

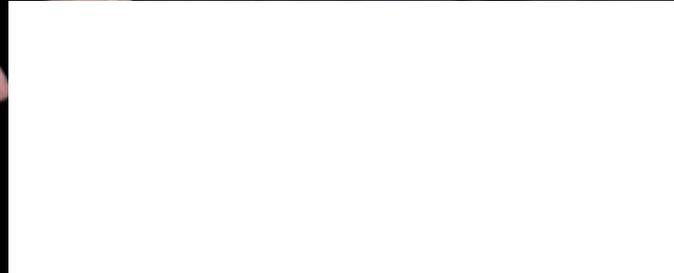


THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION



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Delaware State Bar Association
President, 2014-2015



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Contact Jacki Chacona at 302-478-8680 x212 or jchacona@dvl.org to volunteer and to schedule time slots at the event.

Volunteers offer, at no cost, estate-planning services such as wills, advance health care directives and financial powers of attorneys. Appointments last about one hour and clients leave with all documents signed, witnessed, notarized and in effect. Clients take all paperwork with them when they leave and the documents are immediately effective.

Saturday, October 18, 2014 • 10:00 AM - 4:00 PM

Kirkwood Library, 6000 Kirkwood Highway, Wilmington, DE 19808

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DSBA BAR JOURNAL

SEPTEMBER 2014 | VOLUME 38 • NUMBER 2

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302-658-5279
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The Bar Journal published monthly with a combined July/August issue.

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

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OF THE DELAWARE STATE BAR ASSOCIATION

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Cover Photo Credit: Elisa Komins Morris



PRESIDENT'S CORNER

By Yvonne Takvorian Saville, Esquire

One of the purposes of the President's column is to provide me with an opportunity to update our members on the Bar Association's endeavors. It is also a forum where we can reflect on those who have served the Bar in an incomparable manner. There is no better example of service to the Bar and, indeed, justice to all Delawareans, than The Honorable Vincent A. Bifferato. As such, I write this month's article in tribute to the man and Judge who spent the entirety of his career working to strengthen the public's trust and confidence in the Delaware Court system and administration of justice.

Maya Angelou wrote that "people will forget what you said, people will forget what you did, but people will never forget how you made them feel." I can state with certainty that while Judge Bifferato is not one whose actions or words will soon be forgotten, whether in his role as a jurist, a mediator, or as a member of our Bar, he will be remembered most for the way he made people feel. His respect for individuals knew no boundaries of race, gender, or socio-economic status. He treated everyone equally, regardless of their stations in life. This was the foundation upon which he lived his life and is, in large part, the reason he is revered as one of the best legal minds our state has known. It was a privilege to have known and practiced before him.

Despite all of his accomplishments, Judge Bifferato was unfailingly humble. This article is too short in length to fully delineate his achievements, but in brief: he was a graduate of Villanova University and Villanova Law School before being admitted to the Delaware Bar in 1963. Before ascending to the bench in

1968, Judge Bifferato served as a state legislator, a public defender and Chairman of the Delaware Alcoholic Beverage Control Commission. He remains one of the youngest judges to be appointed to the Delaware Superior Court (1968), was appointed as Resident Judge in 1992 and ultimately served the Court in that capacity until his retirement in 2000. His 32 years of service on the Courts is legendary. Anyone who came in contact with him will attest to his patient demeanor, compassionate but firm rulings, straightforward and thoughtful court opinions, and exceptional work ethic.

My first memory of Judge Bifferato dates back to my early teens when my mother served as a juror on a capital case over which he presided in the early 1980s. I have a distinct memory of my mother talking with me about the presiding judge after her service concluded. She was filled with much sorrow regarding the circumstances of the loss of life and the verdict that was ultimately reached. What made the experience bearable for her and the other jurors was the kind and gracious manner in which Judge Bifferato conducted the trial, took the verdict, and the way that he addressed the jurors post-verdict. My mother's description of Judge Bifferato remained with me as I moved forward toward my own practice of the law. The character traits she appreciated in her jury service are those that are central to countless stories from other members of the Bar with whom I have spoken over the years. I am sure each of you have a fond "Judge Biff" memory that made the same impact on you as my mother's experience did on me.

Judge Bifferato was recognized for his years of exemplary jurist service with

awards from the American Board of Trial Advocates and the Delaware Trial Lawyers Association (the Champion of Justice Award). In addition, former Governor Thomas R. Carper awarded Judge Bifferato the Order of the First State, which is the highest honor for meritorious service a governor can bestow.

After leaving the Bench with an already-distinguished career behind him, Judge Bifferato continued to set the gold standard in a new realm — the practice of alternative dispute resolution. He was renowned for his skills in this capacity. It is estimated that he mediated and/or arbitrated between 1000-1500 cases. His contributions in this practice are immeasurable as he helped to resolve many cases on the Court's docket, including the most challenging cases that seemed destined for trial. There is not a single lawyer who has ever mediated before Judge Bifferato who does not speak of him in the highest regard for his countless efforts in bringing cases to an amicable resolution.

Judge Bifferato was a firm believer in mentoring, which led to his determination that a forum should be created in which experienced Delaware lawyers could (and should) impart their legal knowledge and practical advice to younger members of the Bar. To aid the development of trial practice skills, Judge Bifferato established informal (and free) monthly seminars that bear his name — the "Judge Bifferato Superior Court Trial Practice Forum." These seminars continue to be among the most sought after CLEs that the State offers to practitioners.

Consistent with his focus on mentoring, teaching was also a priority for Judge Bifferato. He spoke to classes and gave presentations at the University of

Delaware, Widener University School of Law, police training classes, civic associations, and schools. Who was more equipped

to teach aspiring lawyers or educate our public than the Judge? He was recognized for these efforts when he received the Bar Association's First Distinguished Mentoring award, which honors one who serves as an inspiration in striving for and maintaining the highest standards in their professional career and community involvement.

As busy as he was as a jurist and, later, in private practice, Judge Bifferato still found the time to volunteer on numerous committees, including (but certainly not limited to), the Superior Court Trial Practice Forum, the Rules of Evidence Committee, the Committee to Study Bail Bond Procedures, the Committee to Study ABA Standards of Criminal Justice, The Delaware Council of Crime and Justice, the DSBA ADR Committee, the Civil Case Tracking Project Advisory Committee, the Attorney General's

“There is no better example of service to the Bar and, indeed, justice to all Delawareans, than The Honorable Vincent A. Bifferato.”

Committee on Victim's Rights, and the Sentencing Reform Commission. We all benefitted from his experience and his contributions through his service to the Bar, which continues to influence our practice of law today.

Given his impact on the Bar as a whole, and likely many of us individually, and given the unique way he had of making everyone with whom he came in contact feel special and valued, many of us may think of Judge Bifferato as family. Surely, though, no one feels this loss more than his wife Marie, his high school sweetheart to whom he was married for 54 years; his son, Vincent and wife, Kelly; his son, Connor, and wife, Karen; and his daughter, Katy, and husband, Chip. He also leaves to hold dear his memory six grandchildren — Elizabeth, Caroline, Gil, Lilliana, Rocco and Gianni; as well as his sister Mickey

Ciuffetelli and many beloved nieces and nephews.

While it was apparent that the law was a passion for Judge Bifferato, in my

many conversations with him, it was clear that his family and the time he spent with them were what he most cherished. Upon his retirement, he was proud to have joined both of his sons in private practice. He also loved the opportunity to travel abroad to Italy over a dozen times with his family and friends — leaving them with love, laughter, and memories that will be treasured for a lifetime.

Our thoughts and prayers go out to the entire Bifferato family. I know “Judge Biff” will be forever missed. May his memory be eternal. ☪

Yvonne Takvorian Saville is the current President of the Delaware State Bar Association, President Elect of the Delaware Trial Lawyers Association, and a director with the law firm Weiss & Saville, P.A. She can be reached at ytsaville@mweissesq.com.

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By David W. deBruin, Esquire

The Autumn Wind

Oh, what I would not give to be engrossed in a good book with my feet squarely buried in some sand instead of writing this column. This time of year invariably calls to mind the end of summer and summer vacations. Vacations are vital for our health and well-being, unless you are driving to your vacation destination with a car full of four restless competitive kids and a wife who tends to fall asleep ten minutes into a seven hour drive. Oh, was that out loud? People that say, “you can’t take it with you,” have obviously never seen an SUV packed for a week-long vacation... Whether you were able to explore a far away city scene or spent some days screaming your head off riding some adrenaline-infused coasters, all vacations come to an end.

Our sense of time has a tendency to expand when we are on vacation and experience new things. Our sense of freedom from the usual constraints of routine, daily chores, and deadlines can be powerful. Thus, returning to routine can flatten the sense of extended time and freedom from must-do tasks, catapulting us back into the same old reality that was there before we left. There is typically a transitional or adjustment period when we first go back to work. Some people feel a palpable haunting dread of the work waiting upon their return to the office.

In today’s constantly connected world, one question is whether we really ever even got “away”? If you were tethered to a hand-

held device with internet connectivity, you may never really have had a vacation. In a perfect world, we should try to establish clear boundaries regarding when we should be contacted about work issues when out of the office.

The point of a vacation is to truly unplug and give ourselves a genuine break from the day-to-day grind. If you spent most of your vacation preoccupied with

“Although suntans ultimately fade, there are a number of strategies to help maintain a sunny outlook as you re-enter the work world.”

work or work-related thinking, chances are that you enjoyed your vacation less than you otherwise would have and ultimately got less relaxation out of it.

Although suntans ultimately fade, there are a number of strategies to help maintain a sunny outlook as you re-enter the work world. We should allow ourselves to be behind, then to catch up steadily, instead of pulling some sort of marathon-like session. All-nighters should be left to our youthful days of cramming for exams. When we get back from our vacation, typically, we will have fallen somewhat “behind” and have a lot of work to catch up on. There will be a ton of emails, voice-mails, and miscellaneous tasks that need our attention. That is totally normal. In fact, it is unavoidable if you actually took a vacation. Look, if you can leave your job for two weeks and there is no work waiting for you when you get back, then... um... I would respectfully suggest that you keep an eye on the local job postings.

As the saying goes, “Rome was not built in a day,” and along those lines, we are not going to accomplish every task and get entirely caught up in one day either. Do not immediately throw yourself at the biggest, toughest, most complicated tasks. Ease back into work by doing several simple things that you know can be easily finished. Once you are fully back into the swing of things, you can tackle the more advanced tasks. This strategy also works for the issues that arise at home when we return from vacation to face piles of laundry, grocery shopping, and getting kids back into all of their activities.

Do not just quit your vacation and all its wonderful memories cold turkey. We can hold onto and incorporate some of the wonderful things we experienced or learned on vacation into our everyday lives. No, that does not mean changing your desktop picture to one from your vacation and staring at it all day. It does mean trying to continue to emulate the things that we did on vacation that lead to a calmer, happier, healthier self. We should try to be that person inside us all the time. For example, try to modify your sleep and exercise patterns to match what you were able to do while on vacation. Even if we cannot sleep in everyday until 10 a.m., we can get to bed earlier and get the same amount of sleep.

