has an interest in growing his India-related IP practice.

Ms. Ninan, a public finance attorney and the Office Managing Partner of Ballard Spahr LLP's Wilmington office, is the daughter of Indian immigrant parents and the current President of the North American South Asian Bar Association (NASABA), a national affinity bar organization representing more than 6,000 South Asian attorneys in the US and Canada.

Ms. Tinianow, assistant general counsel and vice president Corporation Service Company, has traveled to India multiple times and is developing services for Indian companies looking to expand to the U.S. 



Legal Team with Governor Markell and Felicia Pullam, US Embassy Reception, Delhi, India.

Photo credit: Felicia Pullam



Delegation members at Karnataka State Building after meeting with Chief Minister in Bangalore, India.

Photo credit: Emilie R. Ninan



Delegation Members and Governor Markell being greeted by local schoolgirls in Pune, India.

Photo credit: Emilie R. Ninan



By Carol P. Waldhauser, Executive Director

Cognitive Impairment and Competence

The DE-LAP ZONE is very pleased to announce Dr. Joseph Zingaro as our guest columnist this month. Dr. Zingaro is the Clinical Director of People's Place Counseling in Milford, DE. He is a Past-President of the Delaware Psychological Association. He is a member of the American Psychological Association, Delaware Psychological Association, American College of Forensic Psychology, Association of Family and Conciliation Courts, The Parenting Coordination Council of Delaware, and the Board of Examiners of Psychologists.

Most of us are probably more afraid of developing a dementia than having a heart attack... or dying. You may have elderly clients who have a dementia and you may have witnessed their struggles to maintain their sense of identity and daily functioning as the disease progressed. You may have witnessed the stress on the family members who are trying to help, cope, understand.

My grandmother had a dementia. She did not know she had dementia. Her children thought something was wrong, but they were not sure what it was. When they tried to talk to grandma about their observations, she thought they did not understand, or did not love her anymore. Some of her more irritating behaviors became more pronounced. She became suspicious of everyone. My grandmother and her children never anticipated such a problem. Who would have guessed grandma would develop dementia? Her brain just happened to be the first part of her to die.

Dementias will become more common because we are living longer. There are different types of dementia. Alzheimer's

is probably the one with the most name recognition. After age 85, the risk of developing Alzheimer's is almost 50%.

Many of us are working longer. We love what we do. We may (almost readily) admit that as our bodies are aging, we do not have the same stamina/strength/reflexes we once did—we may even be joking about how much longer it takes us to recover from being a weekend warrior. Maybe we played/partied too hard. We can handle the jokes or comments about almost all aspects of aging—except if the comments are about our mind. No one wants to hear that our memory is not what is used to be. Are we forgetting more? Do people tell us we are more irritable? Do we feel more irritable? Does it seem like the individuals who used to be our friends are not—they do not seem to understand us like they did.

My grandmother could not be expected to diagnose herself or even recognize that she was losing her cognitive abilities. Maybe she thought the world or her friends and family were changing. It was really she that was changing. Her family was not turning on her—she was paranoid. It is the nature of the disease that the individual with it is sometimes the last to know. Spouses, children, partners at work, or secretaries probably know first. The issue, specifically, of attorneys who are developing cognitive impairments is in its early stages. Issues about chemical dependency, gambling addiction, and mental health problems are known. More importantly, there are interventions that can heal the attorney with an addiction or mental health problem.

Even when diagnosed early, there is no treatment which can reverse or stop

the progression of a dementia. And, in spite of the numerous advertisements for products boasting to prevent dementias, there is no scientific evidence that any of them work. All things being equal, genetics and aging are the two primary variables related to dementias. There are other variables, but these are choice and lifestyle issues, i.e. alcohol abuse, being overweight, untreated high blood pressure, diabetes, etc. These things we can change. We cannot change our genetic makeup (at least at this writing) or the fact we are getting older every day.

The degree of impairment from a dementia varies and progresses (gets worse) over time. Individuals who are early in the course of the illness may be able to function, with support, much like they did before the disease began, e.g. President Ronald Reagan. Correct diagnosis and treatment plan (how much support is needed to maintain competence, if it can be maintained) can be a challenging task. Sometimes the individual affected can help in the process. As an example, a stroke patient (with a vascular dementia) may realize that his level of cognitive functioning is very different than what it used to be and wants to be part of the process of reducing or winding down his practice. Other times the person affected is less aware of the changes in their own cognitive status. Often a team approach with input/evaluation by the individual's primary care physician (PCP), interviews with spouse, possibly co-workers, and a psychologist who can administer and interpret psychological tests related to cognition (memory, reasoning skills, executive functioning skills, etc.) can help identify the areas of cognitive strength/

weakness. The team approach sometimes seems to take more time than one might like. However, the gathering of collateral data is imperative if one is to have confidence in the diagnosis and treatment plan. Other disease processes or problems can mimic symptoms of or directly cause cognitive impairment, i.e. side effects of some medications. It takes time to be thorough.

The Delaware Lawyers Assistance Program can help provide information and resources if you have concerns about your own or another attorneys' performance and competence.

Joseph C. Zingaro, Ph.D. is a licensed psychologist and the Clinical Director of People's Place Counseling, Milford, DE. He can be reached at (302) 422.8026 ext. 116 or jzingaro@peoplesplace2.com. 

