



A NEWSLETTER FROM THE PENNSYLVANIA BAR ASSOCIATION COMMISSION ON WOMEN IN THE PROFESSION

Reflecting on discussions with fellow WIP members and colleagues

By Samantha Phillips, co-editor

As I was getting ready for work one morning a few weeks ago, I heard the anchors on “Good Morning America” mention Facebook COO Sheryl Sandberg’s new pursuit to ban the word “bossy.” I immediately began reflecting upon my discussions this past year with colleagues (especially at Commission on Women in the Profession events) about Sandberg’s renowned book, *Lean In*. At the Fall Retreat we had a long, engaging and in-depth book group discussion about *Lean In*, and I was able to learn what my friends and colleagues thought about it. I was also able to share my own thoughts, opinions and understanding of the messages Sandberg conveyed through her book. After pausing my hair-dryer for a moment to listen more attentively, I further wondered what my colleagues would think about her new “Ban Bossy” campaign.



Phillips

Sandberg, former Secretary of State Condoleezza Rice and Girl Scouts USA CEO Anna Maria Chávez launched a campaign to ban the word “bossy.” This campaign includes a website, ban-bossy.com, which gives tips to parents, teachers and kids on how to encourage and empower young female leaders.

The campaign also includes a public service announcement that features celebrities, including Beyonce, Jennifer Garner and Jane Lynch.

In an article published by the *Wall Street Journal*, Sandberg and Chávez recount memories of being called “bossy” as children. They believe it is a negative connotation directed at young girls and discourages them from raising their hands in class, leading activities and speaking up generally. They indicate the word carries a deep-rooted stereotype that boys are expected to be aggressive, opinionated and confident, while girls should stay quiet, compassionate and kind. The campaign, therefore, seeks to ban this word and hopes to promote the idea that instead of being called “bossy,” little girls should be told they have leadership potential.

Of course, with every public campaign there are critics. Some believe Sandberg’s intentions are good, but she is confused about what “bossy” really means. The *Kansas City Star* published an article written by Associated Press member Leanne Italie that noted the criticism surrounding the “Ban Bossy” campaign. Caroline Price, a 17-year-old junior from Massachusetts, was quoted in the article stating “...to me bossy isn’t the same as leadership. Bossy people aren’t people you want to follow.

Leaders inspire us to be better versions of ourselves. Bossy means ‘my way or the highway.’ Leadership is when someone listens and encourages others around them.” She also added that “leaders aren’t just the loudest — the bossiest. There are different kinds of leaders — and some lead more quietly, or by consensus or by example and so on.”

Other critics believe women leaders should “own” the word instead

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Reflecting on discussions with fellow WIP members and colleagues

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of demanding it be banned. Another woman suggested that being called "bossy" may be productive, as it actually allowed her to step back and reflect on how she was assessing situations in her work environment. Perhaps she was being too forceful in her requests of others or wasn't listening to her peers. Instead of immediately discounting the word, she suggests that maybe we should consider why others are challenging us with the label. Finally, this woman proposes that we might

teach little girls how to deal with being called names and other situations of adversity.

I really enjoyed hearing both the praises and criticisms of *Lean In* during WIP events this past year and am anticipating the same thoughtful discussions about "Ban Bossy" that will inevitably surround us in the near future. I certainly encourage you all to check out the website, PSA and maybe some articles so that you can form your own opinions and join a discussion or two during the Annual Meeting in May. 

Samantha E. Phillips, co-editor of Voices & Views, is a judicial law clerk to Judge Steven T. O'Neill of Montgomery County.

The editors of *Voices & Views* encourage our membership to contribute articles and announcements, including articles on your area of practice, topics relating to women and the law, book reviews, save-the-date notices, members in the news and photos of members at events.

Submission deadline:

Fall 2014 Edition: July 31, 2014

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From the co-chairs

By Roberta Jacobs-Meadway and
Lisa M. Benzie, co-chairs, PBA
Commission on Women in the Profession

The long winter has passed, finally, and the WIP is moving forward into the spring.

The spring retreats were well-attended and instructive and just plain practical on a topic of concern to all of us whatever the stage of our careers – getting a grip on our finances and financial planning.


We have some new programs to

look forward to, including our version of a book club, with discussion groups of manageable sizes in different areas that are set up so that people can participate in different ways, taking advantage of physical proximity in some instances and the available technology in other instances.

This new program is evolving from a suggestion that Bobbi Liebenberg made after the commission's Fall Retreat, and we are excited to see it move forward with many of our members taking active roles.

Looking ahead, we are going to be looking at GRIT, as an element in determining ability to succeed, and how we can be gritty or grittier. It may be that it is "smarter to be lucky than it is lucky to be smart," but grit may be no less a factor. Watch for more information.

And if there is a program we should consider, or an issue that is not being addressed, please consider bringing your thoughts, suggestions and energy to the Annual Meeting.

We are looking forward to spending time together with you there. 

Task force initiates Book Group discussions

By Bernadette M. Hohenadel


The Book Group discussion, focusing on the selected book *Lean In* by Sheryl Sandberg, at the Fall Retreat was a great success. Discussion was lively – both on the book and on a variety of related (and unrelated) topics. Due to the overwhelming positive response to the "Book Club" concept, a task force was created to explore continuing and expanding the program.

A new initiative to create opportunities for ongoing group discussions throughout the year and throughout the state has been launched. Several books will be chosen at various times during the year, generally corresponding with other WIP events. Members

of the task force will hold face-to-face group discussions at various locations throughout the state, and there will also be an online chat about the book for members unable to attend a face-to-face discussion.

The premiere will be this spring, with the goal of having many discussion groups throughout the state in mid- to late-April, followed by a report at the WIP Annual Meeting in May. For this initial discussion, the task force has chosen *Wonder Women: Sex, Power, and the Quest for Perfection* by Debora Spar, president of Barnard College, who will be the featured speaker at this year's WIP Annual Meeting luncheon. Having the opportunity to talk about her book and her observations will provide

great background and focus for her presentation at the Annual Meeting. And, as a bonus, Spar has agreed to sign books after the luncheon, so bring your personal copy.

Look for additional information on these group discussions to be circulated to all WIP members soon. Please join in the discussion – in person or online. And if you can't make this round, look for future book selections and discussion groups in the coming months. 

Bernadette McKeon Hohenadel is an attorney with Nikolaus & Hohenadel LLP, Lancaster, and chairs the Book Discussion Group Task Force with Mary Cushing Doherty of High Swartz LLP, Norristown.

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COMMISSION ON WOMEN IN THE PROFESSION 21ST ANNUAL CONFERENCE NEWS

Annual Conference Schedule: May 14, 2014

"Lean In, Lean On, Lean Forward"

Hershey Lodge, 325 University Drive, Hershey, PA 17033

WIP Registration Fee: \$145 (PBA Members)* – Includes Breakfast, WIP Annual Luncheon, Reception and access to WIP CLE Sessions. CLE credits are an additional cost.

*Non-Member Registration Fee, \$195; Law Student Registration Fee, \$40

8:00 a.m. – 9:00 a.m.

WIP Business & Breakfast Meeting

Commission Co-Chairs: Lisa M. Benzie, Esq., and Roberta Jacobs-Meadway, Esq.

9:15 a.m. – 10:15 a.m.

"The Leadership Ambition Gap/Sit at the Table" CLE 311

This session examines the trends and reasons low numbers of women compared to men are reaching the highest leadership levels in the legal profession and reflects on reasons why women hold back instead of climbing the legal ladder in significant numbers. The panel also explores the underlying factors that contribute to a woman's reluctance to sit confidently at the table and the advantages to assuming a rightful place at the table (both mentally and physically).

Panelists:

Hon. Joy Flowers Conti, U.S. District Court, Western District of Pa.
Sheryl L. Axelrod, Esq., The Axelrod Firm
Matthew J. Creme Jr., Esq., Nikolaus & Hohenadel LLP
Roberta D. Liebenberg, Esq., Fine, Kaplan and Black RPC

Moderator:

Roberta Jacobs-Meadway, Esq., Eckert Seamans Cherin & Mellott LLC

CLE Credit: 1.0 Ethics Hour

10:15 a.m. – 10:30 a.m. – Break

10:30 a.m. – 11:30 a.m.

"It's a Jungle Gym, Not a Ladder" CLE 312

This session explores the metaphor of the jungle gym as a vehicle for advancement for women in the profession. The discussion will include useful ways to rethink your legal career, practice areas, business development and networking.

Panelists:

Katayun I. Jaffari, Esq., Ballard Spahr LLP
Naomi K. McLaurin, Esq., Philadelphia Bar Association
Bridget E. Montgomery, Esq., Eckert Seamans Cherin & Mellott LLC
Helen H. Richardson, Esq., Canon USA Inc.

Moderator:

Katelyn Marie Matscherz, Esq., Jones Day

CLE Credit: 1.0 Ethics Hour

11:30 a.m. – 12:00 p.m.

"Morning Wrap-Up"

12:00 p.m. – 2:00 p.m.

Annual Luncheon

Featured Keynote Speaker: Debora L. Spar, President, Barnard College

Debora L. Spar became the seventh president of Barnard College on July 1, 2008. Since her arrival at the college, Spar has been a vocal proponent of women's education and leadership, spearheading initiatives that include the Athena Center for Leadership Studies, an interdisciplinary center devoted to the theory and practice of women's leadership, and Barnard's Global Symposium series, an annual gathering of high-profile and accomplished female leaders held each year in a different region of the world.

A political scientist by training, Spar's scholarly research focuses on issues of international political economy, examining how rules are established in new or emerging markets and how firms and governments together shape the evolving global economy. She is the author of numerous books, including *Ruling the Waves: Cycles of Invention, Chaos, and Wealth from the Compass to the Internet* (2001) and *The Baby Business: How Money, Science, and Politics Drive the Commerce of Conception* (2006). Her most recent book, titled *Wonder Women: Sex, Power and the Quest for Perfection*, was published in September 2013.



Awards Presentation

The Women in the Profession will award the prestigious Anne X. Alpern Award to **Hon. Marilyn J. Horan**, Butler County Court of Common Pleas, and the Lynette Norton Award to **Sarah C. Yerger, Esq.**, Post & Schell PC, Harrisburg, Pa.



Hon. Marilyn J. Horan



Sarah C. Yerger, Esq.

The MCLE programs for the 2014 PBA WIP 21st Annual Conference are presented in cooperation with the

PENNSYLVANIA BAR INSTITUTE
Continuing Education Arm of the Pennsylvania Bar Association
BRINGING EXCELLENCE TO CLE

Pennsylvania Bar Institute. The Pennsylvania Bar Institute is approved by the Pennsylvania Supreme Court CLE Board as an accredited CLE provider. The individual CLE programs for this conference have been approved for the number of credit hours indicated.

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2:15 p.m. – 3:15 p.m.

“Seek and Speak Your Truth” CLE 313

This session explores how we communicate to our clients, opposing counsel and others in our firms. It will look at the authenticity of our communication, how we offer and solicit feedback, how expressing our emotions in the workplace can be viewed, how we can use humor effectively and when it is inappropriate, and how we separate our personal from our professional lives.

Panelists:

Hon. Susan Peikes Gantman, President Judge, Superior Court of Pennsylvania
 Hon. Sallie Updyke Mundy, Superior Court of Pennsylvania
 Linda Kaiser Conley, Kaiser Conley Consulting Services LLC
 Monica Gould, Strategic Consulting Partners

Moderator:

Jennifer L. Ellis, Esq., Lowenthal & Abrams PC

CLE Credit: 1.0 Substantive Hour

3:15 p.m. – 3:30 p.m. – Break

3:30 p.m. – 4:30 p.m.