Finally, do not forget to thank those people who helped cover for you while you were away. Pre-vacation planning with our colleagues substantially increases the

chance for a painless re-entry. By coordinating plans for our absence with peers, subordinates, and bosses, we can prevent nasty surprises, project delays, and even half-dead thirsty plants. A secondary benefit is that such planning builds trust and helps our colleagues acquire new skills and build new relationships.

Vacations are sort of like dating — anticipated with great pleasure, experienced with some discomfort, but ultimately remembered with nostalgia. So, now that summer has officially drawn to a close, let us be thankful for the time we had as we collectively roll-up our sleeves and get back to work.

This Editor's Perspective column is reprinted from the October 2012 publication of The Journal of The Delaware State Bar Association. 

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

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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.

September 2014

Every Tuesday in September 2014

Begins Tuesday, September 9 for a total of 4 sessions

The Nuts and Bolts of Work/Life Balance

4.0 hours CLE credit in Enhanced Ethics (or 1.0 hour CLE credit per session)

Delaware State Bar Association, Wilmington, DE

Tuesday, September 16, 2014

No-Exceptions Compliance Audits

2.0 hours CLE credit in Enhanced Ethics

Delaware State Bar Association, Wilmington, DE

Tuesday, September 23, 2014

IP and the Corporate Lawyer

2.5 hours CLE credit including 1.0 hour Enhanced Ethics

Delaware State Bar Association, Wilmington, DE

Webcast to Tunnell & Raysor, Georgetown, DE

Tuesday, September 30, 2014

Supreme Court Review 2014:

A Discussion of Decisions at the Highest State and Federal Judicial Levels

3.3 hours CLE credit

Delaware State Bar Association, Wilmington DE

Webcast to Tunnell & Raysor, Georgetown, DE

October 2014

Thursday, October 9, 2014

The Legal Standard for Civil Commitment: Updates, Procedures, and Ethical Issues

3.0 hours CLE credit including 1.0 hour of Enhanced Ethics

Delaware State Bar Association, Wilmington DE

Webcast to Tunnell & Raysor, Georgetown, DE

Monday, October 13, 2014

Stories Mediators Tell: From Rookie to Veteran, Exploring the Spectrum of Mediation

1.5 hours CLE credit

Buena Vista Conference Center, New Castle, DE

Tuesday, October 14, 2014

Legislative Drafting Seminar

3.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to Tunnell & Raysor, Georgetown, DE

Wednesday, October 29, 2014

Office and Trial Practice 2014

6.8 hours CLE credit including 4.0 hours Enhanced Ethics

Chase Center on the Riverfront, Wilmington, DE

November 2014

Monday, November 3, 2014

Reverse Mortgages Update 2014

2.0 hours CLE credit

Delaware State Bar Association, Wilmington, DE

Webcast to Tunnell & Raysor, Georgetown, DE

SECTION & COMMITTEE MEETINGS

September 2014

Wednesday, September 10, 2014 • 12:00 p.m.

Alternative Dispute Resolution Section Meeting
Marshall Dennehey Warner Coleman & Goggin, 1220 North Market Street,
5th Floor, Wilmington

Thursday, September 11, 2014 • 3:30 p.m.

Real & Personal Property Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington

Thursday, September 18, 2014 • 12:00 p.m.

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

Thursday, September 18, 2014 • 3:00 p.m.

Executive Committee Meeting and Dinner
Wilmington Country Club, 4825 Kennett Pike, Wilmington

Thursday, September 18, 2014 • 4:00 p.m.

Elder Law Section Meeting
Reger Rizzo & Darnall LLP, 1523 Concord Pike, Suite 200, Wilmington

Thursday, September 18, 2014 • 4:30 p.m.

Workers' Compensation Section Meeting and Happy Hour
Young Conaway Stargatt & Taylor LLP, 1000 North King Street, Wilmington

Tuesday, September 30, 2014 • 12:00 p.m.

LGBT Section Meeting
Young Conaway Stargatt & Taylor LLP, 1000 North King Street, Wilmington

October 2014

Thursday, October 2, 2014 • 3:30 p.m.

Real & Personal Property Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington

Monday, October 6, 2014 • 12:30 p.m.

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

Thursday, October 16, 2014 • 4:00 p.m.

Elder Law Section Meeting
Reger Rizzo & Darnall LLP, 1523 Concord Pike, Suite 200, Wilmington

Thursday, October 23, 2014 • 12:00 p.m.

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

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TIPS ON TECHNOLOGY

By Richard K. Herrmann, Esquire

The Swiss Army Knife of All iPad Apps

The iPad and the iPhone have become as much a part of our practice as the Blackberry use to be. We are more connected than we use to be, and in many instances we are more connected than we care to be. We can categorize the useful apps we use: (1) utilities such as timers, calculators and such; (2) Outlook related tools, including mail, calendar and contacts; (3) and document creation and review, whether it be Office 365, Pages or PDF apps. **Important**

If you are looking to increase your productivity please **slow down** and focus on this column, because this is important to you, whether you are a lawyer or a judge, a transactional attorney or a litigator. There is one thing we all do when reviewing a paper document that we rarely do when looking at their PDF counterpart; **we annotate**. Some of us doodle, others draw arrows or boxes or circles; still others enter text in the marginalia. I have always found annotating on the computer in Acrobat somewhat awkward and rarely take the time. However, on the iPad or even the iPhone it is different – it is easy.

At our iPlug meetings **Steve Butler, Brian Legum** and I chat about our preferred PDF apps, but we have rarely focused on the Granddaddy of them all, Good Reader. This PDF app is easy to use, very intuitive and full of annotation tools. **Great resources**

The Big Picture

Good Reader will give you the ability to review documents of many different formats in this one App. Let me give you an example. Assume you have a Word attachment to an email. Using the Icon for “Open In”, you can view the Word attachment in Good Reader; you can save it to a folder and manage the file in a number of different ways. But do not think of this tools as a Word editing App. It is not. It is a great file review and management app for files of many formats. Where Good Reader excels is in its ability to **annotate** PDF files (if you want to convert a Word document to PDF for annotation, get PDF Converter from the App Store. It only takes a few seconds to convert and then the document is fully annotatable in Good Reader). **strongest point**

What Can You Do With Annotation in Good Reader?

To me the best annotation feature is that it works well annotating a document from the iPhone and the iPad. It is frustrating to be reviewing a document on the iPhone and to lose the ability to annotate it. Once the attachment is “Opened In” Good Reader, you are presented with an annotation tool bar at the top. Should you select text in the document, you have the option of highlighting it, drawing arrows, boxes, circles, text boxes, and selecting many more choices, such as redaction. In the event you are working with an image, you can crop and even enhance it.

Saved annotated documents can be mailed, store in a folder or left in a cloud repository. They can be synced with another computer folder and even encrypted for added security.



The Point

easy to share documents

The point is you can use the same approach you used with paper documents when reviewing them. Annotate West or Lexis research. Complete forms with easy to read text (including yearly evaluations, which can be your starting point the following year). Mark up a brief or draft contract. The point is you can be more efficient with your time if you capture your thoughts when you are thinking them and manage your documents all in one app.

Call it a time saver; call it a Swiss Army Knife. Whatever the you call it, I have found Good Reader to be greatest thing since sliced bread.

May seem trite but it is true!

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

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



Chief Justice Leo E. Strine, Jr.
will be the speaker for
The Harold E. Kohn Lecture

Thursday, October 9, 2014 | 4:00 p.m.
Duane Morris LLP Moot Court Room, Klein Hall
Main campus of Temple University
Broad Street and Montgomery Avenue, Philadelphia

Chief Justice Leo E. Strine, Jr., is the 8th Chief Justice of the Delaware Supreme Court. Before becoming the Chief Justice, he had served on the Delaware Court of Chancery as Chancellor and Vice Chancellor. Chief Justice Strine holds adjunct teaching positions at Harvard, University of Pennsylvania, Vanderbilt, and UCLA Schools of Law, where he teaches diverse classes in corporate law. He is a Senior Fellow of the Harvard Program on Corporate Governance, as well as the Austin Wakeman Scott Lecturer in Law at Harvard Law School. Chief Justice Strine has served as the special judicial consultant to the ABA's Committee on Corporate Laws since 2006.

Celebrating the Memory of Harold E. Kohn: 100 Years

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Avoiding Inadvertent Disclosures When Using Email: A Luddites' Guide

By Bruce E. Jameson, Esquire

In 2013, the Delaware Supreme Court amended the Delaware Lawyers' Rules of Professional Conduct ("DRPC") to address the growing relationship between technology and the ethical practice of law. Included in those changes are requirements that lawyers make reasonable efforts to address the risks of inadvertent or unauthorized disclosures of confidential information.¹ In one well known example of inadvertent disclosure, a lawyer disclosed confidential information about settlement discussions between her client, Eli Lilly & Co., and the federal government to a New York Times reporter. The lawyer mistakenly thought she was sending the email to her co-counsel who had the same last name as the Times reporter.² The lawyers' mistake did not result from the technology itself, but rather from failing to proofread the email addresses closely before hitting send. Here I offer some simple suggestions on how to avoid similar inadvertent or unauthorized disclosures of information when using email.

Technical Tweaks to Avoid Inadvertent Disclosures

Outlook and most email services offer an "auto-complete" feature that suggests or fills in names from your contact list when you start typing their name in one of the email address fields. The feature increases the risk that you will accidentally include an unintended recipient on your email. If you have an itchy trigger finger and often hit send without carefully reviewing the list of addressees, you should turn off the auto-complete feature. That will force you to proof read the addresses by typing them in full.

Consider setting up delayed delivery. Microsoft Outlook includes a feature called delayed delivery that "holds" an email for a specified time period (usually a few minutes) after you hit "send." Therefore, if you "send" your email and then realize that there was or might have been a mistake, a period of time exists during which you can retrieve the email and revise or delete it before it is delivered to the recipients.

Disable key board "send" shortcuts. Email software like Microsoft Outlook allows you to use key strokes to send your message rather than clicking on the "send" button with a mouse to touch

pad. Depending on the version of Outlook, the key combinations of [Ctrl + Enter] or [Alt + S] send an email message. Disable these shortcuts. It is very easy to accidentally hit either key combination when typing thereby prematurely sending a message. Here, a little inconvenience (having to click on the "send" button on the screen) is worth the reduced risk of sending a message before it is final.

Type the body of the email first and the email addresses last. Doing this eliminates the risk of sending the email by accident until it is complete. It also forces you to think more about who should receive the email. Because the substance of the email is final, you can choose addressees with the benefit of knowing everything contained in your email and make a more informed choice regarding who should and should not receive it.

The "reply all" and "bcc" features should be used carefully. If you received a message and want to respond to the sender, check the identity of all the recipients of the email before hitting "reply all." It is easy to inadvertently send a message to an unintended recipient who is buried among multiple recipients of the original email. If your "bcc" recipient decides to "reply-all," his or her presence on the original email will be revealed. In general, do not address a single email to persons with adverse interests (*e.g.* opposing counsel and your client). In responding, your client might inadvertently send an email intended for you to opposing counsel. Rather than cc'ing your client, forward a copy of the original email in a separate email.