HARRIS FINKELSTEIN, PH.D.

*Over 20 Years of Experience in
Assessment & Therapy with Children & Adolescents*

Available to the Legal Profession:

- ♦ S.722 Custody Evaluations – with (highly preferred) or without both parents
- ♦ Psychological Evaluations for P.I. damages to children and adolescents including trauma, abuse, anxiety and PTSD.

Licensed in DE & PA Nationally Certified School Psychologist
1300 Pennsylvania Avenue, Wilmington, DE 19806

(302) 594-9000

The St. Thomas More Society

of the
Diocese of Wilmington

*Announces its Annual Dinner
Celebrating the 25th Anniversary
of the Founding of the Society
and*

Honoring

**Anthony G. Flynn
Mark L. Reardon**

To Be Held at
The Wilmington Country Club
4825 Kennett Pike
Wilmington, Delaware

Sunday, May 19, 2013
Cocktails at 5:00 P.M. (cash bar)
Dinner at 6:00 P.M.

R.S.V.P. by Monday, May 13, 2012
fjt@elzefon.com

**Getting help doesn't
sabotage your career...
...but *not* getting help can.**



The Delaware Lawyers Assistance Program (DE-LAP) was created to confidentially help Judges and Lawyers with substance abuse/dependence and/or mental and physical health problems.

Carol P. Waldhauser, Executive Director

Direct: (302) 777-0124, Toll-Free: 1-877-24DE-LAP, or the Emergency Toll-Free Hotline: 1-877-652-2267

e-mail: cwaldhauser@de-lap.org

website: www.de-lap.org

Reviewed by Richard A. Forsten, Esquire



Hard to Take Seriously: *On Constitutional Disobedience*

By Louis Michael Seidman (Oxford Univ. Press, 2012)

It is often said that our system of government is based on the rule of law—not the rule of men. And, no law is more fundamental in this country than that of the United States Constitution. Yet, Georgetown Law Professor Louis Michael Seidman wants none of it. In his short book, *On Constitutional Disobedience*, he asks the question “why should anyone, on the Left, the Right, or in the center, renounce positions of policy and principle that she favors simply because those policies and principles are inconsistent with the Constitution?” Not content to have put the question forward once, he asks again: “[i]f we are convinced after taking everything into account that one course of action is right, why should we take another course of action just because of words written down on a piece of paper more than two hundred years ago?” Having seriously asked the question, he then proceeds to try and persuade the reader that the country is free to ignore the Constitution if, in fact, we believe it wrong. While the book puts forth the arguments that one suspects would be made, none of the arguments are compelling or persuasive.

For example, Seidman points out that most of the Constitution was written a really long time ago by men who are all long dead and who lived in a very different time. True enough, but a lot of what these men wrote are pretty important principles and guidelines (freedom of the press, freedom of religion, etc.) that are worthy of just as much respect today as they were over two hundred years ago. Age, then, really does not matter. If it turns out something in the Constitution is inconvenient or wrong

or should be changed, then the Constitution can be amended—but according to Seidman the amendment process is too difficult and so therefore it would just be easier to ignore the text we want to ignore rather than try and go through the required process. Of course, the process was intended to be difficult, so the fact that it is hard does not seem to be a good reason to ignore the Constitution, let alone a compelling one, and, the Constitution has been amended from time to time, so, difficult or not, it can be done.

Seidman also tells us that some Constitutional provisions are not really all that important, and so it is really no big deal if they are ignored. For example, he asks whether the world will end if a revenue bill did not originate in the House? Maybe not, but at some point we need to have rules that we can all agree on or how is anything going to get done? The Constitution requires a two-thirds approval by the Senate for ratification. Suppose a vote falls short? The treaty is not ratified, but maybe the bare majority wants to it to apply anyway. Who wins in the ensuing fight over disobedience? This is, of course, why we have a Constitution—rules matter.

Ultimately, Seidman never faces the unpleasant truth his “disobedience” might produce or, indeed, why constitutions are written documents to begin with. If “we” are free to do what “we” believe best, regardless of what any constitution might say, then “we” have no constitution whatsoever. That may be an appealing outcome if “we” are in the majority most or all of the time, but what happens when “we” are not in the majority and the

freedoms that “we” take for granted are trampled because others feel a different result is “better.” No more criticism of the political party in charge, because, after all, “we” believe such criticism is wrong. No Miranda rights, no legal assistance of counsel, no freedom of religion—these things are all not helpful and just get in the way. Oh, and by the way, Delaware, you and the ten other smallest states only get one Senator going forward because it is not fair that you and California both have the same number. After all, if we are going to disobey the Constitution, let’s go big. And while the foregoing examples may seem farfetched (at least I hope they do!), who is to say that a majority might not decide to ignore the text of the Constitution in a way with which others readily disagree. After all, *Gideon v. Wainwright* was not a very popular decision, is still disputed by some, and if we do not have to provide counsel for indigent defendants, it might save local governments a lot of money.

Ironically, Seidman suggests we should ignore the Constitution in part because the way some groups read the Constitution (he cites the Tea Party) would lead to a country in which many (including himself) would not want to live. Perhaps so, perhaps not, but certainly Seidman supports many decisions of the Warren Court which have led to a country in which he does want to live. Where would Seidman’s vision of the country be without decisions separating church and state or providing criminal defendants extensive rights or even *Brown v. Board of Education*? Suppose states were free to ignore federal law (a matter settled long ago, but presumably if we are free

to disobey, so are states?). In short, the courts and the Constitution have always mattered, even if not everyone likes every constitutional decision or agrees about the meaning of every phrase.