“The Myth of Doing It All” CLE 314

This panel will discuss how lawyers should address perfectionism and whether doing it yourself is better than doing it well, how to effectively set boundaries between practice and personal life and set your schedule, the effect of your legal work on your familial and personal relationships, the use of parental leave and how to reward yourself.

Panelists:

Rachel Allen, Esq., Rachel Lorey Allen PC
 Sara A. Austin, Esq., Austin Law Firm LLC
 Kelly Phillips Erb, Esq., The Erb Law Firm PC
 Kathleen D. Wilkinson, Esq., Wilson Elser Moskowitz Edelman & Dicker LLP

Moderator:

Stephanie D. Taylor, Esq., Jones Day

CLE Credit: 1.0 Ethics Hour

4:30 p.m. – 5:00 p.m.

“Afternoon Wrap-Up”

5:00 p.m. – 6:00 p.m.

WIP Reception & Networking Opportunity

(Speakers are current at time of printing but are subject to change)

Public Service Committee Project:

At the Annual Conference, the PBA Commission on Women in the Profession Public Service Committee will collect in-kind and monetary donations for the Central Pennsylvania Food Bank, which serves 27 counties in central Pennsylvania. Annually, it distributes more than 28 million pounds of food and grocery products – more than 23 million meals – to more than 800 soup kitchens, shelters and food pantries. To read more about the project and what is needed, visit <http://www.pabar.org/public/committees/wom01/meetings/Food%20Bank%20flier.pdf>.

Any questions can be directed to the co-chairs of the Public Service Task Force, Alison Wasserman (awasserman@vlawpractice.com) or Kristen Sinisi (kristen.sinisi@gmail.com). If you are unable to attend the meeting, please consider partnering with another WIP member who is attending and can deliver your contributions.



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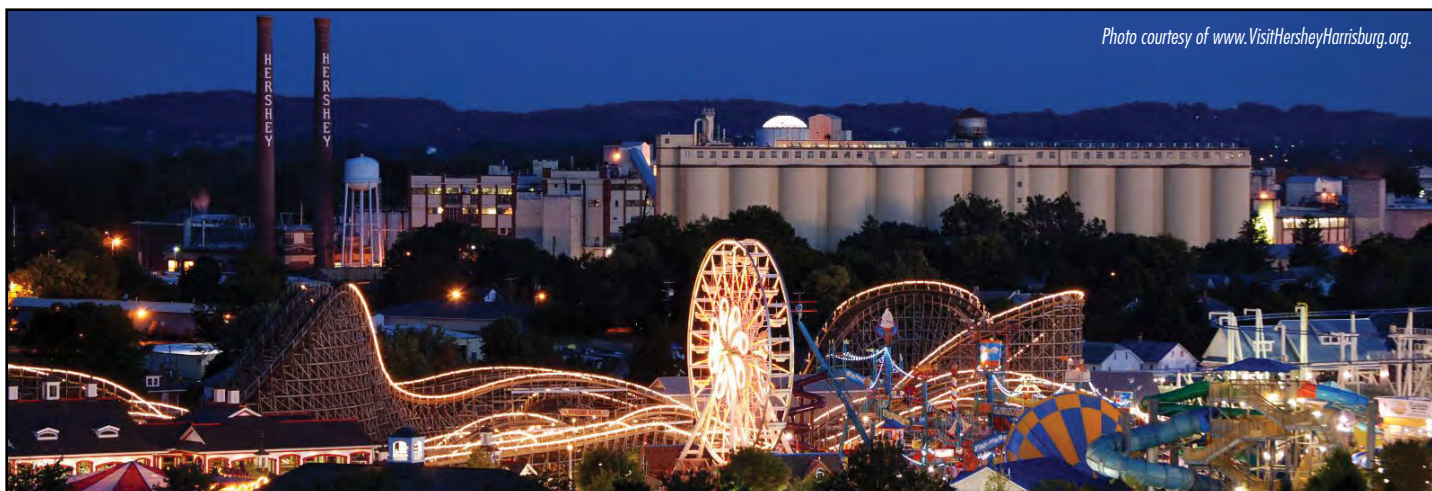


Photo courtesy of www.VisitHersheyHarrisburg.org.

COMMISSION ON WOMEN IN THE PROFESSION 21ST ANNUAL CONFERENCE NEWS

2014 Anne X. Alpern Award Recipient: Hon. Marilyn J. Horan

The Pennsylvania Bar Association Commission on Women in the Profession will present its annual Anne X. Alpern Award to Judge Marilyn J. Horan, Butler County Court of Common Pleas.

The Alpern Award is presented annually to a female lawyer or judge who demonstrates excellence in the legal profession and who makes a significant professional impact on women in the law. Established in 1994, the award was named for Anne X. Alpern, Pennsylvania's attorney general in 1959 and the first woman state attorney general in the nation.

Horan is the first female judge on the Butler County court. Since June 1996, she has presided over all matters of Common Pleas jurisdiction, including civil and criminal case management and trials, Family Court, Orphans' Court and governmental agency appeals. She also has served the court in various committee and administrative leadership capabilities.

Horan identified the need for specialty courts, specifically the need for a credit conciliation program to assist Butler County residents facing financial legal issues. Working with members of the Butler County Bar Association and housing counselors, the program called the Credit Crunch Collaborative has enabled 70 percent of those facing foreclosure or financial harm to remain in their homes and improve their economic status.

Horan has been active in local and state professional and civic organizations throughout her career.

She has supported the work of the Juvenile Court Judges' Commission, the Judicial Conduct Board and the Pennsylvania Conference of State Trial Judges. She is a member of the Pennsylvania Bar Association and its Civil Litigation Section. From 2006 to



Hon. Marilyn J. Horan

2011, she was a member of the PBA Judicial Administration Committee. She is a member of the Women's Bar Association of Western Pennsylvania and the Butler County Bar Association. She served as secretary of the Butler County Bar Association from 1981 to 1985.

Horan has lectured at numerous local and state educational programs and has mentored young women entering the workforce. She has been a lecturer and facilitator of seminars for the Pennsylvania Bar Institute, the educational arm of the PBA. She has been a presenter at mentoring programs at Slippery Rock University, including the Powerful Connections for Women Conference. She helped found Women United, a women's leadership initiative of the United Way of Butler County that develops women's leadership skills and provides mentoring sessions for high school students.

She created the "Introduction to Lawyering Program," which helps

newly admitted members of the bar transition from students and successful practitioners.

Since 2008, she has served on the Butler County Family YMCA's Board of Managers. Also since 2008, she has served on the Board of Governors for the University of Pittsburgh Law School Alumni Association. She is a founder of the Butler County Emergency Relief Initiative that assists families with utility and housing needs. She serves on the Board of the Community Health Clinic of Butler County. In the past, Horan has served on the boards of the American Cancer Society, YWCA and the Center for Community Resources, among others.

She has been a recipient of a number of awards, including a 2012 PBA Pro Bono Award; the 2012 Distinguished Citizen Award from the Moraine Trails Council of the Boy Scouts of America; the 2006 Susan B. Anthony Award from the Women's Bar Association of Western Pennsylvania; the 2005 Outstanding Leadership Award from the Juvenile Court Judges' Commission; the 2004 President's Award from the State Trial Judges Association; the 1998 Woman of Distinction Award from the Soroptimist International of the Americas; and the 1996 Hestia, Outstanding Woman Service Award from Domestic Violence Services, now known as the Victim Outreach Intervention Center, in Butler. Horan and her husband, Joseph W. Caparosa, received the Parents of the Year Award for Butler County from the National Parents' Day Foundation in 1999, 2005 and 2007.

Prior to joining the Butler County Court of Common Pleas, Horan was a partner in the law firm of Murrin, Taylor, Flach and Horan. Horan holds degrees from Penn State University and the University of Pittsburgh School of Law.



COMMISSION ON WOMEN IN THE PROFESSION 21ST ANNUAL CONFERENCE NEWS

2014 Lynette Norton Award Recipient: Sarah C. Yerger, Esq.

The Pennsylvania Bar Association Commission on Women in the Profession will present its annual Lynette Norton Award to Sarah C. Yerger of Post & Schell PC, Harrisburg.

The Norton Award was created in memory of Lynette Norton, a founding member of the PBA Commission on Women in the Profession who died in 2002. Norton was an advocate for young women in the legal profession and worked to promote literacy and women's rights. The award is designed to recognize and encourage female attorneys who excel in litigation skills and who are devoted to mentoring female lawyers.

A principal in Post & Schell's Commercial Litigation Practice Group, Yerger represents the firm's business partners in affirmative and defense commercial and constitutional litigation and trial practice, professional licensure law, regulatory compliance and litigation, and employment defense litigation and trial practice.

Active in numerous professional and community activities, Yerger is the current president of the James S. Bowman American Inn of Court. She has served as an officer to the Middle District of Pennsylvania Chapter of Federal Bar Association and as a coordinator of a Gifts for Kids program



Sarah C. Yerger, Esq.

that provides holiday presents for children in the foster care system.

Yerger has been named The Legal Intelligencer's 2014 Women of the Year. In 2013, Yerger received the James S. Bowman American Inn of Court's Platinum Excellence Award. In 2010, she received the Women Who Care Award from Open Stage of Harrisburg. In 2008, she received the American Heart Association's Spirit of the Heart Award and was named the 2003 "Volunteer of

the Year" by the association's Capital Region Division. She was named the 2005 "Government Lawyer of the Year" by the Pennsylvania Bar Association's Government Lawyers' Committee.

Yerger is a past co-chair and co-vice chair of the PBA Commission on Women in the Profession and served as co-chair for several of the commission's subcommittees that planned conferences and retreats. She also is a past co-vice chair of the Professional Development Subcommittee of the PBA Government Lawyers Committee.

She has mentored female and male attorneys and participated in Widener University School of Law's Mentoring Program.

Prior to joining Post & Schell, Yerger served as senior deputy attorney general in the Pennsylvania Office of Attorney General. For more than a decade, she represented and counseled state agencies and employees involved in federal and state court litigation.

Yerger also previously served at the Pennsylvania Department of Labor and Industry as assistant counsel for Employment Security and as assistant counsel for the Unemployment Compensation Board of Review.

Yerger graduated with honors from Juniata College and Widener University School of Law.



ABOUT THE WIP 21ST ANNUAL CONFERENCE AWARDS LUNCHEON

The Anne X. Alpern Award and the Lynette Norton Award will be presented at the WIP's 21st Annual Conference on May 14 during a luncheon featuring Barnard College President Debora L. Spar. Since her arrival at the college in 2008, Spar has been a vocal proponent of women's education and leadership, spearheading initiatives that include the Athena Center for Leadership Studies, an interdisciplinary center devoted to the theory and practice of women's leadership, and Barnard's Global Symposium series, an annual gathering of high-profile and accomplished female leaders held each year in a different region of the world. A political scientist by training, Spar's scholarly research focuses on issues of international political economy, examining how rules are established in new or emerging markets and how firms and governments together shape the evolving global economy. She is the author of numerous books, including *Ruling the Waves: Cycles of Invention, Chaos, and Wealth from the Compass to the Internet* (2001) and *The Baby Business: How Money, Science, and Politics Drive the Commerce of Conception* (2006). Her most recent book, titled *Wonder Women: Sex, Power and the Quest for Perfection*, was published in September 2013.