Apply Old Habits to Using New Technology

Perhaps the best and most effective means to avoid inadvertent disclosure by email has nothing to do with technology. Rather it involves a practice that lawyers have followed for centuries: proof reading. Slow down and re-read both the body and the list of addressees on every email before you hit send. The convenience and speed of email sometimes leads lawyers to not exercise the same degree of care and review to email correspondence that they do to paper letters and documents. But, some old habits should not be broken. 

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1. See Delaware Lawyers' Rules of Professional Conduct 1.6 and the related comments.

2. Debra Cassens Weiss, *Did Lawyer's Email Goof Land \$1B Settlement on NYT's Front Page?* ABA J., Feb. 6, 2008.

The 2014 Combined Campaign Cup Results

By Makenzie Windfelder, Esquire and Charles Vincent, Esquire

The Second Annual Combined Campaign Cup was another great success. Thanks to the efforts of many members of the Bar, volunteers, and the event's planning committee, including Sean Brennecke, Charlie Vincent, Jason Warren, Makenzie Windfelder, and Julie Yeager, the second annual event and silent auction at Deerfield netted more than \$19,000 in proceeds to benefit the Combined Campaign for Justice, a 20% increase over last year. Despite the weather cutting the tournament a little short, more than 124 golfers and volunteers participated in the day's activities, including the tournament, happy hour and silent auction. The foursome of Bill Brady, Scott Kappes, Marty Knepper, and Andy Livingstone won the 2014 Combined Campaign Cup.

A big thank you to this year's sponsors, listed below. More pictures from the event are available on the Combined Campaign for Justice website. If you would like to be on the planning committee for next year's tournament, please contact Charlie Vincent at charlie@innovincent.com or Jason Stoehr at jstoehr@declasi.org. We look forward to seeing you in 2015! 

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The 2014 Combined Campaign Cup champion foursome of William Patrick Brady, Esquire, R. Scott Kappes, Esquire, E. Martin Knepper, Jr., Esquire, and Andy Livingstone.



The 2014 Combined Campaign Cup co-chairs: Charles Vincent, Esquire, Makenzie Windfelder, Esquire, Sean Michael Brennecke, Esquire, Jason D. Warren, Esquire, and Julie H. Yeager, Esquire.



Participants in this year's Combined Campaign Cup.

Photos courtesy of CCJ



By Charles Slanina, Esquire

Ethics Medley

To wind down summer, “Ethically Speaking” provides a collection of ethics, professional responsibility, and disciplinary news items that you may have missed:

Social Media

Lawyers may advise clients to delete Facebook posts and accounts, at least in Pennsylvania. The Philadelphia Bar Association Professional Guidance Committee counselled that the Pennsylvania Ethics Rules do not prohibit instructing a client to “delete information that may be damaging from the client’s [F]acebook page.” However, a lawyer offering such advice must “take appropriate action to preserve the information in the event it should prove to be relevant and discoverable.” Opinion 2014-5 (7/14). While the Committee concluded that counselling clients to delete potentially damaging materials from social media would not violate any law or regulation, it did not address the attorney’s obligation under a “litigation hold.” The Committee concluded that Rules of Professional Conduct (“DLRPC”) Rules 1.1 [Comment 8] (Competency including the requirement to stay abreast of the benefits and risks associated with technology); 3.4(a) (lawyer should not counsel or assist another person to unlawfully obstruct another party’s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value); 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit or misrepresentation) and other rules did not preclude an attorney from counselling a client to delete such online postings.

The Committee noted that this was one of only two Bar opinions to address the propriety of this practice although there are several cases involving attorneys who were sanctioned for destroying or concealing social media evidence or failing to properly counsel clients on their duties to preserve such materials.

Deposition Misconduct

An attorney found to have engaged in deposition misconduct received a novel sanction from the trial judge. Attorney June K. Ghezzi of the Chicago office of Jones Day was accused of engaging in obstructionist behavior at a deposition by interposing “an astounding number” of “form” objections; by repeatedly objecting and interjecting in ways that coached the witness to give a particular answer and by interrupting counsel excessively. *Sec. Natl. Bank of Sioux City, Iowa v. Abbott*

Labs, 2014 BL 206909, N.D. Iowa, No. C11-4017-MWB, (7/28/14).

The trial judge ordered Ghezzi to write and produce a training video in which she or another partner in the firm state the video is being made and distributed due to a federal court’s sanction order. The video must explain both the holding and rationale of the judge’s opinion including the impropriety of the witness coaching and the excessive interruptions. The instructions must provide specific steps for lawyers to comply with the court’s expectations in future cases. While the lawyer, case, and court need not be identified in the video and the video need not be made available to anyone outside the lawyer’s firm, the video must be filed with the court under seal for review and approval and all members of the firm must be advised in writing of the existence of the video.

As reported by Joan Rogers in 30 Law. Man. Prof. Conduct 521 (8/5/14), a spokesman for Jones Day responded that “The conduct of our partner in defending the depositions cited by the Court was appropriate and violated no rule of law or of the Court.” The spokesperson went on to say that the judge should not have used a sanction order after trial to address conduct in depositions concluded before trial particularly where plaintiff’s counsel did not complain to the court at the time. As reported, Ms. Ghezzi plans to appeal.

Does a Complaint Create a Conflict?

Most attorneys would move to withdraw or otherwise terminate the attorney-



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client relationship if the client filed a disciplinary complaint against them. Delaware Lawyers' Rules of Professional Conduct Rule 1.16(a) states that a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if (3) the lawyer is discharged. But the filing of the complaint, although it may imply a dissatisfaction with the lawyer's services, it does not necessarily constitute a discharge. Rule 1.16(b) provides for permissive withdrawal where one can be accomplished without material adverse effect on the interests of the client. It can also be argued that the client's filing of a disciplinary complaint creates a conflict of interest between the attorney and client because the attorney's representation of himself in the disciplinary complaint could be adverse to the interests of the client in the underlying matter.

However, the Legal Ethics Committee of the Oregon State Bar concluded that a lawyer need not seek to withdraw when a client files a disciplinary complaint unless the lawyer concludes that his judgment will be affected by the complaint. The Committee concluded that the mere filing of a complaint does not create a *per se* conflict of interest. The issue was analyzed by analogy to a potential claim of legal malpractice. A lawyer should be afforded the opportunity to work with the client and to address the client's concerns as an alternative to an automatic need to withdraw as counsel.

Is Advertising the Practice of Law?

We have all seen the ads on television — Have you or a loved one been injured by asbestos or a faulty hip replacement or a lemon car or...the list goes on. Call attorney so-and-so. Operators are standing by. But wait! As noted in the disclaimer that appears in microprint for a nanosecond, the advertising attorney is not admitted in Delaware or the 49 other jurisdictions in which the ad is run. While the attorney's expertise in the area of law is touted, the disclaimer notes that the attorney or firm will associate itself with one of a network of attorneys duly admitted in the jurisdiction of your claim.

Does the attorney's solicitation in a jurisdiction in which he or she is not admitted constitute the practice of law (or more importantly perhaps, the *unauthorized* practice of law in that jurisdiction)? A recent advisory opinion from the Illinois State Bar Association concluded that the solicitation of personal injury cases within Illinois by a lawyer not admitted to practice in Illinois is not, in and of itself, a form of unauthorized practice of law. Opinion No. 14-04 (May 2014). The opinion went on to caution that such solicitations must comply with all restrictions imposed by the Illinois Supreme Court on attorney advertising and must contain all information necessary to prevent the recipient from being misled.

In a recent Delaware case in which a Pennsylvania lawyer was suspended in Delaware for the unauthorized practice of law in Delaware, the hearing panel concluded that the "airing" of television ads for the lawyer's firm without the inclusion of the lawyer's name, photo, or likeness was insufficient to create a violation of Rule 5.5(b) (2) on the part of the attorney. The panel noted that there is no all-encompassing

ban on attorney advertising by out-of-state attorneys. However, the panel went on to note that if there were additional facts present beyond the mere "airing" of the ads that indicated an intent by the attorney to practice law in Delaware or to attempt to practice law in Delaware, their conclusion might have been different. *Matter of Edelstein*, Case No. 262, 2014 (6/18/14).

Until next time, "Ethically Speaking" will continue scouting the globe looking for ethics news items to inform, entertain, and alarm you. Enjoy the Fall!

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

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

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IS YOUR AFFORDABLE CARE ACT PLAN LESS AFFORDABLE?

By Aaron W. Mitchell, REBC

My wife and I greatly enjoy going out to dinner with our group of friends. No one has to cook or clean up. Splitting a bill at the end of the meal is the only part of the evening that can be uncomfortable. Someone orders the most expensive thing on the menu. Someone only drinks an ice tea and has a salad. When the check comes, it is certainly easiest to split the bill evenly, but is it the most fair?

Most people would look at the above example and say that with a good group of friends, everything balances out over time. The question that we ask is “What if it does not balance out?” If it is agreed that bills get split evenly, but one friend always orders an 18 ounce Filet Mignon when everyone else is having a chicken salad, eventually, you stop splitting the bill.

That mindset has historically been able to be applied to health insurance. If a business is constantly incurring more claims than they pay in premium, eventually their rates are sharply increased, or they are no longer offered coverage. As of January 1 of this year, that rating structure no longer exists for small businesses (companies with less than 50 employees). This will be expanding in 2016 to all employers with less than 100 employees, so any firm or client with 100 or less employees should be aware of the following.

Health insurance rates were based on the group size, industry, age, location, gender, and their claims experience compared to the experience of the pool of all insured groups. Starting on January 1st of this year, the only factors that determine the rates of a group are the age and tobacco status of each employee. The health of your employees and your firm’s previous rates no longer affect your renewal rates.

Let’s look at two businesses, a law firm and a sanitation business. Both employ the same number of employees with the same ages. If the law firm had \$200,000 in medical bills and the sanitation company had \$1.2 million in bills, both will have the same renewal rates. The Affordable Care Act removed medical underwriting as a criterion from the fully insured plans premium calculation (small business). It also changed the rate structure so that each employee will have a different premium, which complicates how employers pay.

Firms that had a preferred health rating have probably seen a very large increase at this year’s renewal. If your group’s rates

were significantly lower before Health-care Reform, it may be because your employees’ medical claims were much lower than the claims of other businesses. If your firm is seeing a very sharp increase and has 25 or more employees, you may be interested in a concept known as Level Funding.

Level Funding plans are self-insured plans that allow groups with as few as 25 people to obtain a rate that is truly based on their expected claims. One of the important draws of this plan type is a premium that remains constant for the entire year, regardless of the claims. The premium is a combination of stop loss premiums plus the funding reserves needed for the insurance company to pay the claims. If the experience is excellent, the insurance company applies the surplus to the next year’s reserves to keep premiums low. If the experience is poor, there is always the option of returning to fully insured plans, without being accountable for any losses beyond the premiums paid.