Indeed, Seidman's ultimate main reason for arguing that we ignore the Constitution is because he believes too many people simply try and argue that proposed legislation with which they disagree is unconstitutional, rather than argue the policy merits of the legislation itself. Or, put another way, proponents and opponents do not engage over policy and the public good, but use the Constitution as a proxy for their positions. That may be true for some legislation, but certainly not all. Moreover, even when folks argue over constitutionality, they presumably are also making policy arguments at the same time. It seems overly simplistic to say we should ignore the Constitution simply because people ignore policy-based arguments when they can argue constitutionality. Maybe rather than disobeying the Constitution, we should simply demand more from the media and ourselves, and look for press coverage that focuses on the facts and policy implications, rather than talking points and who is winning or losing, as if political process is really just another sporting event.

Seidman's arguments for disobedience simply are not persuasive and ignore or make light of the many reasons why a Constitution and constitutional obedience does matter. A country without a Constitution is not a country which I, or I suspect most, would want to live. Ⓞ

Patricia A. Garthwaite 1959-2013

By Felice Glennon Kerr, Esquire

Pat was born in Montgomery County, Pennsylvania. She graduated from Chestnut Hill College and Widener Law School. Pat completed law school and passed the Delaware Bar while both of her children were still very young.

After graduation, Pat went to work for Smith Katzenstein & Furlow, where she focused primarily on insurance defense. While she only worked there for a few years, she and Bob Katzenstein remained friends throughout the rest of her career. Following a brief stint with Blank Rome, Pat began working with Frank Murphy and Roger Landon at what is now Murphy & Landon.

However, Pat felt a strong desire to be independent, and in June, 1996, opened her own law firm in Powder Mill Square, Greenville. She moved her office to Centreville a couple of years ago. Although Pat did some other types of law in the beginning, such as real estate and wills and estates, her family law practice took off quickly and eventually became her entire focus. As a family law attorney, Pat was a strong and compassionate advocate for her clients. She was very passionate about her work, and her commitment to her clients was unparalleled.

Pat was extremely proud of her family. While very humble about her own accomplishments, Pat's pride in her two children, William and Christine, was evident. She spoke often about her two children, both law school graduates, with promising careers. Her husband Bill began working for her full-time shortly after she went out on her own, and the two were truly a team. Bill was Pat's only employee and was her support system. Pat and Bill enjoyed fishing on the beach in Sea Isle City, New Jersey on weekends and holidays. Pat also loved her golden retrievers, and one was never far from her side.

When Pat became ill with the disease that took her life, she never mentioned it to anybody. Pat continued to devote the same level of skill and showed the same fight and commitment which exemplified her practice before she was ill. Though in pain, Pat never complained, never made excuses and never lost her passion for the law. Ⓞ

MEDIATION/ARBITRATION

JOHN A. ELZUFON, Esq.

38 years Trial Attorney experience -- jury and non-jury.

Legal background in professional liability (including medical, legal, accounting and engineering negligence), personal injury, corporate, trade secrets, construction, real estate and environmental cases.

Pre legal background in engineering and construction: Engineering undergraduate degree and three years of field experience as a chemical engineer for DuPont and as a construction engineer for the U.S. Army Corps of Engineers.

jelzufon@elzufon.com
302-504-3221

HIRING A PARALEGAL?

Log on to
www.deparalegals.org

For more information
about posting jobs on
DPA's website,
contact the
Job Bank Director,
Sharyn C. Hallman, DCP,
at (302) 984-3882.



By James G. McGiffin, Jr., Esquire



Happy in his own back yard: Tarik Haskins

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 The 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

• • •

The relationship between Delaware and Pennsylvania is close and complicated. Indeed, in ancient history Delaware was part of Pennsylvania. For Philadelphia native Tarik Haskins, Delaware was undiscovered territory until he arrived after law school, despite this close and complicated relationship. After about 10 years in Delaware, Tarik has found a home, and Delaware is all the better for it.

Tarik grew up in Philadelphia, attended Central High School and graduated in 1994. He then ventured to Clark Atlanta University with the goal of becoming a sports journalist. CAU appealed to Tarik because it is a historically black university and because it is located in the city that would host the 1996 Summer Olympics. He graduated with a degree in mass communications and returned to Philadelphia to work in advertising and banking. Though he enjoyed the life of a young, urban professional, Tarik heard and answered the call to attend law school.

The University of Cincinnati enticed Tarik away from the City of Brotherly Love, and it was a place where he thrived. Tarik attributes his success in part to the lack of distraction in Cincinnati, the home of the Flying Pig Marathon.

He served as Editor-in-Chief of the Law Review (the first African American to do so at UC Law) and attracted the attention of Chief Justice Norman E. Veasey, who hired Tarik upon graduation. As sometimes happens, Tarik went to Skadden Arps Slate Meagher & Flom from his Supreme Court clerkship, and worked in



the Mergers and Acquisitions Group. It was an impressive start to his career, to be sure, but not quite right for Tarik.