2014 WIP Spring Conferences

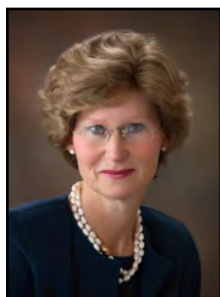
By Elizabeth G. Simcox

Following a great PBA Commission on Women in the Profession Fall Retreat at The Hershey Hotel in November, the Spring Conference Committee was fortunate to enlist the wisdom of Tara Mashack-Behney, president of Conrad Siegel Investment Advisors, to discuss the topic of women and finance. Four presentations in Mechanicsburg, Philadelphia, Pittsburgh and Scranton were held, titled "Purse Strings: Empowering Women to Get a Handle on Investing," and these were both informative and eye-opening. As professional women, the topic of finance is important not only in our practices but also in our personal lives. Women are statistically more likely to outlive men, and so the job of financial management will most certainly fall on their shoulders. Women are also traditionally caregivers for elderly family members and understanding finance basics in these situations is critical. Mashack-Behney was able to provide useful, understandable information and tips that left the audience with something to think about as they left the event.

Receptions were held at all locations, and it was a nice time to see friends and colleagues and also learn something new that many of us choose to put off and worry about later. Well, later comes quickly as we all know, and we hope this will prompt all of us to be savvier about our financial health!



Elizabeth G. Simcox is the executive director of the Dauphin County Bar Association in Harrisburg. She co-chairs the PBA WIP Spring Conference Committee along with Kathryn L. Harrison and Andrea Tuominen.



A scene from the Mechanicsburg Spring Conference.



Philadelphia



Pittsburgh



Scranton

Going places. Going strong.

By Kristen Sinisi

During the Spring Conferences, the Commission on Women in the Profession partnered with local chapters of Dress for Success from across the commonwealth. DFS is an international non-profit which seeks to promote the economic independence of disadvantaged women by providing them with professional attire, a support network and the career-development tools necessary to help them thrive in the workplace and in life. By offering clients appropriate work apparel and development tools, such as interview preparation and career-retention programs, DFS helps clients acquire and maintain employment. Since 1997, DFS

has served more than 700,000 women around the world.

Through your support, the WIP has empowered Pennsylvania women and provided them with the tools required to ensure that they are *Going Strong*. Thank you for your generosity. If you were unable to attend the Spring Conferences or wish to make an online donation, you may do so by visiting the local chapters' websites, provided below:

Lackawanna: www.dressforsuccess.org/affiliate.aspx?sisid=34&pageid=1

Mechanicsburg: www.dressforsuccess.org/southcentralpa

Philadelphia: www.dressforsuccess.org/philadelphia

Pittsburgh: www.dressforsuccess.org/affiliate.aspx?sisid=107&pageid=1



Kristen Sinisi graduated magna cum laude from the Catholic University of America's Columbus School of Law in 2011. She is an associate at Angino & Rovner PC, where she works on a variety of complex civil-litigation matters, including medical malpractice, products liability, insurance liability and employment cases.

Report of the Membership Committee

By Amy J. Coco

It is now easier for WIP members to reach out to and communicate with each other. The new, revamped WIP Directory on the PBA website is up and running. It is easier to use and integrates in real-time with PBA membership records. When a WIP member makes a change to her name, address, firm or phone number in her PBA membership file, that change will automatically transfer to the WIP Directory as well. Last year, the Membership Committee began looking at whether an online directory was feasible just at the time PBA was undergoing IT changes, which ultimately made the directory a reality.

Some of the new features of the directory include the ability to search

for members by name, city, county and area of practice. The profile includes the year the member was admitted to practice and members can add a photo. Although other committees have access to an online directory now, many of these new features are currently exclusive to the WIP. By now, members should have received an email with detailed instructions to access the WIP Directory. It is found on the PBA website after logging in with your user ID and password. Under the "My Dashboard" category, members access the "Women in the Profession" link, under "My Committees." That link opens the WIP Directory at the "Search" page where the search criteria can be selected.

PBA and the WIP Membership Committee hope that you find this new version of the WIP Directory to be both

helpful and useful. Ursula Marks and Tameka Altadonna were instrumental in getting this new WIP Directory in place. If there are any problems accessing the directory, please contact them at ursula.marks@pabar.org or tameka.altadonna@pabar.org.



Amy J. Coco is a partner at Weinheimer, Schadel & Haber PC in Pittsburgh, and her practice focuses on representing lawyers and other professionals in professional liability matters. She, along with Andrea

Tuominen and Jessica Priselac, co-chair the Membership Committee.

Summary of discussion at recent WIP Legislative Committee Meetings

By Kathy M. Manderino and
Alexis L. Barbieri

The Legislative Committee of the Commission on Women in the Profession meets by conference call every fourth Thursday of most months. At each meeting, the first order of business for the committee is a report from Fred Cabell about legislation that is of interest and being followed by the PBA. In addition, there are bills brought to the attention of the members of the WIP Legislative Committee, because they concern gender issues. The past several meetings have included discussions of the following bills:

SB 84 (Greenleaf), legislation on Deficiency Judgments.

<http://www.legis.state.pa.us/cf-docs/legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2013&sessInd=0&billBody=S&billTyp=B&billNbr=0084&pn=0049>. This bill is supported by the PBA and is being promoted by the Real Property, Probate & Trust Law Section. Passage is expected this term.

HB 1808 (Masser), amending adverse possession law to address urban blight issues.

<http://www.legis.state.pa.us/cf-docs/billInfo/billInfo.cfm?sYear=2013&sInd=0&body=H&type=B&bn=1808>, which reduces certain procedural protections from 21 to 10 years. The future of this bill is uncertain.

SB 21 (Ward) expands list of mandated reporters under child protection law.

<http://www.legis.state.pa.us/cf-docs/billInfo/billInfo.cfm?sYear=2013&sInd=0&body=S&type=B&bn=0021> It adds language covering attorneys who represent institutions that care for children. Very broadly written; it's not clear what the proposed language means. The PBA is opposed to attorneys as mandated reporters and is watching all legislation in which the issue arises. Committee member Tam-

my Lesh said that other jurisdictions do include attorneys as mandated reporters. A discussion ensued regarding the issues of client confidentiality. Also noted, is that Pennsylvania is different than other jurisdictions in that the conduct of attorneys is regulated by the Supreme Court and not by the Legislature. So, any attempts by the legislative branch to regulate conduct of attorneys, raises a red flag. Rep. Kate Harper has an amendment that would allow attorneys to report suspected child abuse, subject to certain limitations regarding the code of conduct.


SB 1195 (Gordner), amending the law regarding the Uninsured Employers Guaranty Fund.

<http://www.legis.state.pa.us/cf-docs/billInfo/billInfo.cfm?sYear=2013&sInd=0&body=S&type=B&bn=1195>. This fund covers employers that do not have to pay unemployment and are in financial jeopardy. The bill would add \$4 million to the funds and make administrative changes to how it is administered. The PBA opposes some of the administrative changes as violating clients' due process rights and is working with Sen. John R. Gordner to try to address the concerns.

HB 1734 (Oberlander).

<http://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2013&sInd=0&body=H&type=B&bn=1734>, seeks to repeal a law passed in 2012 requiring the reporting of the dollars spent on sports for girls and boys in public schools across the state. Arline Lotman has discussed her concerns about this with Sue Frietsche of The Women's Law Project, which is opposed to repealing the reporting requirements. At this point, the bill appears to be dormant, but the WLP will continue to watch it. Paula Knedsen reported that the first data from school districts was made available in November, although school districts are complaining that it is time-consuming to gather and report. Members of the

WIP Legislative Committee believe that the reporting is important to ensure a level playing field for girls playing sports and to have access to scholarship money for college.

A few months ago, when it appeared that the repeal legislation might be moving, our Legislative Committee used the WIP listserv to notify women attorneys of the bill in case they wanted to take individual action. (This legislation has not been vetted through the PBA process; there is no PBA position on it.) A few WIP members who are not on the Legislative Committee commented in response to the listserv that they would like the WIP to take this issue through the PBA vetting process. After a discussion of such and no volunteers within the Legislative Committee to do the report and resolution drafting, Kathy Manderino volunteered to put the issue out on the WIP listserv again to see if any WIP members would volunteer to chair and/or serve on an ad hoc committee to prepare and present a report of the issue to the full WIP Commission, which is the first step in the PBA vetting process. As of now, only one person volunteered to be on a task force to do the necessary report and resolution drafting. Until we get a few more volunteers, we will continue to suggest that those who are interested consider individual action. We will continue to monitor this bill through contacts with The Women's Law Project. 

Kathy M. Manderino is senior vice president of Intercommunity Action, intercommunityaction.org. She can be reached at 215-487-0914, ext. 3002, or kmanderino@intercommunityaction.org. Alexis L. Barbieri can be reached at 215-292-6784 or alexis.barbieri@verizon.net.

Getting to know PBA Diversity Officer Trent Hargrove

By Karen Ulmer Pendergast

Did you know that the Pennsylvania Bar Association has a diversity officer? If so, have you asked what this title means?

The position of diversity officer is a fairly new position within the PBA. It was created upon the recommendation of the PBA Diversity Task Force and was unanimously approved by the PBA Board of Governors on Nov. 17, 2010. Beyond the existence of this appointment within the PBA, its example is seen throughout the U.S. in state governments, colleges and universities.

When Trent Hargrove began his tenure as PBA diversity officer on Jan. 2, 2014, he brought with him five years of experience as chief diversity officer with the Rendell Administration. Not only was Hargrove the first chief diversity officer of the commonwealth, he also was seminal in creating a model for the position for other states to follow.

Hargrove began his academic career in the Harrisburg public school system. At an early age, however, he was recognized for his academic acumen and was awarded a full scholarship for academics to the McDonogh Boarding School in Maryland. Hargrove returned to Pennsylvania to pursue his higher education, graduating from Bucknell University and Dickinson Law School. While a student at Bucknell, Hargrove's passion for activism led him to change his major from engineering to political science and psychology. He also served as president of the student government at Bucknell.

After graduating from law school, Hargrove gained experience in many diverse areas of law, specifically at the Office of the Attorney General, as chief counsel to the Department of General Services, and in private practice handling real estate and municipal law, including the development of Strawberry Square in Harrisburg while at the Harrisburg law firm of McNees, Wallace and Nurick.

After starting his family, Hargrove



Trent Hargrove

made a decision to return to public service. During this phase of his career, he worked for the Department of Transportation and for the Attorney General as chief deputy attorney general within the Civil Rights Enforcement Section and Public Protection Division. Not only did Hargrove's unique experience and diverse background in both the public and private sectors lead to his appointment as the chief diversity officer for the state of Pennsylvania, it also enabled him to identify the issues that needed to be addressed by a diversity officer.

His career-long involvement in the PBA has given him a unique understanding of the structure and workings of the PBA. Hargrove has been a member of the PBA Minority Bar Committee and Government Lawyers Committee. He also has served on the PBA Civil Rights and Responsibilities Committee and the PBA Legal Services to Persons with Disabilities Committee.

Hargrove views his diversity officer position as one that involves not only services to the PBA but to the community as a whole. According to Hargrove, part of his mission is to find ways to meet the legal needs of the state's demographic populations through PBA member participation. His goal is to teach PBA members how they can provide better services and meet the needs of a diverse population regardless of race, color, religion or sexual orientation, gender, age or national origin. Hargrove believes that when diversity exists, it has the potential to change the approach an individual or group may have based on the particular aspects of the diversity itself.

He recalls that his law professor told him that the greatest treason was doing something right but for the wrong reason. He feels that as the PBA diversity officer, he is able to do some-

thing right for the right reason. "I am inspired by service to the public and to the profession," he said.

Hargrove has been busy meeting with various PBA committees and leaders. He attended the annual Conference of County Bar Leaders meeting in February, during which time he was able to identify the need for educational processes on how to deliver services to a diverse population. He hopes to create a toolkit for local bar associations to help meet these needs in their own communities.

He has met with affinity bars, such as Latino, Hispanic and Asian-American bars, to discuss issues and identify strategies. He also is in the process of examining diversity models implemented in other states. Hargrove participates in the listserv of the American Bar Association for diversity professionals, which enables many leaders in the diversity field throughout the country to exchange and implement ideas currently employed by other state bar associations. In addition to his duties as PBA diversity officer, Hargrove maintains his private practice in Harrisburg, where he focuses in the areas of procurement, administrative law, leases and diversity management and inclusion law and practice.