Currently, Aetna, Highmark, Cigna, Assurant and several other carriers offer similar self-funded models for small- and medium-sized employers. It is important to know that this is most effective as a multi-year strategy. Depending on the medical history of your employees, this premium could be higher than fully insured plans, but that is disclosed up front. Presently, you need to have 25 or more employees on the plan.

If the premiums and plans make up a better offering than fully insured programs, it is certainly worth consideration. This type of strategy is not limited to small businesses. Larger firms may also be attracted to this approach to self-funding their health insurance because of the following:

- Monthly premiums are level, regardless of submitted claims
- Removes the pooling experience (helpful if your firm’s claims are consistently lower than the pool of other groups)
- Offers the upside unused premium dollars going towards future year’s claims (up to 2/3 of the surplus is credited to your firm)

This concept should be approached with enough time to consider the benefits and costs of level funding vs fully insured



insurance. Small firms may not know the claims of their employees, but the upside certainly is worth the paperwork necessary to a level insurance program.

Congratulations to those firms that have seen a cost reduction due to the Affordable Care Act. Not every group has seen large increases. However, if your group has seen an enormous jump in premiums, it may be the right time to look at another way of buying insurance. Other companies have been grateful that you have been willing to split the bill, but you may find the time is right to ask for your own check.

Aaron Mitchell is DSBIS's lead Human Capital Consultant, coordinating all lines of insurance. He specializes in group benefits and life insurance. Contact Aaron at (302) 397-0170 or aaron.mitchell@willis.com to find out how DSBIS can assist you with your Human Capital needs.



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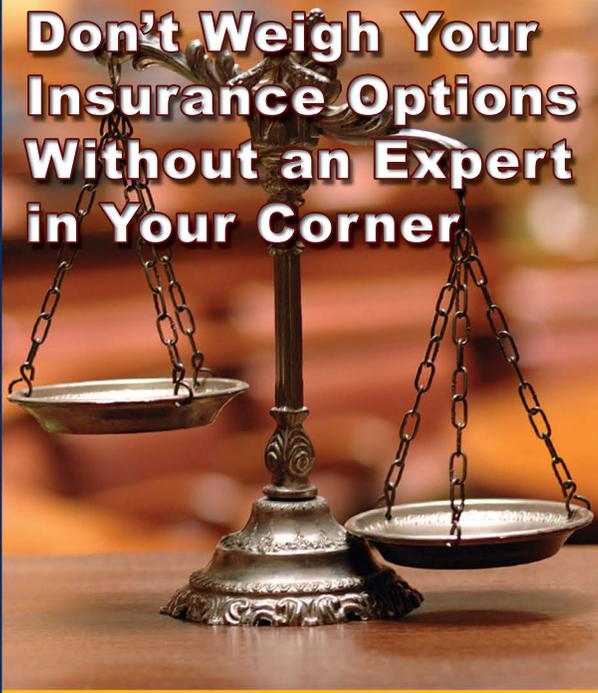
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By Susan Simmons

Pro Bono vs. Volunteerism

What distinguishes *pro bono* from volunteerism?

Pro bono is a type of volunteerism in which volunteers donate their professional skills and services (such as marketing, legal guidance, human resources, and technology) to promote the public good.

The average value of hands-on volunteerism is approximately \$20 per hour, whereas the average value of *pro bono* in the legal services is much higher. As a result, when *pro bono* and regular volunteerism are lumped together, companies may not accurately calculate the full breadth of impact and value that they are providing the sector, nor the invaluable team-building and skills development that employees participating in *pro bono* are gaining.

Aside from receiving personal gratification from helping an organization, how do professionals benefit from doing *pro bono*?

Professionals reap huge benefits from doing *pro bono*. They can leverage *pro bono* as an opportunity to hone current skills in a new context, and stretch themselves and apply new skills. Firms reap huge benefits too — so much so that more firms are doing *pro bono* to directly benefit their business, such as learning about a new market, gaining customer insights, and retaining/recruiting talent. It is a win-win-win for firms, employees, and the social sector.

It is not news that our Millennial generation cares about social impact and

pursuing socially responsible careers. In a recent study, MBAs from top schools reported that they would sacrifice 14 percent of their salaries to work at socially responsible companies. Out of the top 25 business schools, 20 have *pro bono* and nonprofit consulting programs. Numbers do not lie: The Millennial generation wants to create social impact with their skills and talent, and not just with their checkbooks or by spending a day at a charitable endeavor.

If there is one mistake that professionals make when approaching *pro bono* work, what would that be?

One of the biggest mistakes can be when *pro bono* volunteers do not treat the process with the same intent as a paid engagement. *Pro bono* is definitely not free; it requires time from the volunteers, intent, and commitment from all parties.

Why is that so important?

When *pro bono* is not treated as such, the project itself does not have as much impact as it could have. *Pro bono* volunteers have to remember that with *pro bono*, time and satisfaction are the currencies of exchange for the *pro bono* volunteer. If the players feel that the project was either a waste of time or a less-than-ideal experience, they will not do it again.

What about training for *pro bono* work?

The top priority in training is to ensure that volunteers understand and set clear expectations, review participants' roles and responsibilities, and gain a firm understanding of *pro bono* best practices. Participants should walk away with concrete tips on how to be responsible stewards of high quality *pro bono* by engaging other professionals and mentors.

Group trainings are quite effective. In addition to providing *pro bono* best practices, companies can equip their employees for greater *pro bono* success by:

- Providing employees with clear expectations of when employees can do *pro bono*. Are employees free to work on their *pro bono* projects during work hours, or after work and on the weekends?
- Empowering employees to discuss the value of the *pro bono* experience with their managers that empower both employees and managers to discuss how they can leverage *pro bono* as a professional development tool.



• Highlighting the business value the company sees in investing their talent in *pro bono*. This can include deepening community impact, building strategic partnerships, encouraging team building, or offering additional professional development opportunities.

If you or your firm are interested or already participates in *pro bono*, or if you have a comment on this article, please share.

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DE-LAP ZONE

A Message from the Delaware Lawyers Assistance Program

By Carol P. Waldhauser, Executive Director

Lawyer to Lawyer Substance Abuse: Education is the Key to Curing the “Lawyers’ Epidemic”

This month a strong message is written from our guest columnist, one Lawyer — who elects to remain anonymous — to others. It is DE-LAP’s privilege to give the platform for a strong message to our Delaware legal professions.

The legal profession places rigorous demands upon all of us and, as explained by Larry Durbin, a professor of law at the University of Detroit School of Law, “Some lawyers will pay a personal price in emotional terms for engaging in this difficult and complex role of being a lawyer.” (1) This pressure ultimately places law students and lawyers at greater risk of substance abuse.

Research shows that the rate of substance abuse among lawyers is almost twice that of the general population. (2) Indeed, a study published in the *International Journal of Law and Psychiatry* reported that the rate of alcohol abuse for lawyers was almost 18 percent, while it was 10 percent for the general population. (3) Another sobering statistic, and I apologize for the pun, is that 15-20 percent of all U.S. lawyers suffer from alcoholism and substance abuse. (4)

The reasons for the elevated levels of alcoholism among lawyers are numerous and include, among others: the psychological constitution of attorneys; the stress of the legal profession; and the legal workplace culture. We have all been in the company of other attorneys,

whether partners or associates, that drink to celebrate a big win; to drown out the sorrows of a tough loss; or to unwind after a tough week. Research suggests that a workplace culture that accepts or even promotes alcohol use as a means to socialize often contains people that are more likely to develop problems with alcohol. (5) Concomitantly, the stressful culture in which we all engage directly correlates to higher levels of alcoholism. In fact, stress is an important predictor of substance abuse. (6) Finally, many of us are Type-A individuals, who did very well throughout school and eventually passed the bar exam. Most of us may not have experienced failure before arguing our first motion. While striving for constant perfection is not itself a harmful trait, when it is combined with the difficulties of our profession, the culture of social drinking and the unpredictability of our profession, it can lead to more problem drinking. Sadly, this phenomenon actually starts before many of us have entered the legal profession. In fact, the usage of drugs and alcohol tends to increase during law school. (2) It is important to note that alcoholism is a progressive disease, which, left untreated, will only get worse over time.

As if these facts were not scary enough, when one realizes that most lawyers and law students do not seek help, even if they recognize that they are a problem drinker, it becomes downright terrifying.

Put simply, there is a negative incentive for lawyers and law students to seek assistance with their problems. If a law student divulges a problem with alcohol, they may be fearful that the character and fitness board will view such an acknowledgment negatively. If the board makes such a determination, the law student may be delayed or even prohibited from gaining admission to the Bar. Similarly, for attorneys, if it is discovered that one has a problem with alcohol, they risk being disciplined, including suspension or disbarment. Luckily, there are now organizations such as the Delaware Lawyers’ Assistance Program that provide anonymous support and aid to troubled attorneys. I suggest that if anyone believes that they have an issue with substance abuse to contact DE-LAP immediately. This is certainly one call that you will not regret.

That brings me to another scary point: DE-LAP and similar organizations are only available to those that understand, appreciate, and acknowledge that they have a problem. For purposes of this article, I am focusing on alcohol, but I believe my theory applies to a multitude of problems. I am sure you have all heard at one time or another that he/she is “in denial.” While it is certainly true that many people may recognize that they are exhibiting signs and symptoms of alcoholism and simply chose to deny that they are an alcoholic, I believe the bigger issue is that there are so many of us that simply

do not know or recognize the signs and symptoms of alcoholism.

Here is where I must include my mea culpa: Until recently, I did not truly understand or know what it meant to be an alcoholic. As a child, I would watch movies or other shows and the “town alcoholic” is someone that is homeless, hapless, and helpless. Call me naïve, but I always pictured a man (because it was always a man) carrying a bottle of alcohol in a brown-paper bag and stumbling over himself, without any direction in life. An alcoholic was invariably someone that drank all day, every day, without any care in the world beyond drinking.

Well, recently, I learned that I could not have been more wrong. Not that it absolves my ignorance, but I believe that there are many people, many intelligent people, that truly do not understand what it means to be an alcoholic. Please allow me to delve into what I believe makes an alcoholic.

First, the person does not need to drink all day, and he certainly does not need to imbibe every day; in fact, an alcoholic can be someone that rarely drinks. Simply put, if you are an alcoholic (or have a drinking problem), you cannot consistently predict how much you will drink, how long you will drink, or what consequences will occur from your drinking. In addition, you drink irrespective of the consequences. As you can see, I believe that a person who rarely drinks can be an alcoholic, if that person is unable to control the amount they drink, the amount of time they continue to drink, or are unable to control their actions when they drink.