While studying for the Delaware Bar exam, Tarik began to date Newark native Natalie Watson, who was also studying for the same test. She was an incoming first year associate at Morris Nichols Arshat & Tunnell. They must have enjoyed the summer. They married in August 2004. Family became the prism through which Tarik would view his approach to life and work.

Tarik and Natalie were blessed with their first daughter during Tarik's second year at Skadden. He decided to make

a job change, and found that Natalie's former employer, Morris Nichols Arshat & Tunnell, fit nicely. He now works in the commercial counseling group, where he focuses on mergers and acquisitions, loan transactions and other corporate transactions. He also provides advice to clients on the formation and operation of alternative entities. He enjoys the practice very much and has been a partner since January of 2012 (the first African American partner at the firm).

The Haskins family has grown to include a second daughter and a newborn son. It is important to Tarik that he gets home every evening to see the kids and that he devotes weekends to the family. Sports are important to the Haskins clan. Tarik, who looks every bit the star athlete he was in high school, coaches his daughter's basketball team, though he has had to learn (sometimes the hard way) that girls may approach sport a bit differently than do boys. To keep body fit and mind clear Tarik runs regularly and is working up to half marathon distance.

Tarik comes from a long line of sports fans. He follows the Philadelphia teams, especially the 76ers, but his Grandmother was buried wearing her Redskins socks. He is also a fan of the Madden Football, a video game he plays online.

Faith plays a key role in Tarik's life. He serves as a deacon with Canaan Baptist Church and has worked as the leader of the youth ministry and Sunday School teacher. His work in the community includes serving on the Board of Directors of the Prestige Academy Charter School, a Wilmington-based school for boys in grades 5 – 8, and on the Board of Directors of Westside Health for several years.

Though he knew nothing about Delaware when he arrived, Tarik Haskins has become a vital part of the legal and social community here. He has enjoyed the open and welcoming nature of the Bar and has deeply appreciated the mentoring he has received, particularly from Josh Martin and Doneen Damon. He is developing his own leadership potential and recently chaired the Multicultural Judges and Lawyers Section of the Delaware State Bar Association. And, if he ever feels a longing for the bright lights and excitement of our metropolitan neighbor to the north, all he has to do is mention it to Natalie. She will help him keep his priorities straight. ☺



Wilmington
Friends  *School*

*Today, I...followed science clues about butterflies
on the SMART Table — in Spanish. (Kindergarten)*

Meet us on Mondays, 5:00-6:30pm
302.576.2930 • www.wilmingtonfriends.org

The Judges of the United States District Court for the District of Delaware

*will host a ceremony for the dedication of the
portrait of their colleague*

the Honorable Murray M. Schwartz

on May 3, 2013, at 3:30 p.m.

*J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801*

The Delaware Bar Foundation – Past, Present and Future

By William H. Sudell, Jr., Esquire

The Early Years

In June 1981, Harold Schmittinger, a founding partner of Schmittinger & Rodriguez and the outgoing President of the Delaware State Bar Association, submitted to the Internal Revenue Service an application for a new non-profit organization, the Delaware Bar Foundation. In that application, Mr. Schmittinger identified the Foundation's proposed activities: "The Foundation, assuming it obtains sufficient funds, will sponsor the dissemination of legal information to the public on various topics such as landlord-tenant law or divorce law.... Providing the public with legal information useful in modern society will be a primary goal of the Foundation. The Foundation will also assist in the future education of lawyers, sponsoring workshops and seminars on specific topics which practicing lawyers need to be aware of to serve the public better....Donations will be made from time to time to exempt entities who are furthering the public goals of the Foundation." The first 6 members of the Board of Directors of the Foundation were: Edmund "Ned" Carpenter II, Victor F. Battaglia, O. Francis Biondi, Hon. Grover C. Brown, William Prickett, and Harold Schmittinger (who would become the Foundation's first President). Identifying service to the community as its priority, Mr. Schmittinger wrote:¹ "The services of the Foundation are to educate the public or benefit the public through legal education." For almost 32 years, the Foundation has furthered its mission by providing funding for legal services to the poor, improving the administration of justice and promoting study and research in the field of law through a series of initiatives described below, and described in greater detail on the Foundation's website, www.DelawareBarFoundation.org.

1. Over the years, the Foundation's Board has been expanded to twelve members, serving staggered four year terms. Four members are appointed by the Chief Justice of the Delaware Supreme Court, four members are appointed by the President of the Delaware State Bar Association, and four are elected by the DSBA membership.

The IOLTA Program

The Bar Foundation may be best known among members of the Delaware Bar for its administration of the Delaware Supreme Court's IOLTA Program. A driving force behind the creation of the Foundation in 1981 was a cutback in federal funding for legal services for the poor. During its first meeting in October 1981, the Foundation Board considered two possible funding sources: 1) undistributed funds from class actions; and 2) a program modeled on what was known as The Florida Plan, where income from nominal, short-term lawyer escrow accounts was directed to the Florida Bar Foundation. In September 1983, the Supreme Court, led by then-Chief Justice Daniel L. Herrmann, accepted the Foundation's recommendations and the IOLTA Program was created by rule.²

For the first 28 years of IOLTA, the program was voluntary, with lawyers permitted to opt out. In its 1982 report, the special committee appointed by the Supreme Court to study the IOLTA concept, which recommended a voluntary program, stated: "Once the program gains substantial acceptance, the Court may wish to reconsider the propriety of a mandatory rule."³

That changed in 2010, when the Supreme Court amended Rule 1.15, DLRPC, making participation in the IOLTA Program mandatory and requiring IOLTA funds to be maintained in financial institutions that provide "interest rate comparability" for IOLTA accounts, that is, the interest rate paid by the financial institutions on IOLTA accounts must be at least comparable to rates paid by that institution on its other accounts with similar attributes. The Court took this action upon the joint recommendation of the Court's Advisory

2. Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct continues to govern the IOLTA program.