Hargrove encourages lawyers to become involved in the PBA and recommends that lawyers interested in becoming PBA leaders apply for nomination to the Bar Leadership Institute or become involved in the PBA's committees and sections. More information on the PBA diversity officer and the office's missions and goals can be found at www.pabar.org/public/diversity/diversityteam.asp.



Karen Ulmer Pendergast is an attorney at Karen Ann Ulmer PC, practicing in the area of family law with offices in Langhorne and Doylestown.

The changing landscape of legal issues of same-sex marriage

By Mary Sue Ramsden

UNITED STATES *v.* WINDSOR: THE LANDMARK SUPREME COURT CASE

Nearly everyone is aware of the landmark U.S. Supreme Court *Windsor* decision, issued on June 26, 2013, since it has received such widespread publicity. The facts of *Windsor* are simple. Two women, Edith Windsor and Thea Spyer, were involved in a relationship dating back to the 1960s. They were residents of the state of New York, and when New York permitted same-sex couples to register as domestic partners in 1993, they did so. However, in 2007, due to health concerns, the women went to Canada and entered into a marriage that was legally recognized and valid in Canada. In 2009, Spyer died, leaving her entire estate to Windsor. Federal estate inheritance taxes were assessed on the assets inherited by the surviving spouse in the amount of approximately \$363,000.

The basis for the refusal to recognize the same-sex marriage, entered into in Canada and ultimately resulting in the assessment of the federal estate tax was the existence of a federal statute: namely the Defense of Marriage Act (DOMA). The federal DOMA was signed into law by President Clinton on Sept. 21, 1996. DOMA precluded recognition of the same-sex marriage, and as a result, Windsor therefore did not qualify for the marital exemption from federal estate tax. The assessment of the federal estate taxes was appealed, culminating in the U.S. Supreme Court ruling in *Windsor*.

Justice Kennedy wrote the opinion for the majority and was joined by Breyer, Ginsburg, Sotomayor and Kagan. The majority discussed at great length the fact that it is the traditional right of the states to define and regulate marriage, and that Section 3 of DOMA intrudes upon this state right. While New York specifically sought to protect same-sex couples who chose to

marry, DOMA infringed upon its ability to do so. Therefore, the Supreme Court found that DOMA violated basic due process and equal protection principles, although it declined to address the standard of equal protection review that it applied in order to reach that decision.

After review, the U.S. Supreme Court struck down Section 3 of the federal Defense of Marriage Act (DOMA) which had barred the federal government from recognizing otherwise valid same-sex marriages. After the U.S. Supreme Court opinion in *Windsor*, there has been a landslide of cases throughout the nation, including a number of cases in Pennsylvania, in both federal and state court that will dramatically affect same-sex married couples across the commonwealth.

PENNSYLVANIA CASES

Commonwealth v. Hanes. After the U.S. Supreme Court decided *Windsor*, wherein Section 3 of DOMA was found to be unconstitutional, D. Bruce Hanes, the register of wills and clerk of Orphans' Court for Montgomery County, began issuing marriage licenses to same-sex couples in Pennsylvania. The Pennsylvania Department of Health filed a Writ of Mandamus to enjoin Hanes from issuing further marriage licenses to same-sex couples and also from waiving the three-day waiting period before a license can be issued. On Sept. 12, 2013, Commonwealth Court Judge Dan Pellegrini granted summary judgment relief for peremptory judgment in mandamus, directing Hanes to comply with all provisions of the Pennsylvania Marriage Law and to cease and desist from issuing marriage licenses to same-sex couples. An opinion in support of the Sept. 12, 2013, order followed on Sept. 23, 2013. An appeal was filed to the Pennsylvania Supreme Court on behalf of Hanes. Briefs have been filed with the Pennsylvania Supreme Court and an argument is expected to be held in the very near fu-

ture. As of this writing, an argument date has not yet been scheduled. The results of this Pennsylvania Supreme Court case will have far-reaching consequences to couples seeking to marry in the state of Pennsylvania.

Whitewood et al v. Corbett. The *Whitewood* case, filed in the United States District Court for the Middle District of Pennsylvania, is a direct federal challenge of the Pennsylvania DOMA legislation based upon Due Process and Equal Protection arguments. In this case a Complaint for Declaratory and Injunctive Relief was filed in federal court on behalf of Pennsylvanians directly challenging the Pennsylvania DOMA statute. Plaintiffs in *Whitewood* argue that the Pennsylvania DOMA should be subjected to heightened scrutiny because of the burden that it places on the fundamental right of individuals to marry, and that DOMA discriminates based on sex and sexual orientation. In a highly publicized move, Attorney General Kathleen Kane has refused to defend the Pennsylvania DOMA statute, stating that it is "wholly unconstitutional."

Federal Court Judge John E. Jones III has been assigned to hear the case. In November 2013, various Motions to Dismiss the case were denied by Jones. Defendants thereafter filed a motion seeking the court to amend and certify the November order for an immediate appeal. To date, there has been no ruling on the request for certification. A trial has been scheduled in this case for June 2014.

Ballen et al v. Corbett, Kane & Wolf. In this case, plaintiffs, who had obtained marriage licenses issued by Hanes and who subsequently married in Pennsylvania, filed a Petition for Review in the Nature of a Civil Complaint seeking to declare their marriages to be valid and seeking to hold the Pennsylvania DOMA statute to be

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unconstitutional. This case was filed in the Commonwealth Court for the Middle District of Pennsylvania. In January 2014, Judge Pellegrini issued a decision permitting Kathleen Kane and Gov. Tom Corbett to be excused from the suit. Pellegrini is quoted as saying, "The attorney general's position is specific, she believes that the law is unconstitutional, and the governor's position is that he thinks the law is constitutional, which sets up the issue pretty well." Preliminary objections and briefs have been filed, but no decision has been rendered.

Cozen O'Connor v. Tobits, et al. In this case out of the U.S. District Court for the Eastern District of Pennsylvania, a Memorandum Opinion and Order was filed on July 29, 2013, by Judge Jones III finding in favor of the same-sex spouse and ordering that the proceeds of the wife's profit-sharing plan with Cozen O'Connor be distributed in full to the surviving spouse, Ms. Tobits. Now that the U.S. Supreme Court has struck down portions of the federal DOMA as unconstitutional, federally regulated retirement and benefit plans must now recognize same-sex married couples in determining eligibility for such spousal benefits.

The results of these pending Pennsylvania cases, in both state and federal court, will dramatically affect the rights of same-sex couples who have legally married in states that permit such marriages.

YOU CAN GET MARRIED, BUT CAN YOU GET DIVORCED?

As a family lawyer, I find this question to be most interesting! But as with all issues discussed in this article, the answer to this question may well change from day to day, depending upon results of lawsuits filed both in federal and state courts in Pennsylvania and in other states.

Currently, as a result of the Pennsylvania DOMA, the Commonwealth of Pennsylvania does not recognize same-sex marriages, even if said marriages are valid in other states and are recognized as valid by the U.S. government. Pennsylvania residents who have traveled outside the commonwealth to get married, cannot get divorced in Pennsylvania. Some states that permit nonresidents to travel to their state to get married will allow those couples to return to their state for their divorces, but not all states will permit this. Again, the list of states that will permit a nonresident to get a divorce in their state could change rapidly. Some of the states that will permit a Pennsylvania resident to come to their state to get a divorce, if the couple married in that state, and if the state in which they reside does not permit them to divorce, are the following: California, Delaware, Hawaii, Minnesota, New Hampshire and Washington, D.C. Every state imposes different requirements as to what is required in order to obtain a divorce in that state. Some states waive the requirements that you reside in that state for some period of time before they will grant a same-sex divorce, and some will not. So careful attention should be paid to this issue if one is deciding to travel out of Pennsylvania to get married, since your choice of venue for the marriage can actually dictate whether or not you will be able to get a divorce!

"IN THIS WORLD NOTHING CAN BE SAID TO BE CERTAIN, EXCEPT DEATH AND TAXES."

Benjamin Franklin.

INCOME TAX ISSUES: Lawyers who concentrate their practice in tax and related issues will be familiar with these issues, but the issues involved here are so important, and will affect many clients, friends and family, so every lawyer should have some basic knowledge about these matters. Because of *Windsor*, the federal government now recognizes same-sex marriages which have been entered into in states and countries that permit such marriages. For federal tax purposes, the IRS looks to state or foreign law to determine whether individuals are

married. The IRS has a general rule recognizing a marriage of same-sex spouses that was validly entered into in a domestic or foreign jurisdiction whose laws authorize the marriage of two individuals of the same-sex, even if the married couple resides in a domestic or foreign jurisdiction that does not recognize the validity of same-sex marriages.

As a result, same-sex married couples are required to file federal income tax returns as married persons if they were married on or before Dec. 31 of the tax year and will be treated as married, even if they reside in a state that does not recognize same-sex marriages. For Pennsylvania residents, this creates an interesting and bizarre dilemma, where a couple must file a FEDERAL income tax return as married or married filing separately. However, the couple is still considered unmarried for purposes of filing a state income tax return and must file Pennsylvania income tax returns as single taxpayers!

It is permissible for couples to amend their previously filed federal income tax returns, going back three years, in order to file as MARRIED, if the couple was indeed legitimately married in a jurisdiction that permitted such marriage in those years. There is, however, no requirement that a couple amend prior returns. For some couples, amending returns will make financial sense, and for others it will merely cause a lower-income spouse's income to be taxed in the higher-earning spouse's income tax bracket. Good tax advice will be needed to make these decisions.

INHERITANCE TAX ISSUES: Because Pennsylvania still does not recognize same-sex marriages, couples who are married in states that permit such marriages and which couples are required to file federal income tax returns as "married" persons will still be treated as virtual strangers when they inherit from their spouses! This will result in inheritance tax of 15 percent on all assets that they inherit from their spouse, as opposed to opposite-sex couples, who generally pay no state inheritance tax on assets that they inherit from their spouse. Hopefully it will not

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take long for our courts or Legislature to recognize the inherent inequity of this result and change our laws accordingly. Through careful estate planning, these inheritance taxes can be lowered by, for example, putting assets in joint names and having such assets be taxed only on 50 percent of that asset. But taking this action is not necessarily always the best option. Consider this scenario: Spouse A, who has assets of \$2 million, marries Spouse B. In order to try to avoid inheritance taxes for Spouse B in the event of Spouse A's death, Spouse A puts the assets in joint names. Then Spouse B dies. Spouse A will be compelled to pay \$150,000 in inheritance taxes on his or her own assets (15 percent inheritance tax on \$1 million) as a result of having put Spouse B's name on those assets! Other important considerations are what, if any, gift taxes will be incurred as a result of transferring assets to a same-sex spouse in states that do not recognize same-sex marriage.

STRATEGIC PLANNING: The above issues are only some of the things that need to be considered by same-sex couples who are married or are considering marriage, and as lawyers we need to be aware of the myriad of financial issues and potential pitfalls that exist. All options should be addressed and considered. Revocable trusts will avoid probate for the same-sex surviving spouse, which has some benefit, but because it is revocable, the trust assets will still be taxed at 15 percent for Pennsylvania residents. Irrevocable trusts can potentially avoid inheritance taxes, but careful consideration should be given to the fact that it is "irrevocable" and what the effect will be in the event of a subsequent separation. Since *Windsor*, spouses will qualify for marital deductions, and inherited federal retirement benefits may not be taxed for federal estate tax purposes, but the inheritance will still be subject to 15-percent state inheritance taxes in Pennsylvania. Another impor-

tant consideration for same-sex couples is the issue of life insurance. Life insurance can be the safety net for a surviving spouse, who otherwise may not have sufficient liquid assets to pay the 15-percent inheritance taxes on the assets that he or she inherits from his or her spouse in Pennsylvania. In some instances, life insurance may well be a better option than placing all assets in joint names.