Furthermore, you will notice that the above theory does not contain any elements of homelessness, haplessness, and helplessness (though, certainly, an alcoholic is helpless against the cunning powers of alcohol). Very successful people can be alcoholics. Indeed, studies show that most substance abusers are functional in the workplace, as nearly three of every four are employed. (2)

Personally, I did not drink often and that was always my rationalization whenever someone mentioned my drink-

ing. Well, “how can I be an alcoholic?” I would ask. I do not have a problem drinking, I would argue, because I only drink twice a month. The problem I had, and that many other people have, is that I could not control the amount of alcohol I consumed and, inevitably, I could not control my decision-making when I drank. The most troubling aspect of the process that eventually concluded with my recognition that I had a drinking problem was that I was not denying that I had a drinking problem. I did not refuse to see the signs of my drinking. I appreciated that I made bad decisions when I drank, but I could easily rationalize my situation. Unfortunately, that is a trait every lawyer possesses — the ability to rationalize any negative fact.

Ultimately, I believe that it is difficult to appreciate any problem, when one does not know what they are looking for. When I am asked to find a case that stands for a certain proposition, I know what I am looking for and how to find it. When I was dissecting my drinking habits, I was looking for the wrong evidence; I was flying dark. My understanding of alcoholism was wrong and it prevented me from appreciating my own circumstances. It is this naïvety, this ignorance, that needs to be addressed.

I am sure many of you remember “sex ed” in high school. What I do not remember, whether in high school, college, or law school, was “alcohol ed.” Sure, during professional responsibility, we were told rules and regulations and the problems that can befall someone that has a drinking problem. We were not, however, taught the signs and circumstances that surround alcoholism. I believe that all schools should proactively seek to train students on the signs of substance abuse; the ways to avoid succumbing to this disease; and the manner in which we should address our loved ones about their drinking problem. It is through education that we can seek to prevent the spread of alcoholism. Please understand, alcoholism (and other substance abuse issues) is a disease that is cunning, baffling and powerful, and it is much easier to prevent someone from

becoming an alcoholic than it is to bring an alcoholic back to a life of sobriety.

I cannot say for certain whether or not I would have appreciated my drinking problem, even if I had been equipped with the tools necessary to properly assess my drinking. I can say for sure, however, that possessing those tools would not have hurt my chances in any way. We can never eradicate alcoholism. Irrespective of what many people are taught, there will still be those that fall victim to this terrible disease, but I truly believe that people are far less likely to develop a drinking problem and are far more likely to appreciate the early signs of alcoholism, if they are properly taught about alcoholism.

Luckily, the ABA is seeking to address the same issue. “According to Honorable Robert L. Childers, a judge in the Circuit Court of Tennessee since 1984, who has served on the ABA Commission on Lawyer Assistance Programs (CoLAP) since 1999, substance abuse and mental

DE-LAP ZONE (continued on page 33)

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BOOK REVIEW

Reviewed by Richard A. Forsten, Esquire

The Play's the Thing: *Shakespeare and the Law*

Edited by Bradin Cormack, Martha C. Nussbaum, and Richard Strier
(Univ. Chicago Press, 2013)

“Law and literature” is the name given to an academic approach, that, as its name implies, examines the law as depicted in literature. The practitioners in this area vary in their motives for doing so, and in the specific goals they hope to achieve, but the basic framework is the same — gain insight about the law from examining how law is portrayed in literature. And, perhaps no writer has had more to say about the law, and more interesting things to say about the law, than the greatest writer himself, William Shakespeare. From “[t]he first thing we do, let’s kill all the lawyers” (which may be his most misunderstood line) in *Henry VI Part 2* to “a pound of flesh” in *The Merchant of Venice*, Shakespeare’s plays are full of comments on the law, legal situations, legal satire, wordplay, and allusions.

In *Shakespeare and the Law, A Conversation Among Disciplines and Professions*, Professors Bradin Cormack, Martha C. Nussbaum, and Richard Strier, have compiled fourteen essays on various legal issues as they arise in various Shakespeare plays, followed by the transcript of a roundtable discussion in which a number of the essayists, as well as Supreme Court Justice Stephen Breyer, debate some of the finer points of Shakespeare. As with any collection of essays, there are some which are better than others, but all offer something of interest.

The most interesting essay is without a doubt the one by Seventh Circuit Judge Richard Posner. Rather than write a traditional essay, he writes an appellate opinion on the imagined appeal by Shylock from the trial court ruling of the Duke of Venice. In that trial, Shylock sought his pound of flesh, which is what he claimed due for default under the contract. Famously, Portia, disguised as a law clerk, points out that while the contract may have entitled Shylock to a pound of flesh, he was not entitled to a “jot of blood.” Thus, Antonio’s life was spared. Portia further argued that because Shylock had conspired against the life of a Venetian citizen, his estate was forfeit, half to the state and half to Antonio.

On appeal, Judge Posner makes several interesting observations and rulings. First, he rejects the notion that Shylock was not entitled to spill any blood. The provision calling for a pound of flesh would be a nullity if no blood could be spilled, and so the spilling of blood is implied. However, the penalty clause calling for a pound of

flesh is unenforceable inasmuch as neither common law (the law of England) nor civil law (the law of continental Europe) will permit a penalty calling for physical injury. Thus, Posner tells us that Antonio’s life was correctly spared, even though his reasoning may be less dramatic.

However, Posner “reverses” the lower court on the forfeiture issue. He “holds” that Shylock was not guilty of attempted murder because Shylock was simply trying to enforce his contract through the legal process. He had no intention of killing

Antonio unless the trial court ruled in his favor. Thus, Judge Posner would restore Shylock’s property to him. But, while Judge Posner’s opinion is entertaining, one suspects that the Bard’s play itself would lose much of its dramatic flair and impact had the Duke of Venice ruled as Posner holds. Still, Posner’s appellate opinion is interesting, entertaining, and thought-provoking all at the same time.

Not to be outdone, Professor and former Solicitor General Charles Fried



© istockphoto.com/TonyBaggett

offers his own concurring opinion to Judge Posner's opinion. Fried agrees that Shylock should receive back his estate, but disagrees with Posner's reasoning concerning the pound of flesh. Fried argues that the law of Venice was much more literal and formalistic than modern law, and so the penalty of a pound of flesh would be enforceable. However, he agrees that the same literal and formalistic approach that would permit the pound of flesh, would also prohibit a "jot of blood." Thus, Fried's opinion retains the dramatic turn of events from the courtroom scene. Fried goes on to observe that had Shylock used a red-hot knife that cauterized the wound as it cut, he may have avoided spilling any blood, although he would still have been left with the problem of not taking more than a pound of flesh.

Posner and Fried both deal with *The Merchant of Venice*, but other essayists deal with *King Lear*, *Julius Caesar*, *Measure for Measure*, *Othello*, and other plays. Unfortunately, no one discusses, or even mentions, Dick the Butcher's famous line from *Henry VI Part 2*: "The first thing we do, let's kill all the lawyers." While Shakespeare often expresses frustration with the law in his plays, or points out its inconsistencies, or makes fun of it, here, with arguably his most famous line about the law, he is actually praising it. Dick the Butcher, an otherwise forgotten character, wants to kill all the lawyers because he is a follower of the rebel leader Jack Cade. Lawyers need to be killed because they will uphold the law, and only without them can revolution prevail.

Shakespeare's plays endure because his themes are timeless, and this is just as true with the law as with his other themes. One does not often think about law and Shakespeare, but *Shakespeare and the Law* reminds readers that the Bard had just as many interesting things to say about the law as on so many other things. Ⓜ

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

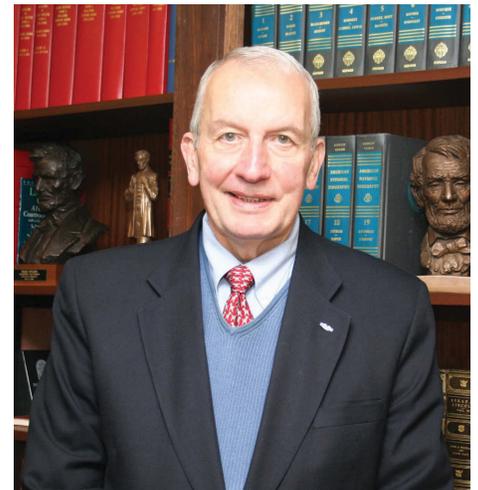
Sixth Annual Bar Association - Bar Foundation Seminar To Be Held Wednesday, October 29 at the Chase Center on the Riverfront

The sixth annual seminar Office and Trial Practice 2014, co-sponsored by the Bar Association and the Bar Foundation will be held on Wednesday, October 29th at the Chase Center on the Riverfront. Always well-attended, the seminar is co-chaired each year by Justice Randy J. Holland and Harvey Bernard Rubenstein, Esquire, a past president of both.

This year, the full-day seminar will furnish CLE credits of 6.8 hours, including the required 4.0 hours of Enhanced Ethics. Lunch will be provided.

The morning program, moderated by Mr. Rubenstein, will include "Ethical Problems in Family Law" presented by Gretchen S. Knight, Esquire, and Jill S. Di Sciuillo, Esquire, "Taking Care of Your Client by Taking Care of Yourself" presented by Edmund D. Lyons, Jr., Esquire, and Richard A. DiLiberto, Jr., Esquire, "Rules of Practice for Lawyers to Follow" presented by Mr. Rubenstein, "Cutting Edge Issues on Social Media Ethics" presented by Margaret M. DiBianca, Esquire, and "Practical Ethics in Representing Clients" presented by Louis B. Ferrara, Esquire.

The afternoon program will feature the former Chief Justice of Rhode Is-



The Honorable Frank J. Williams

land, Frank J. Williams, a noted Lincoln scholar, discussing "Lincoln - A Litigator and a Judge." It will be followed by a panel on deposition practice presented by Bartholomew J. Dalton, Esquire, John A. Elzufon, Esquire, Elizabeth M. McGeever, Esquire, and Jessica Zeldin, Esquire. Another panel comprised of Vice Chancellor Donald F. Parsons, Jr., Judge William C. Carpenter, Jr., Judge Jan R. Jurden, Chief Judge Alex J. Smalls, and Judge Joelle P. Hitch will present on the subject of "Order in the Court: What Delaware Judges Want You to know." Ⓜ

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A PROFILE IN BALANCE

By James G. McGiffin, Jr., Esquire

Erin Fitzgerald: She Sticks Her Landings

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

- Jim McGiffin

• • •

Dover lawyer Erin Fitzgerald can fool you. She is pleasant, petite, and polite. She looks younger than a lawyer with eight years experience should look. But, a glimpse into her fiercely competitive nature can catch one by surprise. Make no mistake, both sides of her nature are genuine.

Erin is a Jersey girl, without the big hair. She was born in Willingboro and attended public school. As a toddler, Erin liked to climb, so her parents enrolled her in gymnastics, for safety reasons. They wanted her to learn how to fall. Instead, Erin learned how to climb to the top of that demanding discipline.

All of the training and traveling associated with competitive gymnastics carried Erin through college with an athletic scholarship to the College of William and Mary. She concluded her career as captain of her college gymnastics squad.

When Erin graduated from William and Mary, she left gymnastics behind. It is not a sport that suits itself to the casual, recreational approach available to golfers



Photo by Penn Images

and softball players. What does a gymnast do when she stops being a gymnast? Erin found an answer: run.