3. Report to the Board of Governors, Task Force and Advisory Board on Interest on Lawyer Trust Account, 1 (July 26, 1982).

Committee on Interest on Lawyer Trust Accounts Program and the Bar Foundation following a year-long investigation process. Delaware became the 43rd state to make IOLTA mandatory and the 33rd to adopt interest rate comparability.

Part of the responsibility of administering the IOLTA Program includes the grants application process. The Foundation Board considers applications each year in the spring, and makes recommendations to the Supreme Court for the distribution of IOLTA funds. That process has allowed the Court to distribute more than \$24 million dollars over the past 31 years, primarily to the three providers of civil legal services for the poor in Delaware: Community Legal Aid Society, Inc. (CLASI), Legal Services Corporation of Delaware, Inc. (LSCD), and Delaware Voluntary Legal Services, Inc. (DVLS).

Petitioning the State for Funding

In addition to IOLTA as a source for funding, in 2004, the Foundation began petitioning the State, through the budgeting process, to support legal services for the poor. Through the hard work and leadership of many, including then-President Harvey Rubenstein, then-state Representative Robert Valihura, and former CLASI Executive Directors Chris White and Jim McGiffin, the State budget has included a line item appropriation to the Foundation for civil legal services since FY2006. The Foundation continues to make the argument that Delaware's funding for civil legal services for the poor should at least approach the funding levels of its neighbor states, on a per capita person in poverty basis. From an initial appropriation of \$250,000 in FY2006, the Bar Foundation received \$600,000 in FY2013, and hopes to continue to increase this amount to serve the needs of Delaware's ever increasing poverty population, which has grown from 69,901 in 2000 to 103,000 in 2010, 1/8th of Delaware's current citizens.

Delaware Lawyer

At the December 1981 Foundation Board meeting, the publication of a bar journal was discussed for the first time. E. Norman Veasey and Victor F. Battaglia undertook the task of getting that concept off the ground by, among other things, forming the prospective journal's editorial board. Founding members of that board were William E. Wiggin, chair, now-Justice Randy J. Holland, now-Judge Thomas L. Ambro, then-Vice-Chancellor William B. Chandler, then-Judge Vincent J. Poppiti, David C. McBride, and Richard A. Levine, as managing editor. More than thirty years later, Judge Ambro and Messrs. McBride and Levine remain on the board. Charles ("Chuck") Durante has recently succeeded Richard Levine as Chair of the board of editors.

Delaware Lawyer magazine, the preeminent medium for providing legal articles of interest to the members of the Delaware Bar and beyond, continues to be sponsored by the Foundation. It is issued quarterly and distributed free of charge to every member of the Delaware Bar in furtherance of the Foundation's mission to promote study and research in the field of law. All 30 volumes, containing 115 editions of *Delaware Lawyer*, can be viewed on the Foundation's website, www.DelawareBarFoundation.org.

Programming Initiatives Bullying Prevention

In 2012, in furtherance of its mission to educate the public about the rule of law, the Foundation, in partnership with other state and non-profit agencies, including the Attorney General's Office, constructed a website that pulls together all of Delaware's resources and materials on bullying prevention for students, parents, teachers and school administrators. The website, www.deletebullying.org, is teen-focused and Delaware-based, and helps teens and their parents understand how to handle bullying, including school reporting requirements under Delaware's revised bullying prevention statutes. It also references national websites on bullying prevention and teen support. Perhaps the most dramatic portion of the website is its short film, located on the website's

homepage. The film was shot by a local film producer and screen writer, G. Lloyd Morris of the Morris Project and was filmed at Howard High School of Technology. A press conference with the Governor, the Lieutenant Governor and other dignitaries to announce the website was held in October 2012.

In addition, the Foundation has recently partnered and approved a \$10,000 (non-IOLTA) partial funding request from the University of Delaware for a pilot program on bullying prevention. That pilot program, under the direction of Dr. Julie Hubbard of the University's Psychology Department, is underway in the Red Clay Consolidated School District in its 4th and 5th grades for the 2012-2013 school year. The Finnish program KiVa, has been heavily studied and tested in Europe, and Delaware is the first state in the nation to bring the pilot program into its elementary schools.

Mentoring Program with Howard High School of Technology

In 2012, the Foundation also partnered with Howard High School of Technology's Legal Administrative Assisting Program to aid that program in placing high school sophomores interested in careers in the legal profession with area law firms for work/shadow opportunities. Five Wilmington law firms (McCarter & English; Morris, Nichols, Arsht & Tunnell; Potter, Anderson & Corroon; Prickett, Jones & Elliott; and Richards, Layton & Finger) each hosted five students for information sessions and office tours. By all accounts, the program was a huge success and will be repeated.