PRENUPTIAL AGREEMENTS:

The divorce rate for heterosexual couples is extremely high. More than 50 percent of first marriages end in divorce, and two-thirds of second and subsequent marriages end in divorce! It remains to be seen whether the success rate of same-sex couples will be better, worse or the same. So while carefully crafted prenuptial agreements should be considered by all couples, this may be an especially important consideration for same-sex couples. By addressing these complex financial issues in advance, you can not only avoid unnecessary litigation later, but you can also be proactive in protecting both spouses in the event of separation, divorce or death.

OTHER IMPORTANT ISSUES:

FEDERAL RETIREMENT PLANS: It is very important for employers to know that the *Windsor* U.S. Supreme Court decision places new requirements on employers or retirement plan administrators as it relates to certain retirement plans. Pursuant to Revenue Ruling 2013-17, a qualified retirement plan must treat a same-sex spouse as a spouse for purposes of satisfying the federal tax laws relating to qualified retirement plans. Simply put, all qualified retirement plans must recognize a same-sex marriage that was validly entered into in a jurisdiction whose laws authorize the marriage, even if the couple lives in a state that does not recognize the validity of the marriage. The effective date for implementation of these requirements is Sept. 16, 2013, so law firms and businesses of all types must review the terms of their existing retirement plans to insure compliance with federal law.

MEDICARE AND ELDER LAW: Most persons planning to marry do

not consider the effect that the marriage will have if one spouse becomes disabled and requires nursing home care. All assets may now be considered in determining entitlement to benefits and could potentially prevent a spouse from getting benefits as a result. Any lawyer whose clients may be affected by this issue should carefully review the current state of the law regarding Medicare and related issues, along with the effect of the same-sex marriage on eligibility to receive such benefits.

SOCIAL SECURITY BENEFITS: At this time, the effect of *Windsor* upon entitlement to Social Security benefits of same-sex spouses is still in flux. Certain same-sex spouses will be entitled to benefits, and others will not. Eligibility for certain Social Security benefits is determined by the law of "state of residence," not by the "state of celebration." In other words, if you live in Pennsylvania (state of residence), got married in New York (state of celebration), and Pennsylvania continues to refuse to recognize same-sex marriage, and you die in Pennsylvania, then your spouse will not be entitled to spousal Social Security survivor benefits. An even more absurd result would apply in a situation where a couple who lived in a state that permits gay marriage and gets legally married in that state, and then the couple, years later, moves to a state (Pennsylvania) that does not recognize same-sex marriage and dies in Pennsylvania. In that example, the spouse would be denied survivor benefits. Survivor benefits would continue to be denied, even if the surviving spouse moves his or her domicile back to the state where they got legally married after his or her spouse dies. It is the deceased's final state of residence that determines eligibility for survivor benefits. In appropriate circumstances, couples should actually consider changing their state of residence, prior to death, to avoid this unfair result.

A visit to the Social Security website will give some information about the current status of entitlement. While not all benefits are currently being granted, the website advises that same-sex couples should apply for benefits as "married," so that if and when en-

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Welcome new committee members

The Pennsylvania Bar Association Commission on Women in the Profession extends a warm welcome to the following new commission members:

Erica Briant, Law Student, Philadelphia
 Allison Burkhardt, Law Student,
 Cherry Hill, N.J.
 Ariella Cohen, Law Student, Philadelphia
 Donna Doblick, Reed Smith LLP, Pittsburgh
 Trent Hargrove, Pennsylvania Bar Association,
 Harrisburg
 Bonnie Hershberger, Pennsylvania Department
 of Revenue, Harrisburg
 Sarah Hyser, U.S. District Court Middle
 District, Harrisburg
 Vera Kanova, U.S. Bankruptcy Court Middle
 District, Harrisburg
 Alexandra Sacavage, Pennsylvania Gaming
 Control Board, Harrisburg
 Hon. Susan Schwab, U.S. District Court Middle
 District, Harrisburg
 Erica Shoaf, Shoaf & Wencker LLC,
 Huntingdon

Tarin Stauffer, Harrisburg
 Alexis Talbot, Law Student, Swedesboro, N.J.
 Laurie Baulig, Attorney at Law, Lancaster
 Nicole Beck, Office of Attorney General,
 Harrisburg
 Christy Bergstresser, Law Student,
 Philadelphia
 Lindsay Berkstresser, Law Student, Carlisle
 Erin Dennehy, Law Student, Harrisburg
 Alicia Emili, Law Student, Allentown
 Meghann Karasic, Law Offices of WIN,
 Chambersburg
 Katherine McDonald, Dethlefs-Pykosh Law
 Group LLC, York
 Carolyn Mendelson, Pennsylvania Department
 of Banking and Securities, Pittsburgh
 Modesta Paris, Modesta B. Paris Law Office
 LLC, Philadelphia
 Kerith Taylor, The Taylor Law Firm, Brookville

The commission hopes that these new members enjoy their committee membership and experience the many benefits of serving on the Commission on Women in the Profession.

The changing landscape of legal issues of same-sex marriage

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titlement to benefits may be approved, they will be entitled to receive any entitlement retroactive to the date of application.

FAMILY MEDICAL LEAVE: Consistent with the federal government's policy of taking actions that will recognize legally married same-sex spouses, the Office of Personnel Management has redefined a "spouse" to be a part-

ner in any legally recognized marriage. As a result, federal employees are now permitted to take family and medical leave to care for a same-sex spouse with a serious health condition, including the birth of a child.

This is obviously not a comprehensive list of all of the issues of concern related to same-sex marriage. But hopefully it has been instructive in pointing out some of the more important issues and considerations for lawyers in dealing with issues for their clients, friends and families. The best advice that can be given at this time is that it is crucial to research and obtain the most up-to-

date information about the state of the law relative to these issues, since the legal landscape changes daily!



Mary Sue Ramsden, a founding shareholder of Raphael Ramsden & Behers, practices all types of family law, including prenuptial and postnuptial agreements, wills and estates, and probate matters.

The importance of beneficiary designations in estate planning

By Lisa A. Shearman

John and Jennifer have been married for two years. Both were previously married, and they have children from their former marriages. They are expecting another child this year. After meeting with their attorney recently, they signed “sweetheart” wills, leaving all of their assets to the surviving spouse and then among their children in trusts until each child is age 30. John has an interest in a business, and he and his partners have partnership agreements to control transfers of their interests. Jennifer stays at home to care for their children. Tragically, on the way home from a party, John is killed by a drunk driver. Shortly after his death, Jennifer learns that the primary beneficiary on John’s life insurance is his ex-wife. The contingent beneficiary is his children. She also learns that his partners did not have life insurance on John’s life, so under the partnership agreement Jennifer is only entitled to a buy out of his interest over 20 years. John also had an IRA, but after his divorce he changed the benefi-

ciaries to his children without making any further changes when he married Jennifer.

Where does this leave Jennifer? Yes, John and Jennifer have wills, but since a majority of their assets are not controlled by their wills, Jennifer now is left to fight with his life insurance company, his partners and the custodian of his IRA. The likelihood of Jennifer’s success is negligible. The facts of this case illustrate the importance of beneficiary designations and how they impact your estate plan.

Estate planning involves many more aspects than just preparation of a will. A will can only direct property under its control, commonly referred to as “probate property.” It is vitally important that attention is paid to ownership of assets and how your beneficiary designations are set up. Property that passes outside of a will (“Non-probate property”) is controlled by the ownership or beneficiary designation. The table below summarizes certain types of assets and how their ownership or beneficiary designations can affect their disposition. *(Continued on Page 17)*

Type of Property	Disposition is Controlled by Ownership/ Designation:	Will Directs Disposition of Property:
Real Estate	If owned with a spouse presumed to be tenants by the entireties – property passes to spouse If owned with another as joint tenants with rights of survivorship – property passes to joint owner(s)	If in individual name – 100% passes under will If owned with one or more people as tenants in common – % interest in property passes under will
Bank Accounts/Brokerage Accounts	If contains designated beneficiary – passes to designated beneficiary If contains POD, ITF or TOD – then passes to the beneficiary named to receive the property	If in individual name with no beneficiary designations – 100% passes under will
401(K) Retirement Accounts	Primary beneficiary designated and beneficiary is living – will pass to named primary beneficiary; or, if primary beneficiary is deceased and there is a contingent beneficiary named – account passes to contingent beneficiary Some plans provide benefits pass to a surviving spouse even if no named beneficiary	<ul style="list-style-type: none"> • If unmarried and no named beneficiary • If estate is named as beneficiary • If named beneficiary is deceased and no contingent beneficiary named
IRA Accounts	Primary beneficiary is designated and beneficiary is living – account passes to named primary beneficiary; or, if primary beneficiary is deceased and there is a contingent beneficiary named – account passes to contingent beneficiary	<ul style="list-style-type: none"> • If no named beneficiary • If estate is named as beneficiary • If named beneficiary is deceased and no contingent beneficiary named
Pension Accounts	Depends upon plan – but often ends with death of participant	Depends upon plan – but often ends with death of participant
Trust owned property	Passes to trust beneficiaries. If all beneficiaries are not living, could pass to intestate heirs	Not covered by will
Individual Owned Annuities	If a beneficiary is named – benefits will be paid to the beneficiary	No beneficiary is named – benefits pass to estate beneficiaries under will
Savings Bonds	If named beneficiary or a joint owner passes to the named beneficiary or joint owner	If in decedent’s sole name – passes under will
Digital Assets	No ability to name a beneficiary	Passes to beneficiary under will, but should have specific powers to executor to handle

The importance of beneficiary designations in estate planning

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Of course there are exceptions to these general rules. Contractual rights may affect ownership or disposition that will supersede directions in a will, ownership or beneficiary designation. A pre-nuptial agreement can override a person's directives, if the property is covered by the agreement. Further, changes in legal status due to divorce, separation agreements and property settlement agreements can also change disposition as well.

Most people take time to create their wills, paying particular attention to its provisions so that their wishes are honored and their beneficiaries receive the assets as directed. However, more often than not they overlook the impact of their beneficiary designations and the ownership of their assets. Designations of beneficiaries on accounts, retirement assets, life insurance and similar assets should be given as much attention and care. We use a team approach to estate planning, integrating all of a client's advisers. In the case of John and Jennifer, they had wills in place, but since the beneficiary designations were never updated, John's will had little significance to effectuate his wishes. It is imperative that all aspects are coordinated carefully.

It is also equally important to understand how the beneficiary designations will function. If a life insurance policy designates spouse as primary beneficiary and minor children as contingent beneficiaries (rather than the trust created under a will for the children) and both parents die, the children would receive the life insurance proceeds at age 18 when they reach the age of majority. If the intent is that the assets be held in trust for minor children until an older age, then the beneficiary designations need to be changed to direct them to that trust.

Alternatively, if a trust was originally named as beneficiary of a life insurance policy and the will is later changed to remove the trust, but the beneficiary designation is not changed, it can cause significant issues. Ultimately, the money may end up in the estate and flow through to the estate beneficiaries, but it also is made available to pay creditors.

To the extent that children are named as contingent beneficiaries of life insurance or retirement plans, but the des-

ignation does not specifically indicate a per stirpes designation, then if one of the children were to predecease the insured, the deceased child's share will not pass to his or her children, but instead to his or her siblings.

Special care must be taken in naming trusts as beneficiaries of retirement plan monies. There are specific provisions that must be included in a trust that is going to hold retirement monies to assure that the trust is eligible to hold the benefits and comply with distribution rules.