As she was establishing her law practice, Erin found a need to have some time alone with her thoughts and without distraction. She tried recreational running and it worked. Initially, she trained for half marathons. Then on April 15, 2013, she was moved by the tragedy known as the Boston Marathon Bombing. Her experience with runners had taught her that they are an altruistic group of people, and she felt drawn to solidarity with them after this terrible incident. So, she decided to become a marathon runner. She ran her first 26.2 mile race in Philadelphia last November and her

time qualified her for the prestigious Boston event, which she hopes to run at her next opportunity.

Erin has derived many benefits from her years of athletic discipline, but first among them is meeting her husband, Patrick. Erin and Patrick met at gymnastics camp while in high school, and both attended William and Mary on gymnastic scholarships. They married only two weeks after she completed her first year law school examinations. They now live in Middletown with sons Connor and Liem.

Her impressive athletic and professional pursuits notwithstanding, Erin's priority is to be a good wife and a good mother. She and Pat take a team approach to parenting and work on their couple relationship, as well. They leave their jobs at the office and make a point of having quality family time every day.

Erin's professional work, with the firm Gonser & Gonser's Dover office, takes place in the Family Court, primarily, with her corporate work ever expanding. She handles the full spectrum of Family Law cases and devotes much of her time to the Court Appointed Special Advocate Program, through which she represents volunteers appointed by judges to speak for children in very difficult child welfare cases. Erin finds this work particularly rewarding, as she can see the difference she makes in the life of a child.

Erin Fitzgerald is a person driven to do her very best in all endeavors, and she en-

deavors to do many things. With all that goes on in her personal and professional worlds, she remains focused and committed to her priorities, taking care of herself and her important relationships. ☪

James G. McGiffin, Jr., is a Senior Staff Attorney with Community Legal Aid Society, Inc. and a former President of the Delaware State Bar Association. He can be reached at jmcgiffin@declasi.org.

OF NOTE

Congratulations to **Timothy S. Ferry, Esquire**, and **David J. Ferry, Jr., Esquire**, and their families on the birth of their son/grandson on June 24, 2014.

Condolences to the family of **W. Stanley Alexander, Esquire**, who died on July 21, 2014.

Condolences to the family of **Judge Vincent A. Bifferato, Sr.**, who died on July 25, 2014.

Condolences to **Norman D. Griffiths, Esquire**, on the death of his wife, Michele Antoinette (Pray) Griffiths, who died on July 28, 2014. ☪

-DISCIPLINARY ACTIONS-

PRIVATE ADMONITION

ODC File No. 111803-B

Effective Date: June 24, 2014

A non-Delaware lawyer accepted a private admonition offered by a panel of the Preliminary Review Committee ("PRC"). The PRC determined the lawyer, who had been admitted pro hac vice in a Delaware Superior Court matter, knowingly violated: (1) the Superior Court's Order regarding settlement; and (2) violated Superior Court Rule 90.1(d) by filing and electronically signing Delaware counsel's name to a response to a Motion for Declaratory Judgment. As a condition of the private admonition, if the lawyer moves for *pro hac vice* admission in any Delaware Court the lawyer shall state in the motion that the lawyer's pro hac status had been revoked by the Delaware Superior Court and give the reasons for its revocation.

SUPREME COURT DISBARS ATTORNEY

Board Case No. 2012-0208-B

Effective Date: June 11, 2014

On July 9, 2014, the Delaware Supreme Court ordered the disbarment of Michael D. Carr based upon his failure to maintain his firm's books and records and his failure to safeguard client trust funds.

Prior to imposing this final sanction of disbarment, the Court suspended Carr on an interim basis in December 2013, having found he had engaged in professional misconduct and posed a significant threat of substantial harm to the public and to the orderly administration of justice. Carr and the ODC signed and submitted for the Court's approval a stipulation seeking Carr's disbarment without further proceedings.

Carr was represented by Charles Slanina, Esquire, (302) 234-1605. ☪

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Tell the World: Delaware Is the Best Place To Do Business

By Andrea B. Tinianow, Esquire
*Director of Corporate and International Development
Department of State, State of Delaware*

Delaware corporate law dominates corporate governance in the U.S. and in many parts of the world. Most attorneys worldwide know that Delaware is a good place for incorporation, but they often do not know why that is the case.

A new initiative by the State aims to change this by providing the corporate legal community worldwide with a website that offers information on the benefits of incorporating in Delaware. A related online Blog enables the exchange of ideas in real time about Delaware business entity laws, recent opinions, and judges, and showcases unique and extraordinary aspects of Delaware's legal ecosystem, including its speedy timeframe for hearing arguments and turning around high quality and thoughtful opinions. Subscribers to the Blog, generally corporate attorneys worldwide, receive updates every time a post is added — about two or three times a month — keeping Delaware top of mind for corporate governance and dispute resolution.

The Delaware Corporate Law Website (www.corplaw.delaware.gov) offers a comprehensive collection of articles that lays out the advantages of Delaware Corporate Law in 10 languages (English, Arabic, Chinese, Dutch, French, German, Hebrew, Japanese, Portuguese, and Spanish). Top corporate lawyers from around the world volunteered their time to provide these translations for inclusion in the website. Topics include the benefits for international business, a primer on Delaware's General Corporation Law, the fiduciary duties of Delaware directors, and a look at alternative entities.

The companion Delaware Corporate and Legal Services (DECALS) Blog (www.decals.delaware.gov) features posts on current developments in Delaware corporate law, as well as in-depth articles prepared

by corporate attorneys, judges, and other professionals in the State. The posts are written so that international readers who may not be as familiar with Delaware's laws and processes can understand the benefits of doing business in Delaware.

An International Stage for the Delaware Bar and a Powerful Tool for Clients

With over two thousand subscribers, the website and Blog provide Delaware attorneys with a large international forum to promote their areas of expertise, and also connect with colleagues and abroad. At the same time, the website and Blog are an incredible resource that attorneys can share with clients in the U.S. and abroad to ensure that they fully appreciate the advantages of doing business and resolving disputes in Delaware. Attorneys on the Court of Chancery Rules Committee were instrumental in the launch of the website and Blog, providing content, guidance and valuable international contacts. Other area lawyers have since gotten involved, writing articles for the Blog and providing ideas for new content, expanding the Blog audience and other outreach activities.

For example, in the most recent post, Ballard Spahr partner David Margules provided an in-depth explanation of mediation in the Court of Chancery that included a sample annotated mediation provision and an offer to provide more information in a webinar. Other recent posts include a look at Delaware's judicial selection process and an explanation of the Superior Court's Complex Commercial Litigation Division.

A Full-Court Press to Showcase Delaware

The website and Blog are part of a larger effort by the Corporate and International Development Division (the "Division"), located in the Department of State,

to promote Delaware business entities and the Delaware Advantage worldwide. Recent efforts include a trade mission to Brazil and Peru, where delegation members met with attorneys to better understand their needs and share the benefits of doing business in Delaware.

The Division is conducting comprehensive research to get a clear understanding of how Delaware compares with competing jurisdictions, and will make this research available to members of the Bar when it's complete. The Division has also compiled a list of international corporate conferences and can make this information available upon request.

Get involved!

More efforts are underway and the Division welcomes input from members of the Delaware Bar. DSBA members are encouraged to take full advantage of the Corporate Law Website and DECALS Blog, and to contribute to the overall outreach effort to promote Delaware as the best venue in the world for doing business. Here's how:

- Explore the Corporate Law Website and share the link with clients and colleagues in the U.S. and abroad.
- Visit the DECALS blog to subscribe and to learn how to submit posts for publication.
- Contact the Division with feedback, story ideas, suggestions for outreach, and to learn how to get involved. 📞

Andrea B. Tinianow joined the Delaware Department of State in January 2014 as Director of Corporate and International Development, a newly-created position. Previously, she was Vice President and Assistant General Counsel for Corporation Service Company. She can be contacted at andrea.tinianow@state.de.us.

Judge Stapleton Receives Professionalism Award from American Inns of Court

Judge Walter K. Stapleton has received the prestigious American Inns of Court Professionalism Award for the Third Circuit. The award was presented to Judge Stapleton by Justice Samuel A. Alito, Jr., of the United States Supreme Court at a dinner during the May 2014 Judicial Conference of the United States Court of Appeals for the Third Circuit. In his presentation remarks, Justice Alito reflected on the years of service he enjoyed with Judge Stapleton as colleagues on the Third Circuit. Justice Alito had supported the nomination of Judge Stapleton for recognition by the American



Photo by Susan Felix

Inns of Court, saying, “Walt Stapleton has had a long and dedicated judicial career, both at the trial and appellate levels, and I believe that if all of those most familiar with his work — both fellow judges and practitioners — were asked to give their impression of his work, the responses would be filled with phrases like ‘a man of the highest integrity,’ ‘a consummate

professional,’ ‘a model judge,’ and ‘the epitome of even-handedness and judicial temperament.’” He added, “when I think of ‘professionalism’ and ‘ethics,’ ... Walt’s name comes to mind.”

Third Circuit Chief Judge Theodore A. McKee said, in supporting Judge Stapleton’s nomination, “I have come to appreciate that [Judge Stapleton] is one of the very few people I have met in any phase of life whom I would describe as ‘truly wise.’” And, former Chief Judge Anthony J. Scirica added, “In my view, there has been no finer judge in the history of the nation. Walt’s brilliance, integrity and commitment to the judiciary is a model for all judges. ... [H]e makes each of us who has had the honor to work with him a better judge.” Echoing that assessment, another of Judge Stapleton’s long-time colleagues, Judge Thomas L. Ambro, remarked that Judge Stapleton was assigned “to be my mentor when I succeeded him as an active judge on our court in 2000. I could not have asked for more. ... Watching Walt Stapleton makes any other judge observing him not only a better jurist, but a better person.”

One of the original members of the Richard S. Rodney Inn of Court, which was founded in Wilmington in 1985, Judge Stapleton has been a mentor to countless attorneys, as well as judges. As chair of the Codes of Conduct Committee of the United States Judicial Conference, he responded to ethics questions posed by federal judges from throughout the country. He is celebrated by his approximately 100 law clerks, who, in addition to Chief Justice Leo E. Strine, Jr., of the Delaware Supreme Court, and Chief Judge Leonard P. Stark of the United States District Court for the District of Delaware, include Judge Brett M. Kavanaugh of the United States Court of Appeals for the D.C. Circuit, former Chancellor William T. Allen of the Delaware Court of Chancery, and former United States Attorney for the District of Delaware Colm F. Connolly.