The Annual DSBA/DBF Seminar

Since 2009, the Foundation has partnered with the Delaware State Bar Association to present an annual seminar. The seminar has been organized and co-chaired by Justice Randy Holland of the Delaware Supreme Court and Harvey Rubenstein, a past president of both the Foundation and Association. Keynote speakers have included Robert Bennett, Esquire, Floyd Abrams, Esquire, Virginia Seitz, Esquire, and in October 2012, Justice Antonin Scalia. Half of the net proceeds from the seminars is allocated to

the Foundation to be used to further its mission. The 2013 seminar is scheduled for November 22 and will feature as its keynote speaker James Silkenat, Esquire, who will then be the President of the American Bar Association.

Going Forward

As it has for 32 years, the Delaware Bar Foundation will strive to meet all aspects of its mission by supporting funding of civil legal services for the poor, improving the administration of justice, 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. The Foundation invites your suggestions as to how we may best do so and your support in doing so. Please check out the Foundation's website at www.delawarebarfoundation.org for more information. 

**Is there a major milestone
in your future, or the
future of your law firm?**

**An anniversary, a
memorial or a celebration?**

Consider a tax deductible gift to the Delaware Bar Foundation Endowment Fund, a gift that will continue to give to those most in need.



DELAWARE BAR
FOUNDATION

Jacqueline Paradee Mette
Executive Director
Phone: (302) 658-0773

POSITIONS AVAILABLE

ATTORNEY: Schmittinger and Rodriguez, P.A. has an opening for an associate for our Dover office to be our primary Family Law attorney. Experience preferred, but will consider a recent graduate who has been admitted to the Delaware Bar. Candidate must have a desire and aptitude for client contact and be a team player. We offer a competitive salary and benefits. Send cover letter and resume to gquell@schmittrod.com. All inquiries are confidential.

AVAILABLE OPPORTUNITIES: 1-5 yr. general litigation associate; 1-3 yr. bankruptcy associate; sr. associate/jr. partner level litigator with some portables, bankruptcy, litigation and IP partners; plaintiff personal injury associate and more. For more information, please contact kgattuso@klglegalconsulting.com. All inquiries are confidential.

Bulletin Board Advertising Information

Bulletin board rates are \$50 for the first 25 words, \$1 each additional word. Additional features may be added to any Bulletin Board ad for \$10 per feature.

The deadline to place a Bulletin Board ad is the 15th of the month prior to the month of publication.

All Bulletin Board ads must be received electronically and prepayment is required.

Submit the text of the Bulletin Board ad and payment to rbaird@dsba.org. For more information, contact Rebecca Baird at (302) 658-5279.

MINTZER SAROWITZ ZERIS LEDVA & MEYERS, LLP, insurance defense firm, seeking associate 0-5 years experience in Wilmington. Good work ethic, attention to detail, & ready to handle active case responsibility. DE bar. Send cover letter, resume, writing sample and law school transcript (if recent graduate) to dbennett@defensecounsel.com.

LITIGATION ATTORNEY: Mid-size Wilmington Litigation law firm seeks attorney with 0-5 years experience. Excellent benefits. Please send confidential resume, law school transcript, writing sample and references to: Casarino Christman Shalk Ransom & Doss, P.A., P.O. Box 1276, Wilmington, DE 19899, Attn: PAR

OFFICE SPACE

DOWNTOWN LEWES: Approx. 3,300 sq. ft. law office space now available for rent. Great location on Second Street. Parking lot in rear, second floor space serviced by elevator. A very nice space. Willing to subdivide to create smaller space. Call (434) 242-9110 or e-mail t.stumpf@yahoo.com.

GEORGETOWN: Prominent building and location across the Circle from the Courthouse. Approx 2100 sq.ft. Can be subdivided. Parking on site. Call Sam Burke (302) 236-7247 or e-mail bellebuoy@comcast.net.

OCEAN VIEW/BETHANY: 2200 sq. ft. law office space available commencing May 1. Prime location on Rt. 26 one mile from beach. Floor plan created specifically for law office. Contact: Rupert Smith – (302) 539-1777.

OFFICE SPACE AVAILABLE: Office sublet available on the third floor of the Conectiv Building, 800 N. King St. in Wilmington with Don Gouge and John Deckers. Space consists of one windowed lawyer's office and one assistant/paralegal office. It also includes a file/copy room. Services include copier, conference room, runner etc. Space available immediately. For more information, please contact Linda Martin at (302) 658-1800 or lmartin@gougelaw.com.

DOWNTOWN WILMINGTON: Appr. 2000 sq. ft. office space on 2nd floor in an elevator building. 2 blocks from court houses. Parking available on premises. Call (302) 656-5445.

POSITIONS WANTED

ATTORNEY WITH EXTENSIVE EXPERIENCE in research and appeals desires assignments from other attorneys. Areas of expertise include wills and estates, domestic relations, veterans benefits, civil litigation and real estate. Rates negotiable, and references and writing sample available upon request. Contact Tim Kelleher at timothy.kelleher@rocketmail.com. 

The DSBA Health Law Section challenges you to participate in a Blood Donation Drive

Donate blood at any Blood Bank of Delmarva location between April 15 and May 17, 2013. Call 1-888-8-BLOOD-8 to make an appointment.

Ask to complete a Hero Program card with your name and the DSBA.



JUSTLEGALINC.