Jointly-owned assets are another form of ownership that can sidestep a client's intent. In general, jointly-owned bank accounts pass to the surviving joint owner. However, does that apply to an account belonging to a parent who puts one child's name on the bank or brokerage account for purposes of convenience? Does that child inherit the account to the exclusion of his or her siblings? The answer is yes, unless circumstances indicate a different result. Under 20 Pa.C.S.A. 6301 et seq., which governs multi-party accounts, unless there is clear and convincing evidence of a contrary intent, the surviving joint owner inherits the account upon the death of the other joint owner.

Furthermore, clients who own business assets need to separately evaluate how their interests will be owned after their death and whether the company governing documents adequately provide for their family, while also trying to minimize the impact on the business.

Proper estate planning cannot be done in a vacuum. There are many possible pitfalls of navigating estate planning and beneficiary designations alone. We recommend a "team approach" with all advisers to assure that the plan that is formulated is implemented. Clients need to be more proactive in their planning so that all moving pieces work together to provide the result the client desires.



Lisa A. Shearman, an attorney at Hamburg, Rubin, Mullin, Maxwell & Lupin, focuses her practice in family wealth planning.

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Back to basics: In pursuit of plain language (and happy clients)

By Jan Matthew Tamanini

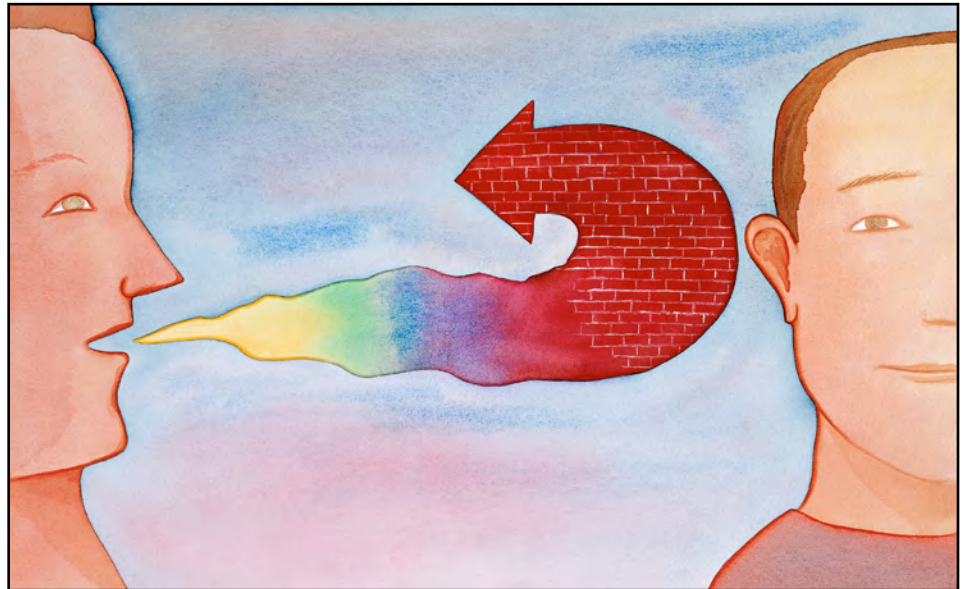
Whether you've been out of law school a year or decades, you likely have a comfort zone in your practice where you speak, or write, using some legal jargon. It could be a shortcut with colleagues or opposing counsel, who presumably understand what you're saying when you use Latin terms or other arcane terms known only to those with a law degree. Or it could be when you're talking with a client, who may not have the foggiest idea what those odd-sounding words and phrases mean.

In an era where our culture is filled with TV shows and movies featuring courtroom drama and legislative intrigue, we might be forgiven for thinking that everyone knows what we mean when we use "legalese." But even if someone may have an idea of what you're talking about, isn't it better to be clear enough in your communications so you're certain there's no misunderstanding?

The language we use to communicate – in conversations, emails, letters and even briefs and other filings – tells people a lot about who we are. We shouldn't allow our identities to be established by being known as the most obtuse person in the room.

Think about it: The language you use should be all about *relationships*. With your clients, making them feel comfortable and valued is a big factor in building loyalty that will reward us with return business and referrals. With other attorneys and judges, clearer communications can cut through to the heart of a matter and prove that we're competent, no-nonsense practitioners.

"Legalese" isn't a complimentary term; it represents language that blocks your audience's understanding of your point. Some attorneys even use legal jargon in ways that make it clear to other lawyers that the individual using a term may not know its true meaning. Even if you're sure you know what the word or phrase means, when



you plan to use a legal term of art in a court argument or to communicate with opposing counsel, if there's a plain-language term that will convey the same idea, it will be much more effective than using gobbledygook.

If you're about to use a Latin term with a client, think about it, then find a plain-language word or phrase that conveys the same meaning. Even older English terms commonly used in legal parlance – petitioner, respondent, appellant, appellee, testator, decedent, fee simple and others – can stymie those who don't live in our world. You're better off using the name of the person in the legal position in most writing or telling your client that the strange term in a legal document someone has served on her means X person or X situation.

Demystifying the law to allow others to clearly understand what we do, and explaining why some parts of our world that seem strange to the non-attorney are necessary or appropriate in a legal matter, should be a top priority in our work.

You want a jury to be with you from the beginning of a case? Ditch your lawyer-speak and talk to the jurors in everyday language. Want your big-business client to use you again and

again? Keep it simple! Want to snare a new major client? Give the decision-maker a pitch that won't make her go cross-eyed from the jargon.

If we pay attention to the signals others give us, they'll provide a mirror of their perceptions of us (and perceptions are generally the major component of a person's reality). In person, these signals are usually very clear, both in body language and verbal cues.

If you're physically present with someone, pay close attention to the eyes. First, eye contact: Does the other person look at you with a clear connection, or are their eyes wandering? Often, when a person moves her eyes to one side or the other, it means she's trying to recall something or looking for an answer. And that may indicate difficulty understanding what you're saying.

Forget about someone nodding her head as if she's following you when you speak; what do her eyes tell you? Are they glazed over or looking away from you? If so, you might want to stop for a few seconds and think of another way to state your point. Remember that there are times people won't admit they don't understand you for various

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Back to basics: In pursuit of plain language (and happy clients)

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reasons: They don't want to appear unintelligent, or they don't want to admit they haven't been paying close attention, or they simply want you to like them – all are motivations that may keep someone from asking you to explain yourself.

Admit it: Sometimes we know we're saying things that aren't clear communications. When that happens, you might make a joke of it: Stop, tell your audience that you realize you're not conveying a clear thought, and give it another shot by restating your point in better terms.

Practice *reflective listening*: Repeat the essence of what other people in a conversation have said to ensure you understand their positions, and when you've made a point, ask the others to feed back the essence of what you've said in their own words, to confirm their understanding. Conversations are a variant of "whisper down the lane" – that old game where someone says something into the ear of the person next to her, then that person whispers the statement into the ear of the next person, all the way to the last person in line, who then says it aloud. What people hear isn't always what you've said.

In reflective listening, feedback is complex and immediate. The parties to the conversation summarize what they perceive as its major points. That way, everyone should leave with a clear understanding of what they discussed.

Body language is important too. Is the person relaxed? Are his arms crossed tightly across his chest, as if he's closing himself off from you? Is she obviously distracted or impatient, looking for a quick exit?

On the phone it's a bit more of a challenge to read people, but there are still cues to give you insights into how you're perceived. Does the person respond to your statements and questions within an appropriate time, or are there uncomfortable periods of silence? Does the individual sound uncertain when responding to you?

Before you meet with a client, whether in person or by phone, take a few deep breaths and collect your thoughts. If you look and sound calm and composed, it will put your client at ease. If your client is overly emotional, taking a moment before you begin helps to keep your own frustrations in check and for you to be as reassuring as possible. Responding in kind will only escalate any drama.

Make the effort to use plain English in *all* of your legal interactions. This is one area that never ceases to amaze my clients: They can easily understand documents I prepare, whether they're pleadings or contracts. One recent client, looking over the operating agreement I drafted for his startup limited liability company, remarked, "Wow! There's no 'whereas' or 'herein' anywhere in this. I can actually understand it!"


Your clients' appreciation for clear communication is especially obvious where they have previously had experiences with attorneys who don't work in plain language. They come away from meetings with a sense of awe that their issues can be resolved using language they can easily grasp. There's an almost shell-shocked look in their eyes as they say, "Gee – this is so much simpler than I thought it would be!"

Set the tone for your legal writing as if you were speaking to a judge: slightly formal but still conversational. If you can't comfortably read a sentence aloud and sound as if you're talking with someone, you're probably using

at least some arcane and redundant language that's better left out. Another hallmark of clear writing and speech is avoiding compound prepositions (hereinbefore, whereas, herewith, with regard to, pursuant to, in order to, subsequent to and their ilk).

Keep your sentences simple, and use active voice as much as possible. Organize your work so that similar terms or related passages appear together. Too many of us write in a scattershot form, mixing unrelated concepts and separating topics that would logically follow each other.

If you can put away your writing for a few hours, or better yet a day or two, it's amazing how much you'll see that you'd never recognize by reviewing your product immediately after you finish writing.

Back in the '70s, Simon and Garfunkel astutely wrote a song with the theme "tryin' to keep the customer satisfied." One unhappy client spreading his sour feeling around your locale can torpedo your practice. Conversely, happy clients translate to continuing relationships, good word-of-mouth and more business. That's marketing that no money can buy. 



Jan Matthew Tammanini chairs the Pennsylvania Bar Association Plain English Committee and the American Bar Association Solo and Small Firm Practice Division's Business Opportunities and Commercial Law Committees. She concentrates her practice on business and nonprofit transactions, serves as general counsel to several business and nonprofit organizations, and consults nationally and internationally on plain-language legal documents.

Brownfields Redevelopment: How to bring healthy, nutritious food to areas with limited access

By Kristina M. DeSenze

Philadelphia is home to numerous abandoned commercial and industrial sites. These abandoned sites are known as “brownfields.” A brownfield is real property; the expansion, redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. http://cfpub.epa.gov/bf_factsheets/gfs/index.cfm?xpg_id=7958&display_type=HTML. Brownfields not only provide an enormous benefit to the environment for redeveloping old, abandoned sites instead of developing green space, but they also provide incentives for reinvesting in economically depressed communities.

In 1995, Pennsylvania passed the Land Recycling and Environmental Remediation Act (35 P. S. § 6026.101—6026.909) that provided for the elimination of public health and environmental hazards on existing commercial and industrial land across the commonwealth. The greatest benefit to potential investors of the Land Recycling and Environmental Remediation Act (hereafter “the Act”) is the Act’s potential to eliminate liability for the developer provided that the developer did not cause the contamination in the first place. The Act also provides funding for brownfields redevelopment.

A developer has three options for remediating a contaminated area. The remediation standard primarily depends on the end use of the site. However, the greater the risks of direct contact of people and the environment to any potential contaminants, the higher the standard for remediation is required. Depending on the standard, a developer can remediate a contaminated area and redevelop the site into a grocery store, a new manufacturing site, a park, or anything else the de-



veloper wants to do without fear of liability – as long as the developer did not cause the contamination in the first place.

Philadelphia Mayor Michael Nutter signed the Philadelphia Land Bank bill into law in January 2014. http://articles.philly.com/2014-01-15/news/46188750_1_land-bank-tax-delinquent-properties-vacant-land. This bill will add to the resources available to Philadelphians to redevelop brownfields and abandoned sites purchased by the city as part of the land bank. This massive accumulation of land and resources for the purposes of redevelopment is an environmental and economic boon to Philadelphia.