Earlier recipients of the American Inns of Court Professionalism Award include:

- 2011 The Honorable William J. Nealon
Senior Judge of the U.S. District Court for the Middle District of Pennsylvania, Scranton, Pennsylvania
- 2009 The Honorable Louis H. Pollak
Senior Judge of the U.S. District Court for the Eastern District of Pennsylvania, Philadelphia, Pennsylvania,
and The Honorable Joy Flowers Conti
Judge of the U. S. District Court for the Western District of Pennsylvania Pittsburgh, Pennsylvania
- 2008 The Honorable John W. Bissell
Connell Foley LLP-Roseland, New Jersey
- 2006 David B. Fawcett, Jr., Esquire
Dickie, McCamey & Chilcote, P.C Pittsburgh, Pennsylvania,
and Eric W. Springer, Esquire
Horty, Springer & Mattern, P.C Pittsburgh, Pennsylvania
- 2003 Edmund N. Carpenter II, Esquire
Richards, Layton & Finger Wilmington, Delaware
- 2001 John Rogers Carroll, Esquire
Carroll & Carroll Philadelphia, Pennsylvania
- 1999 S. Gerald Litvin, Esquire
Litvin, Blumberg, Matusco & Young Philadelphia, Pennsylvania 

Report: 2014 Annual Meeting of the ABA House of Delegates

By William D. Johnston, Esquire

The House of Delegates of the American Bar Association met August 11 and 12 during the 2014 ABA Annual Meeting in Boston.

The “Delaware Delegation” consisted of Harvey Bernard Rubenstein, State Delegate; Justice Henry duPont Ridgely, Delegate from the Appellate Judges Conference of the ABA Judicial Division; and yours truly, State Bar Delegate.

Remarks Presented the House

Those sharing remarks included the officers of the ABA (outgoing and incoming) and the Executive Director of the Association. We heard from, among others, outgoing President Jim Silkenat, incoming President William Hubbard, and President-Elect Paulette Brown. When Ms. Brown becomes President of the ABA next year, she will be the Association’s first female African-American President.

Also speaking to the House this year was U.S. Supreme Court Chief Justice John G. Roberts, Jr. The Chief Justice addressed the upcoming 500th anniversary of the Magna Carta, underscoring the enduring significance and impact of provisions of the 1215 document that relate to due process, separation of powers, freedom from arbitrary action, and fair trials (and consequences).

And, we heard a panel presentation, “Legal Education: The States Got Involved.” That discussion focused on the efforts of certain states to enhance legal education by imposing various bar pre-admission requirements (for example, in New York, that the Bar admittee already has contributed 50 hours of *pro bono* services and already has completed 2 credits of legal ethics CLE).

Resolutions Adopted by The House as ABA Policy

Numerous resolutions were adopted by the House. Once adopted, they constituted ABA

policy. The resolutions (with numbers indicated in parentheses) included those that:

- Urged Congress to amend 28 U.S.C. §44(c) to insert the phrase “and territory” after the phrase “each state,” so that all states and territories within the jurisdiction of the federal courts of appeal may be represented on its bench (10A);

- Amended §3.1 and §3.3 of the ABA Constitution to include individuals in good standing of a tribal court of any federally recognized tribe as members of the Association (11-4);

- Amended §32.1(c) of the Association’s Bylaws to eliminate the requirement that to become a member of a forum requires membership in at least one section (11-12);

- Supported prompt ratification by the United States and other nations of the *Marrakesh Treaty to Facilitate Access*

to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print-Disabled (100);

- Concurred in the action of the Council of the Section of Legal Education and Admissions to the Bar in making amendments dated August 2014 to the *ABA Standards for Approval of Law Schools*, with the exception that the House referred back to the Council for further consideration interpretation 305-2 regarding the prohibition against law students receiving both monetary compensation and credit for participation in a “field placement” (103A);

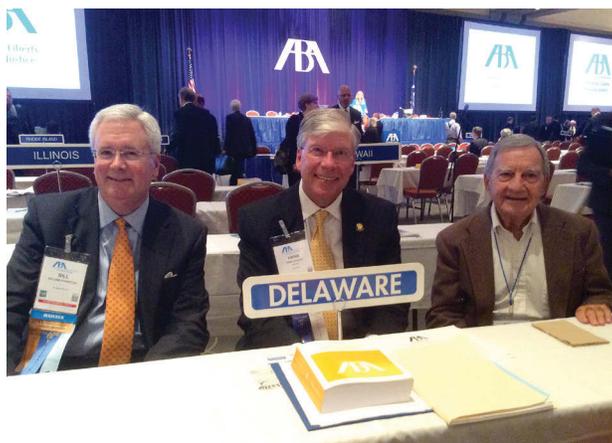
- Concurred in the action of the Council of the Section of Legal Education and Admissions to the Bar to supplant the 2013 *ABA Rules of Procedure for Approval of Law Schools* (103B);

- Encouraged law schools to create veterans law clinics to ensure that all veterans who cannot afford legal services can access them (104A);

- Urged the appropriate governing bodies of states and territories to adopt a rule permitting and encouraging in-house counsel already authorized to engage in the practice of law to provide *pro bono* legal services in that jurisdiction (104B);

- Opposed the suspension or delay of the fundamental right to a civil jury trial in the face of difficult fiscal circumstances (105A);

- Commended the American Civil Trial Bar Roundtable for undertaking the publication of *A White Paper on Increasing the Professionalism of American Lawyers*, and recommended that bar organizations and others



Members of the Delaware Delegation to the ABA House of Delegates. L to R: William D. Johnston, Esquire, Justice Henry duPont Ridgely, and Harvey Bernard Rubenstein, Esquire.

study the existing efforts in the White Paper to enhance their efforts to improve professionalism (105B);

- Urged states and territories to adopt clearly articulated, transparent and timely procedures to ensure that judges disqualify or recuse themselves in instances where conflict or bias or other grounds exist to warrant recusal in order to assure fair and impartial judicial proceedings (105C);

- Urged state and territorial continuing legal education accrediting agencies to approve for mandatory continuing legal education, law practice skills program and training, including the use of technology, law practice management, and client relations and to not restrict the maximum number of credit hours that can be earned for such programs (106);

- Opposed changes in current educational debt loan forgiveness programs for public service lawyers and urged Congress and Administration to support and continue public service student loan repayment and forgiveness programs (107);

- Urged all bar associations and foundations, courts, law schools, legal aid organizations, and law firms to create and advance initiatives that marshal the resources of newly-admitted lawyers to meet the unmet legal needs of underserved populations in sustainable ways (108);

- Encouraged private and public sector organizations to develop, implement, and maintain an appropriate cybersecurity program that complies with applicable ethical and legal obligations (109);

- Urged jurisdictions where capital punishment is permitted to adopt a statute or rule providing an appropriate judicial procedure whereby successors or a legal entity on behalf of an executed individual may bring and litigate a claim that the individual executed was in fact innocent of the capital offense (110A);

- Adopted amendments to the 2012 *ABA Civil Immigration Detention Standards*, to encourage Congress and the Department of Homeland Security and Immigration and Customs Enforcement to use segregation for immigration de-

tion only as a last resort for a limited time period and in compliance with other limitations (111);

- Adopted the *Model Workplace Policy on Employer Responses to Domestic Violence, Sexual Violence, Dating Violence and Stalking* and encouraged all employers, public and private, including governments, law schools, and the legal profession, to enact formal policies on the workplace responses to domestic violence, dating violence, sexual violence, and/or stalking violence which address prevention and remedies, provide assistance to employees who experience violence, and hold accountable employees who perpetrate violence (112A);

- Condemned forced marriage as a fundamental human rights violation and form of family violence and of violence against women and urged governments to amend existing laws or enact new laws to prevent, protect, and support individuals threatened by forced marriages (112B);

- Urged states, localities, and territories to develop written contingency plans detailing what should be done to preserve the election process in the event of an emergency (113A);

- Urged governments to use all appropriate means to improve enforcement of voting rights for persons with disabilities, including monitoring elections, and urged election officials to ensure that election personnel and volunteers receive accessibility training (113B);

- Supported modernization and simplification of the requirements, procedures, laws, and regulations to

verification of signatures in cross-border contexts in order to increase reciprocal recognition among jurisdictions (114A);

- Recognized the rights of individuals who are lesbian, gay, bisexual, or transgender (“LGBT”) as basic human rights and condemned laws, regulations, rules and practices that discriminate against them on the basis of their LGBT status (114B);

- Urged Congress to enact legislation to prevent and punish crimes against humanity and urged the United States government to take an active role in the negotiation and adoption of a new global convention for the prevention and punishment of crimes against humanity (300).

For a full description of the resolutions as adopted, please see www.americanbar.org.

• • •

It continues to be my privilege and pleasure to represent members of the Delaware State Bar Association in the House of Delegates. The House will next meet in Houston in February 2015 during the ABA Mid-Year Meeting. If, in the meantime, you have any questions or concerns, please contact me at (302) 571-6679 or wjohnston@ycst.com. ☎

Bill Johnston is a partner with Young Conaway Stargatt & Taylor, LLP and is a Past President of the Delaware State Bar Association. He serves as State Bar Delegate to the ABA House of Delegates, elected by members of the DSBA.

The Second Annual Supreme Court Review 2014: A Discussion of Decisions at the State and Federal Judicial Level



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Second Annual Seminar on U.S. and Delaware Supreme Court Decisions To Be Held on Tuesday, September 30 at the Bar Center

The Bar Association is presenting a morning seminar covering the leading U. S. and Delaware Supreme Court decisions during the past year. The seminar held last year was well attended, and the seminar may be on its way to becoming an annual event.

This year, the discussion of the foremost U. S. Supreme Court decisions will be offered by Professor Alan E. Garfield of the Widener University Law School. Professor Garfield is a graduate of Brandeis University (B.A., magna cum laude) and UCLA School of Law (J.D., Order of the Coif). He has received outstanding teaching and scholarship awards in constitutional law and has been published in the Columbia and Cornell law reviews among others. Prior to teaching, he spent three years practicing law at Weil, Gotshal & Manges in New York City. He is the current Vice President of the Board of Directors of the Delaware ACLU.

The discussion of the major Delaware Supreme Court decisions on civil and criminal law will feature a panel of Beth H. Christman, Esquire, Patricia O. Vella, Esquire, and Nicole Marie Walker, Esquire.

The co-chairs of the seminar are Supreme Court Justice Randy J. Holland and Harvey Bernard Rubenstein, Esquire, a Bar Association past president. Justice Holland will act as the moderator. The seminar will be at the Bar Center from 8:50 a.m. to 12:30 p.m. and provide 3.3 hours CLE credit. 

Coming Soon: A Film to Honor Chris White

By James G. McGiffin, Jr., Esquire

Attorney Christopher W. White, a community activist and leader, was struck down tragically in April of 2010 as he was walking north on Shipley Street to the offices of Community Legal Aid Society, Inc. from a building called Shipley Lofts. Chris was deeply involved in an effort to develop affordable residence and studio space for artists in an abandoned furniture store on Shipley Street in Wilmington.

Chris was drawn to the project for several reasons. He spent much of his professional efforts advocating for affordable housing for everyone. He was a gifted fundraiser, having a great deal of success with his employer, Community Legal Aid Society, Inc., He was a member of the vestry of the Episcopal Church of Sts. Andrew and Matthew (SsAM), the owner of the building. And, he had an artistic streak, himself, as a singer, lyricist, and guitar player.