. . .continuing our commitment to excellence

- ✓ **ATTORNEY PLACEMENT**
CONTRACT, LATERALS, PERMANENT
- ✓ **LEGAL SUPPORT STAFFING**
PARALEGALS, LEGAL SECRETARIES, OFFICE SUPPORT

Proud to be celebrating 10 years in business.

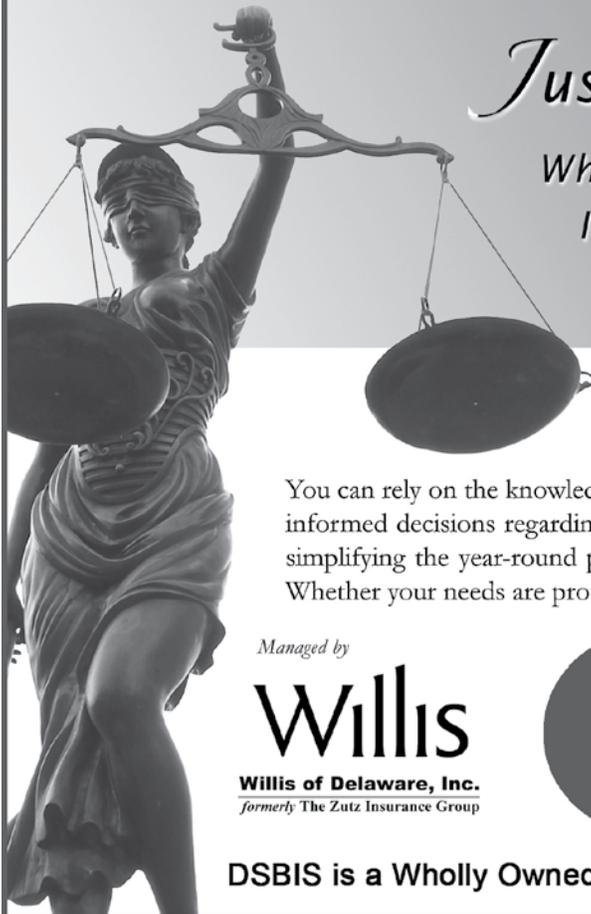
JUST IN CASE • JUST IN TIME • JUST FOR YOU

info@justlegalinc.com www.justlegalinc.com

Delaware
(302) 239-5990

Philadelphia
(215) 567-5990

Southeastern PA
(610) 696-8787



Justice Is Blind...

*When It Comes to
Insurance, Your
Decisions Shouldn't Be*



Delaware State Bar Insurance Services, Inc. (DSBIS) prides itself on understanding the insurance needs of Delaware's legal community.

You can rely on the knowledge and experience of your DSBIS representatives to help you make more informed decisions regarding insurance products and we offer value-added services with the goal of simplifying the year-round process for you. We want to both protect you and make your life easier. Whether your needs are professional or personal, we've got it covered.

Managed by

Willis

Willis of Delaware, Inc.
formerly The Zutz Insurance Group

Contact us and we'll make sure that you're protected.

302.658.8055

www.dsbis.com

DSBIS is a Wholly Owned Subsidiary of the Delaware State Bar Association





The Judicial Palate

By Susan E. Poppiti, Esquire



Spring – Time for Soft Shells

Spring marks the beginning of soft shell crab season, which runs from April through September. A soft shell crab is not a species of crab, but a crab that has molted its exoskeleton. As a result, the entire crab, including the shell, is edible. In our area, soft shell crabs are typically the celebrated blue crabs from the Chesapeake or the Atlantic.

Perhaps you have seen soft shells on a restaurant menu—usually served in a sandwich with lettuce, tomato and tartar sauce—but have never worked up the nerve to order them. If that is the case, you do not know what you are missing. These crustaceans can be very plump, flavorful, and juicy if you prepare them correctly. And, if you work up the courage to eat a soft shell, why hide it in between two pieces of bread?

This recipe for a Sauté of Soft Shell, Shrimp, and Scallops features the soft shell crab, pure and simple, and is an ideal light springtime dinner. The quantities are intended for four, but can be modified accordingly.

Ingredients:

- 4 soft shell crabs
- 8 sea scallops (dry pack preferred)
- 12 jumbo shrimp, shelled and deveined
- Extra virgin olive oil
- Unsalted butter
- Finishing salt
- Fresh ground pepper
- Freshly squeezed lemon juice
- Fresh herbs
- Whole milk
- 10 juniper berries

When you purchase soft shell crabs, ask the fishmonger to clean them so that

they will be ready to cook. Marinate the crabs in a milk bath with the juniper berries (squeeze the berries before you put them in the milk to release their flavor), which you can find in a spice market or gourmet food market. This marinade is the key to a juicy soft shell. Refrigerate the marinating crabs for about two hours. Remove the crabs from the marinade, heat two large nonstick pans over medium heat and add two tablespoons of olive oil and two tablespoons of butter to each pan. Allow the butter to foam, and tilt the pans around so that the olive oil and butter coat the bottoms. Place the soft shells in one pan and cook for about four minutes until golden brown. Turn and cook for another four minutes until golden brown.

While you are sautéing the soft shells, place the shrimp and scallops in the other pan. They cook quickly and only need two or three minutes per side. When finished, the scallops should be golden brown on the edges and the shrimp will be white and no longer translucent.