Many people living in economically depressed areas suffer from a lack of access to quality nutrition. The redevelopment of brownfields provides the perfect vehicle to deliver quality, healthy and diverse nutrition to economically depressed areas while also building community among its people. Brownfields redevelopment would provide the necessary standards to remediate a contaminated site to turn

it into a community garden or greenhouse, depending on the level of contamination of the site and/or the ability to remediate the contamination at the site.

Remediating a brownfield to turn it into a community greenhouse or community garden would require digging up and replacing the soil, remediating the groundwater below and replenishing the soil with uncontaminated fill. In the event the soil and groundwater could not be remediated to levels safe enough for contact with living things or environmental elements, the site could be paved over and the contaminants sealed under asphalt or concrete and a greenhouse could be built on top. With the various grants and loans available through the county, state and federal governments, a community association could take advantage of the various funds and create its own homegrown, community garden or fruit and vegetable market. With the help of an experienced environmental attorney and environmental scientist, a community could be guided through the funding application processes and begin the remediation of a contaminated site.

Once the site is remediated, the community association would assume ownership free of liability and begin creating a greenhouse or garden to provide fresh fruits and vegetables to the local population. The process of building a greenhouse or planting a garden would strengthen the local economy and increase education about the importance of health and nutrition in an area that was formerly devoid of access to proper nutrition.

Women are often referred to as the purveyors of the social education of children. Empowering women in economically depressed communities with a community garden or greenhouse would increase the self-determination of these women and their families. A

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Hand2Paw: Connecting homeless youths with shelter animals

By Penny Ellison

In 2005, I accepted a position as a lecturer at University of Pennsylvania Law School, teaching animal law and ethics. At the time, I had practiced mainly commercial litigation for 16 years and had never had a case involving animals in my life (with the possible exception of a few opposing counsel who might be characterized as such). Little did I know how much creating and teaching that course would change my life.

In addition to the opportunity to have intellectual discussions with students whose thoughtfulness and brilliance continually inspires me, year after year, I have seen students open their minds and change their way of thinking about animals and their interactions with them, whether at the zoo, in their neighbor's yard or on their dinner plate. I am now an adjunct professor and, in addition to teaching, I supervise pro bono work done by students on behalf of nonprofit groups advocating on behalf of animals or representing their interest in our legal system. But the biggest change from teaching has nothing to do with law. One of my students came up with a novel idea to connect two underserved groups for their mutual benefit – homeless teenagers (who frequently are seen on the streets clinging to their pets) and shelter animals, desperately in need of more care and attention than shelters have the staff to provide. Out of that, Hand2Paw was born, a nonprofit for which I now serve as executive director.

The problems of youth and animal homelessness can appear overwhelming. Each year, more than 2 million young people, ages 18-21, face a period of homelessness. Those aging out of foster care without a permanent placement face a daunting 25 percent risk of homelessness. Many of the youths who participate in Hand2Paw ended up at the shelter because they aged out of the foster care system without ever being adopted or placed in any type of per-



manent, stable situation. Others fled abusive homes. Still others were kicked out by their families for revealing a sexual identity that caused controversy in the family. These youths are all considered "at risk." They are at risk of homelessness, unemployment, unplanned pregnancies and generally falling through the cracks. Most of them live in sections of the city that are very familiar to humane law enforcement officers. The importance of a program that demonstrates and teaches the kind of unconditional love that the human-animal bond can provide to these young people simply cannot be overstated. In addition, they need to build confidence and acquire job skills.

At the same time, the number of homeless pets is astonishing. Six to 8 million animals enter shelters in the United States each year and only about half make it out alive. The Philadelphia animal control shelter takes in about 32,000 animals every year, with a 65 percent save rate in 2013, so roughly 10,000 animals are euthanized each year in just that one shelter. In addition, dog fighting is prevalent in many cities, and Philadelphia is no exception. The victims of cruelty and fighting

are brought to shelters to recover and hopefully get a second chance. Most animal shelters are run entirely with charitable dollars or limited municipal funding, and it is frequently all they can do to provide the minimum of care. That's where Hand2Paw comes in.

Hand2Paw's novel program empowers homeless youths aging out of the foster care system or living in transitional housing to volunteer at animal shelters. The Hand2Paw program has essentially three aspects: volunteering, internships and assistance with job placement. At the weekly volunteer sessions, volunteers, including many University of Pennsylvania School of Veterinary Medicine (Penn Vet) students and professional dog trainers, act as mentors, teaching the youths about animal welfare, handling and health. Hand2Paw's youth volunteers have provided well over a thousand hours of care, training, grooming and socialization to thousands of Philadelphia's shelter animals. This ensures that the homeless animals in our city's shelters remain stimulated, happy and behaviorally sound as they await their adoptive homes. In addition to the hands-on

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Hand2Paw: Connecting homeless youths with shelter animals

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training, bathing and cuddling of animals, we do meaningful humane education, including talking about how the animals end up in the shelter, what to do if they witness cruelty and the importance of spaying and neutering to reduce the intake of animals to the shelters in the first place. Many people are afraid to set foot in an urban animal shelter, but our volunteer sessions are full of joy and laughter. Instead of lecturing teens from a distance, we are able to interact with them on an individual basis, get to know them on a personal level and give them a break in what can otherwise be a difficult life, for both the human and the animal participants. Hand2Paw volunteer mentors teach teens firsthand about the importance of the human animal bond, while empowering them to become animal advocates themselves within their communities.

The youths who come week after week and show the most interest are then given an opportunity to intern at one of our shelter partners, an opportunity that benefits both the youths and the animals. Indeed, since we are an all-volunteer organization, the bulk of our donations go to providing internships to some of our most dedicated youth volunteers. The youths apply and go through a rigorous application process and, once accepted, receive


hands-on training by the shelter staff. Our interns have worked at six different facilities: Penn Vet's Working Dog Center, Animal Care and Control Team of Philadelphia (the city animal control shelter), the Pennsylvania SPCA, Philly PAWS, Street Tails Animal Rescue and Central Bark Doggie Day Care. The internships usually last about six weeks. Our interns assist the kennel attendants and animal handlers and gain important job experience.

Hand2Paw also provides continuous job coaching, mentoring and connections with businesses to assist our interns in finding employment opportunities. In fact, several of our youths have been hired by the animal shelters at the end of their internship experience. Since the ultimate goal for our youths is to assist them with gaining their independence, we are especially proud that employment gained through Hand2Paw has recently led to housing opportunities in the new JBJ Soul Homes project in Philadelphia for two of our graduates.

Perhaps our most exciting event to date was being the subject of this year's Social Justice Documentary Project, produced by students and professors at Villanova University. Each year, the students create a documentary about a social justice issue, highlighting an organization that is making positive changes in society. In the past, the films that have come out of the class have won national and international film festival awards. The film, "Heel'd," premiered at Villanova in December and is now making the film festival circuit. We hope that this increased

exposure will allow us to expand to have our own employees and grow our program to serve more youths and animals.

I keep my hand involved in the legal side of animal protection as well. In addition to running Hand2Paw, I serve as chair of the Humane Legislation and Education Committee for the Pennsylvania SPCA and work to pass laws protecting animals at the city and state levels.

My Hand2Paw work informs and motivates my legal work. I get to see the power of the human animal bond every day. I see it in animals coming out of their shells and learning new things that help them get adopted and be successful when they get into a home, and I see it in the withdrawn young man who holds an emaciated kitten and feels, perhaps for the first time, that he is needed and loved. You can learn more about Hand2Paw by visiting www.hand2paw.org. 



Penny Ellison has taught animal law and ethics at the University of Pennsylvania Law School and supervised Penn's Animal Law Project since 2006. She is a frequent speaker at seminars on animal law offered by the Pennsylvania Bar Institute. She also serves on the board of directors of the Pennsylvania SPCA and as executive director of Hand2Paw.


Brownfields Redevelopment

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community garden or greenhouse on a brownfield would empower the community to rebuild it in their image, to give them access to quality nutrition that would not otherwise be available and create a new economy among the people. As the women build their own business and plant and harvest fruits and vegetables to sell or share with the

community, they will educate themselves and their families about the importance of good nutrition and how the environment can be used to provide for their basic needs. Once a community is connected with their environment, their part of the city, and one another, it will become a wellspring of positive community activities.

Redeveloping a brownfield requires a lot of work and know-how. However, it can be a vehicle for a community to reclaim its neighborhood and for individuals to rebuild pride in

their community and themselves. 



PBA Commission on Women in the Profession member Kristina M. DeSenze, of Berman & Asbel LLP, focuses her practice on environmental law, agricultural law, animal law, and oil and gas development.

Profile of Chief Judge Joy Flowers Conti

By Claire Hagan

Joy Flowers Conti currently sits as the chief judge of the United States District Court for the Western District of Pennsylvania. Judge Conti was nominated to the federal bench by President George W. Bush on Jan. 23, 2002, and was confirmed by the Senate on July 22, 2002, receiving her commission later that month. Then, in 2013, Conti became chief judge.

Conti was born in Kane, Pa. She earned her bachelors of arts degree from Duquesne University, where she majored in political science, and then enrolled in Duquesne's School of Law in 1970. The beginning of Conti's legal career sounds in "firsts": first in her class at Duquesne Law; the first female editor-in-chief of the *Duquesne Law Review*; the first female associate hired by Kirkpatrick, Lockhart, Johnson & Hutchison; first law student at Duquesne (male or female) to earn *summa cum laude* honors.

Following law school, Conti spent a year clerking for Justice Louis L. Manderino on the Pennsylvania Supreme Court, before proceeding to work at K&L. After just two years of practice, the Dean of Duquesne Law contacted Conti, inviting her to join the school's faculty. Conti wondered — as she supposes all students do — what would it be like to teach? Given this opportunity, Conti took the job.

Conti began by teaching business classes, mostly to night students — many of whom were older than her. Within a few years, Conti earned the status of full professor, teaching an expanding array of subjects. In all, Conti taught courses in corporate finance, corporate readjustments and reorganizations, corporations, creditors' and debtors' rights, and civil procedure.

While teaching at Duquesne, Conti also worked as a hearing examiner for Pennsylvania's Department of State. This job gave Conti her first experience

acting in a judicial capacity, as her duties included hearing administrative cases involving physicians whose medical licenses were under review for disciplinary action.



Judge Conti

By 1982, K&L pursued Conti to return to the firm. Conti, having decided that she could benefit from more experience in practice, took them up on their offer, returning to K&L that year. At this point, Conti had developed a stronger picture of what type of law she wanted to practice.

Conti explains that when she began law school, she didn't know any lawyers.

Her vision of legal practice was consequently limited to what she'd seen on television and in the movies — litigation. During law school, Conti became acquainted with transactional work and grew interested in business law while summering at K&L. She never lost her desire to be inside the courtroom, however, and so when Conti returned to K&L in 1982, she melded her interests in the corporate law and litigation, and began practicing corporate bankruptcy.

Conti continued in corporate bankruptcy for many years with K&L. She became a partner in November 1983, and eventually moved to Buchanon Ingersoll PC as an equity partner in March of 1996. Then, as noted, in 2002, she was appointed to the federal bench.

Conti describes her current position as chief judge as acting like the "chairman of the board" for the district. She oversees a vast array of people and issues — disciplining lawyers to setting the budget to revising local procedural rules. To her, this job has been a good challenge, which has given her a chance to use the consensus-building skills she developed from her bankruptcy practice.

As a federal district court judge, Conti has grown interested in new aspects of legal practice. For example, she has become actively involved in

court initiatives relating to electronic discovery, has chaired the court's Case Management/ADR and Local Rules Committees, and has also chaired the Judicial Conference Committee on the Administration of the Bankruptcy System.