SsAM, and its Shipley Village Community Development Corporation, experienced little success in their efforts to develop this property before Chris committed to help. With his leadership, a vision crystallized, funding was secured, and the project was completed.

Sadly, Chris died a month before the building opened for business.

To honor Chris, the SVCDC changed its name to the Chris White Community Development Corporation and named the gallery in the building after Chris. But, that was not enough. CWDC has decided to tell this wonderful success story in a documentary film, *A Shipley Street Story: The Legacy of Chris White*. Currently in the fund raising phase of the project, CWDC will collaborate with a Wilmington-based film maker for a film that will help spread the word and generate interest in future projects.

For information, visit <http://igg.me/at/chriswhitecdc/x/2289054> and <http://www.chriswhitecdc.org/> 

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LITIGATION ASSOCIATE: Shaw Keller LLP is seeking an associate with 1-4 years of experience litigating cases in federal court. The ideal candidate will have worked on cases in all stages of litigation, including trial, and will have experience with patent infringement cases. Clerkship a plus. Send your résumé to careers@shawkeller.com.

DORSEY & WHITNEY LLP is seeking an associate attorney with four or more years of experience to join the Finance & Restructuring Department in its Wilmington, Delaware office. This associate will have the opportunity to work on corporate transactional, lending, and opinion matters. Qualified candidates will have four or more years of experience in corporate transactional, lending, and/or opinion matters; excellent analytical, research and writing skills; and strong academic performance. Delaware bar admission is required. Dorsey & Whitney LLP is an Equal Opportunity Employer. Apply online at <http://recruiting.dorsey.com/dorsey/AttorneysJobsMain.html>.

ATTORNEY OPENING: We have an opening for a consumer bankruptcy attorney to work with us in our vibrant statewide practice. No previous experience is required. Contact Eric Doroshow at (302) 545-8853 or ericdoroshow@dplaw.com.

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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 email t.stumpf@yahoo.com.

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LOST WILL: Daniel Bruce Laubacher of Wilmington, Delaware. Please contact Suzanne I. Seubert, Esq. (302) 661-0400. ☎

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.

illness often begin in law school.” (7) Judge Childers has emphasized the importance of teaching students the signs of addiction and the methods of assistance available to alcoholics. This article stands as a call to action for law schools: please teach your students what it means to be an alcoholic — do not simply assume that students appreciate what it means to be an alcoholic. Without this foundation, we cannot truly learn the methods of avoiding substance abuse or the manner through which we can approach our loved ones who we suspect of substance abuse.

In the interim, I leave you with a few pointers, which I found researching substance abuse statistics. The South Carolina Bar formed the HELP Task Force in 2008 to address the issue of substance abuse by lawyers. Its report, authored by C. Stuart Mauney, is entitled “The Lawyers Epidemic: Depression, Suicide and Substance Abuse,” a citation for which can be found in footnote 2. Notable for this article, the report explains the CAGE questionnaire, which was developed in 1970 by Dr. John A. Ewing and is used for screening of patients for alcoholism. Dr. Ewing explained that two or more affirmative answers to the following questions indicate a positive history of alcoholism.

1. Cut Back – Have you ever felt the need to reduce the level of your consumption?
2. Annoyed – Have people ever annoyed you with their criticism of your drinking/using habits?
3. Guilty – Have you ever felt guilty while you were drinking or using?
4. Eye-opener – Have you ever started the day with a drink or drug, either to wake yourself up, to relax, or to cure a hangover?

Finally, although the signs are often subtle, the HELP task force provided the following signs of substance abuse:

- smell of alcohol
- bloodshot eyes or a puffy face
- slurred or rapid speech
- hyper-vigilance or suspiciousness
- failure to return from lunch or break

- pattern of being late or a no-show on Mondays or leaving early from work
- failure to return phone calls
- missing appointments
- failure to meet deadlines
- change in mood or general demeanor
 - deterioration of personal appearance or hygiene

For the time being, I ask that we all take a personal inventory and contemplate whether you may too have a problem with alcohol. There is no time better than the present to address the issue and take control. For more information, or confidential assistance, call The Delaware Lawyers Assistance Program (DE-LAP) (302) 777-0124 OR 1-877-24delap (33527) OR email cwaldhauser@de-lap.org and visit the DE-LAP website at www.de-lap.org. Remember, getting help does not sabotage your career, but not getting help can!

References:

1. Durbin, Larry. “The Legal Profession’s Hidden Secret: Substance Abuse” *MICH BAR JOURNAL*, p. 44.

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3. Benjamin, G. A. H., Darling, E. J., Sales, B. (1990). The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers. *International Journal of Law and Psychiatry*, 13, 233-246.

4. Latham, Tyger, “The Depressed Lawyer” (May 2011), *Psychology Today – Therapy Matters*.

5. Bennett, J. B., Lehman, W. E. K. (1998). Workplace Drinking, Climate, Stress, and Problem Indicators: Assessing the Influence of Teamwork (group cohesion). *J Stud Assess*, 10, 135-143.

6. Dawes MA, Antelman SM, Vanyukov MM, Giancola P, Tarter RE, Susman EJ, Mezzich A, Clark DB: Developmental sources of variation in liability to adolescent substance use disorders. *Drug and Alcohol Dependence* 2000; 61(1): 3-14.

7. Vivo, Meghan, “Addicted Lawyers Start as Addicted Law Students. Article can be found at: http://www.americanbar.org/content/dam/aba/administrative/law_students/article-addicted_authcheckdam.pdf. 

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

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Summer Eating Test

*A*s summer reading tests are behind us, I thought I would administer a Summer Eating Test to the Delaware Bench and Bar this September.

Instructions: Fill in the blanks below with the correct food item from the Word Bank. Please note that there are more words in the Word Bank than blanks. You may not use a word more than once. Each blank is worth 5 points.

The first reader to email me with the correct answers, thereby earning a score of 100%, will receive a bottle of one of my favorite rosé wines — a perfect way to end the summer. 🍷

1. A(n) _____ is not a vegetable; it is a fruit, specifically, a berry.
2. _____ is a key ingredient in bouillabaisse.
3. A peach, an apricot and a(n) _____ are drupes.
4. _____ is a spice derived from a crocus flower.
5. Stale bread is an important ingredient of traditional _____.
6. One of the ingredients of Dashi is _____ flakes.
7. The third most expensive spice in the world is _____.
8. The most used spice worldwide is _____.
9. _____ is produced from water buffalo milk.
10. _____ is also known as coriander.
11. _____ oil is used to attract honey bees.
12. _____ al Plin are rectangular shaped pasta packets.
13. _____ crabs are found in the Pacific Ocean.
14. A _____ is a savory custard.
15. A _____ is a South American fruit shaped like an artichoke.
16. _____ is a necessary ingredient of tabouleh.
17. Peru has a national holiday in honor of _____.
18. St. Germain is made from _____.
19. A _____ is a type of chili pepper.
20. _____ is a French emulsion.

Word Bank

| | |
|------------|-------------|
| zucchini | cappelletti |
| saffron | vanilla |
| bulgur | clove |
| pistou | almond |
| parsley | pecorino |
| zabaglione | rascasse |
| bonito | serrano |
| pepper | tomatillo |
| burrata | gazpacho |
| cilantro | cherimoya |
| cassis | paella |
| baccala | couscous |
| truffle | ceviche |
| eggplant | sardine |
| sformato | cardamom |
| lemongrass | boniato |
| dungeness | lavender |
| aioli | peekytoe |
| fig | agnolotti |
| branzino | elderflower |

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

Nominations Sought for 2014 Awards

The Delaware State Bar Association and the Awards Committee are seeking nominations for the following four awards* **:

- Daniel L. Herrmann Professional Conduct Award**
- Outstanding Service to the Courts and Bar Award**
- Distinguished Mentoring Award**
- Government Service Award**

These and other awards will be presented in a special Awards Luncheon on December 11, 2014 at the Hotel du Pont.

Awards Description

Daniel L. Herrmann Professional Conduct Award

Awarded to a member of the Delaware Bar who, over the course of time, has demonstrated those qualities of courtesy and civility which, together with high ability and distinguished service, exemplifies the Delaware lawyer.

Outstanding Service to the Courts and Bar Award

Awarded to a Delaware lawyer or judge who, by exemplary service to the Delaware Courts and the Delaware Bar, has substantially assisted the courts and the Bar and has strengthened public trust and confidence in the courts in the state of Delaware and the administration of justice.

Distinguished Mentoring Award

Awarded to a Delaware lawyer or judge who, by distinguished mentoring of other Delaware lawyers (or future lawyers) over a period of many years, has served as an inspiration to and a model for those lawyers in striving for and maintaining the highest standards in their professional careers and in their community involvement.

Government Service Award

Awarded to a full-time government service employee in recognition of dedicated and distinguished contribution to the Administration of Justice.

** These are not necessarily annual awards. All or some of these awards will be presented only upon the recommendation of the Awards Committee and approval by the Executive Committee of the DSBA.*

*** Please note that previous nominations must be renewed to be considered.*

Delaware State Bar Association Awards Nomination Form

Name of Candidate: _____

Title/Occupation of Candidate: _____

Award: _____

Date: _____

Nominator: _____

Phone: _____ Fax: _____ E-Mail: _____

Firm: _____

Address: _____

Brief statement of reasons that candidate is deserving of Award (see above Award criteria). Please attach sheet if necessary.

Nominations should be submitted to Rina Marks, Executive Director, e-mail rmarks@dsba.org or fax to (302) 658-5212 by September 26, 2014.

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Meghan A. Adams focuses her practice on corporate and commercial litigation. Her experience includes stockholder litigation, corporate governance, officer and director fiduciary obligations and the resolution of limited partnership and limited liability disputes. Ms. Adams is a 2014 Delaware Super Lawyers® Business Litigation Rising Star. During law school, she served as a Judicial Extern to the Honorable Myron T. Steele, then Chief Justice of the Supreme Court of Delaware. Ms. Adams graduated from Widener University School of Law in 2007 where she served as the Articles Editor for *The Delaware Journal of Corporate Law*. She received her B.S. in Business Administration from the University of North Carolina at Chapel Hill in 2003. Ms. Adams is admitted to practice law in Delaware and the United States District Court for the District of Delaware. She can be reached at madams@morrisjames.com or 302.888.6882.

Laura G. Readinger focuses her practice on electronic discovery in all aspects of litigation. Prior to joining Morris James, Ms. Readinger served as a law clerk in Ohio and an eData associate in Philadelphia. She was also an associate in Guatemala where she used her fluency in Spanish to review corporate contracts and act as a liaison with American clients. Ms. Readinger received her J.D. in 2007 from The Ohio State University Moritz College of Law, where she was awarded the Dean's Merit Award and the Academic Promise Award. She is a 2004 graduate of Cornell University, where she received her B.A. in Psychology with a Concentration in Law and Society. She is admitted to practice law in Ohio, Pennsylvania and New York and is also the Treasurer of the Hispanic Bar Association of Pennsylvania. Ms. Readinger can be reached at lreadinger@morrisjames.com or 302.888.6872.

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