Immediately plate each soft shell with 3 shrimp and two scallops. Drizzle with freshly squeezed lemon juice (Meyer lemons preferred) and sprinkle with finishing salt and pepper to taste. Also, add fresh herbs, such as lemon verbena, for both flavor and garnish.

Serve the seafood sauté with some green spring vegetables, such as ramps or fiddlehead ferns. A ramp is a wild onion that has a bulb similar to that of a scallion, but is much more colorful. The lower part of the ramp stem has a pinkish-purple hue that expands into wide green leaves.

Ramps are freshly picked before selling at markets, so be sure to wash them thoroughly to remove any dirt. Cut off the very

bottom of the bulb and leave the ramp intact for cooking. Sauté the ramps in olive oil and season with salt and pepper. Cook them until they soften, about 8 to 10 minutes. Serve alongside the soft shells for some oniony flavor and vibrant color.

Fiddlehead ferns are spring vegetables that you have likely seen as accents in flower arrangements. They are the rolled fronds of a young fern cut before they uncurl—a real conversation piece. Wash the ferns thoroughly and steam or boil for about 12 to 15 minutes until they become tender, but not mushy. Then, sauté the fiddleheads in butter and olive oil for a few minutes and season with salt and pepper. Fiddleheads do not have much flavor, but have a nice crunch and make for an interesting and colorful side dish.

To conclude this springtime meal, make a salad of avocado and Belgian endive, both available through the spring. Simply alternate slices of avocado with endive leaves in a circular pattern on a serving plate and top with balsamic vinegar, extra virgin olive oil, finishing salt and fresh ground pepper. Also, place some fresh berries, such as raspberries or blueberries, in the pieces of endive to finish off this colorful and tasty spring salad.

For a light, spring beverage pairing, try Alice Prosecco. This crisp and dry prosecco is produced by a female owned winery and tastes of pear and acacia flowers. You can find Alice at Frank's Wine on Union Street in Wilmington. This sparkling treat will pair well with the sautéed seafood and will add a celebratory note to this springtime meal.

So, turn over a new leaf this spring and enjoy this soft shell crab dish with some ramps or fiddlehead ferns. ☺



**The Multicultural Judges and Lawyers Section of
the
Delaware State Bar Association
(the “MJL Section”)**

Invites you to join us at

**The Judge Haile L. Alford Memorial
Breakfast**

**Commemorating the life of Judge Haile L. Alford,
the first female African-American judge appointed to the
Superior Court of the State of Delaware**

**Thursday, May 2, 2013
8:30 a.m. to 10:00 a.m.**

**DuPont Country Club
1001 Rockland Road
Wilmington, Delaware**

Please RSVP to Tanisha Merced at tmerced@nccde.org by April 19, 2013.

Morris James LLP

IS PLEASED TO ANNOUNCE

SHANNON FRAZIER

and

KENNETH DORSNEY

HAVE BECOME PARTNERS



Shannon S. Frazier is a partner in the firm's Business Transactions, Strategic Planning and Counseling Practice. She renders legal advice to Delaware business entities in the areas of formation, operation, and governance of statutory and common law trusts, limited liability companies, series entities, partnerships, and corporations. Ms. Frazier is Secretary of the Corporate Counsel Section of the DSBA, a member of the Uniform Commercial Code Subcommittee for the DSBA, President of the St. Thomas More Society of the Diocese of Wilmington, and a member of the DuPont Women Lawyers Network Planning Committee. She was an Extern for The Honorable Joseph C. Wilkinson, Jr., United States District Court, Eastern District of Louisiana. She received her J.D., *cum laude*, in 2000 from Tulane University Law School and her B.S. in 1997 from the University of Florida. Ms. Frazier can be reached at sfrazier@morrisjames.com or 302.888.6916.

Kenneth L. Dorsney is a partner in the firm's Intellectual Property Litigation Group. He is a registered patent attorney with nearly 15 years of experience resolving patent, trademark, trade secret and copyright disputes in the District of Delaware, through litigation, mediation, and dispute resolution. Mr. Dorsney is Editor-in-Chief and a Co-Author of *ANDA Litigation: Strategies and Tactics for Pharmaceutical Patent Litigators* and Co-Chair of the Intellectual Property Litigation Section of the Delaware Chapter of the Federal Bar Association. Mr. Dorsney received his J. D. in 1998 from the University of Pittsburgh School of Law and his B.M.E in 1995 from the University of Delaware. He was a law clerk for The Honorable Mary Pat Thyng, United States Magistrate Judge, U.S. District Court, District of Delaware and The Honorable Kent A. Jordan, U.S. District Court, District of Delaware. He can be reached at kdorsney@morrisjames.com or 302.888.6855.

Wilmington-Downtown

500 Delaware Avenue

Suite 1500

Wilmington, DE

19801-1494

P 302.888.6800

F 302.571.1750

Wilmington-West

803 North Broom Street

Wilmington, DE

19806-4624

P 302.655.2599

F 302.655.8831

Newark

16 Polly Drummond

Hill Road

Newark, DE

19711-5703

P 302.368.4200

F 302.368.6259

Dover

29 North State Street

Suite 100

Dover, DE

19901-3832

P 302.678.8815

F 302.678.9063

Georgetown

107 W. Market Street

P.O. Box 690

Georgetown, DE

19947-1438

P 302.856.0015

F 302.856.7116



www.morrisjames.com