Another initiative Conti has spearheaded relates to criminal law, something she did not encounter during her life in private practice. Conti remembers talking to a probation officer several years ago, in relation to a criminal defendant's detention hearing. This defendant was unemployed and homeless, prompting Conti to wonder: What alternative did this man have to continuing a life of crime? And how can the system better address these issues so that defendants can access education, employment and housing? From this conversation with the probation officer, Conti grew actively involved in these criminal re-entry issues, chairing the United States Probation Office's Job Development & Educational Services Advisory Committee and partnering with community organizations that serve ex-offenders, such as the Mon Valley Renewal Center. Conti's goal for this initiative, she says, is for the system to understand and address the practical barriers that defendants face.

Over her career, Conti observed a major change in the practice of law caused by the rapidly increasing size of law firms. For example, when Conti summered at K&L, the firm, the second largest in Pittsburgh at the time, consisted of about 35 lawyers. When Conti joined K&L as an associate in 1974, K&L had grown to 50 lawyers. By 1982, it surpassed 100. Conti notes that firms' expansive growth has affected the style of practice. Relationships between lawyers are more business-like within large firms, and it's become impossible to know all of your colleagues.

Another change Conti has witnessed relates to women's place in the law. Going back to when she was in law school, Conti was one of

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Judge Susan Peikes Gantman becomes Superior Court's president judge

By Andrea Tuominen

Judge Susan Peikes Gantman won two elections in quick succession. First, Pennsylvania voters retained her in the 2013 municipal election for another 10-year term in Superior Court. On Jan. 7, 2014, Gantman was elected by her colleagues in Superior Court to serve a five-year term as president judge. She is the 21st president judge of the court, established in 1895, and succeeded Judge John T. Bender, who filled the position on an interim basis when Justice Correale Stevens was appointed to the Pennsylvania Supreme Court.

Known as one of the busiest appellate courts in the nation, Superior Court concludes roughly 8,000 appeals and issues more than 5,000 opinions, on average, each year. With the advent of e-filing in Pennsylvania's appellate courts and continued fiscal constraints, Gantman is focused on what will make the court more accessible for litigants and counsel and ultimately bolster the public's confidence in the judiciary.

"The Superior Court of Pennsylvania is one of two intermediate appellate courts in Pennsylvania," she said in a recent interview. "The Commonwealth



Judge Gantman

Court hears all appeals from administrative agencies and the government. The Superior Court hears all other appeals by litigants of adverse decisions from the trial courts. Because of the heavy workload, this court is referred to as the 'workhorse' of the appellate justice system. Given its increased caseload and budgetary limitation, the court has a significant burden to maintain timely and high quality service to the public while managing high volume caseloads with shrinking resources."

Gantman noted that these challenges are being met with technological improvements as well as organizational and operational designs to resolve cases more efficiently. "The Superior Court of Pennsylvania's memorandum and reported opinions are now available on the webpage of the Superior Court," she said. "The court remains steadfast in its commitment to meet these increased demands without compromising the ability to render quality jurisprudence."

Prior to being elected to the bench in 2003, Gantman was a senior member and co-chair of the Family Law Section at Cozen & O'Connor (1998-2003) and a partner and chair of the Domestic Re-

lations Section at Sherr, Joffe & Zuckerman PC (1991-98). She had been a private practitioner since 1981 focusing on litigation, domestic and juvenile law, Orphans' Court actions and appellate practice. In Montgomery County, she previously served as an assistant district attorney, as solicitor for the Office of Children and Youth and as solicitor for Housing and Community Development.

A member of numerous professional and civic organizations, Gantman has been the recipient of many awards and honors. A longtime member of the Commission of Women in the Profession, she received the Anne X. Alpern Award in 2012 in recognition of her demonstrated excellence in the legal profession and as one who has made a significant impact on women in the law.



Andrea Tuominen is the assistant court administrator of Pennsylvania. She is currently WIP's assistant secretary and co-chair of the Membership Committee.

Chief Judge Joy Flowers Conti

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six women in a class of 140 students at Duquesne. At the time, however, Conti recalls that her class seemed like a large group of women; it was, in fact, a larger contingent of women than in prior classes.

When asked what advice she would give to young lawyers, Conti brings up the importance of separating personal and professional lives and to avoid bringing personal problems

into the workplace. She has made it a practice not to take work home with her, preferring to work late nights during the workweek so that she can dedicate her weekends to her family.

Claire Hagan serves as a law clerk to Judge Nora Barry Fischer in the U.S. District Court for the Western District of Pennsylvania and will next clerk for the Judge Robert King in the U.S. Court of Appeals for the Fourth Circuit. Hagan holds a B.A. from University of Notre Dame, 2005; an M.S.W., University of Michigan, 2006; and a J.D., Washington and Lee University, 2013.

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Shifting the paradigm

The importance of the Rule of Law in International Development

By Alexandra Dolce

International Development (ID) are activities carried out by developed countries to help developing countries improve and maintain a higher standard of living. As we all know, the focal points of international development are improving health and education, creating a sustainable food supply, economic development and promoting human rights and law and order. Aid is often given in the form of money, expertise and goods. All of these features are interconnected, but there are four basic components needed in any developing country in order to accomplish sustainability. These components are security, rule of law, an open and transparent press and a stable currency.

The first factor is security. "The 1994 Human Development Report defined human security as people's safety from common threats and protection from sudden hurtful disruptions in the patterns of daily life." (Dorn) Security in the manner of a strong and ethical police force is needed in order to ensure the safety of citizens, the safety of foreigners visiting as tourists and the safety of those who temporarily reside within a particular country for business and investment purposes. People thrive when they are in a safe environment. Constant fear only breeds mistrust and leads to conflict.

Second is the rule of law (ROL). The ROL implies that everyone in society is bound by the law, including government officials. Being bound by the law establishes equality, fairness and the realization of basic rights. (IDEA) Establishing a strong ROL foundation also implies that there exist an ethical, impartial and effective judiciary to implement rules and regulations.

Third is an open and transparent press. Societies need an unbiased view of what's going on. They want and need to hear both sides of the story. Moreover, domestically the press is a major medium for reporting and scrutinizing government corruption. It is essential

that people know how government activities affect them. Silencing the press hinders the ability to scrutinize and mobilize an effectuate change.

Fourth is a stable currency. Both insiders and outsiders need assurances that their money will be worth the same as it was the previous day. A stable currency ensures, for the most part, the flow of spending, and the value of income and prices. (Bordo and Schwartz) In economies where the value of the currency is constantly fluctuating, business decisions are either stifled or impaired. Resources are "misallocated." Misallocation has a negative impact on savings and investment decisions, which results in the stagnation of growth. (Jordan)


However, of all of the four factors, the ROL is the most important because it is the basis of the other three. As exclusive as the ROL is, it is also mutually inclusive in all of the other factors and guarantees their existence and realization. For instance, security becomes a joke when there is no criminal justice system to prosecute perpetrators. Only clear and unbiased legislation and an impartial judiciary can guarantee freedom of speech and the press. Further, rules and regulations are what govern banking, finance, import and export and the sale of goods; all factors that contribute to a strong and thriving currency.

The ROL enables predictability, and as such private citizens and government officials know their limitations and understand that there is a price to pay if they engage in unlawful conduct. Does that mean that there will be no more corruption or crime? Of course not. It just means that people are cognizant that various consequences exist, and as such the public can rest assured that there is an effective outlet for redress when harm occurs. This is important because citizens who believe in the integrity of the process are less likely to violate the law or act indifferently when someone else does.

Operative ROL is the basis of a vi-

able and thriving democracy. It is the starting point for a strong legal infrastructure based on democracy. How so? Clearly expressed legislation establishes the factors of a democracy; freedom of speech and press, gender and racial equality, freedom of religion, the right to challenge the actions of those in power, protection of property and economic rights, and the list goes on. As such, the more emphasis that is placed on the ROL, and the role that it plays within the spheres of security, economics and basic rights, when distributing aid packages, the more leaders will come to understand, hopefully accept and integrate its role and importance when attempting to establish a sustainable nation.

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From the sublime, Seneca Falls, to the ridiculous, Bossy Women

By Arline Jolles Lotman

We, the Women of Pennsylvania, have got to return to the forefront, once and for all to end gender discrimination against women. The Commonwealth of Pennsylvania is one of the first states in the United States to amend its constitution to include an Equal Rights Amendment. It was ratified by the voters, almost two-thirds majority, in May of 1971. We, Pennsylvanians, went on to ratify the U.S. ERA to the Constitution, but it failed in other states to gain passage for the required two-thirds majority. I served then as the executive director of the governor's Commission on the Status of Women.

Like so many of you, I am tired of reading about advice to us on why we are treated differently from men – both socially and in employment. I am tired of reading about why we shouldn't be called "girls" in the workplace, regardless of our age or position. And if you are now 50, and "this is what fifty looks like" in the immortal words of Gloria Steinem, you are tired of reading about it – and more importantly, tired of not being included in the United States Constitution.

Let us make this moment count: Right now, as you read this, we women in Pennsylvania AND the world, have the greatest opportunity ever to make the most important legal change to end the omission of women from the greatest document of democratic governance known to humans. From the Commonwealth of Pennsylvania to the Congress of the United States, we women must begin again to demand passage of the federal ERA. No more slogans, please.

The last time I heard "Bossy," it was the name of the dairy cow on our farm in Vineland. But we will not stop being trivialized, insulted, demeaned –

and raped and murdered in other nations because – and only because – we are females. We are safer in the U.S.A. but not sufficiently protected.


You have probably just read of a former star athlete who fed his dates Ambien, the sleep drug, before raping them. While that may be "rare," it is spoken and written about with partial acceptance. However, you, the reader, face deep political opposition to gaining your rights under the Constitution. Many women do not concern themselves, just as many voters do not concern themselves about many laws even though the laws directly affect them. That's not the issue for the moment because it has been and will continue to meet voter apathy until the most affected group carries the burden of change.

It is not alright, not OK, to allow any candidate to ignore his/her intentions to once again work for the ratification of the ERA. If we were protected by the U.S. Constitution, the Koch Brothers would not be able to control, financially, politically, more than two-thirds of state governments, which in turn, helps solidify the election of candidates who are opposed to ratification of the ERA for the population's majority.

Now is the time, and May is the perfect month to commemorate Pennsylvania's ERA ratification in 1971. It's been 43 years, and we still need our commission to stop the attempt to legislate female equality out of our public schools, scholarship sports' programs by eliminating the women's sports-in defiance of federal law; the health rights to insure women's personal choice for their personal health; and to stop abortion restrictions, even though we have a U.S court decision that states otherwise.

And last, but by no means, least – Women's Pay Equity. You are still earn-

ing, on average, 77 cents to every \$1.00 that a male earns for the same work. That's what the disparity was in 1972-74 when I was charged with implementing the state's ERA and changing hundreds of Pennsylvania laws, and that's what it is today, 2014; and for the first time in the U.S., holding health hearings with the National Institutes of Health witness to testify and learn that women were not in its testing protocols! They were still not included until about 10 years ago, and, today, **still not enforced** for all testing! Hope that makes you feel a lot less worried about being called "Bossy" and lot more concerned that you can die from an overdose of Ambien because the dosage isn't evaluated for females as differently from males.

Well, that gives Gloria Steinem the update for many of us reading this, but clearly, not the last word when she was just quoted saying: And, "This is what 80 looks like." Happy birthday to all of us; more importantly for a happier birthday for all of the women alive, now and in the future when the United States of America makes good on its promise to include the 52 percent of our population in our almost perfect Constitution. 



Arline Jolles Lotman is in private practice with Law Offices of Arline Jolles Lotman, Philadelphia.

WIP hosts yoga at PBA Midyear Meeting



The Pennsylvania Bar Association Commission on Women in the Profession hosted yoga at the PBA's Midyear Meeting in St. Thomas, USVI, from Jan. 29-Feb. 2. The class took place at 7 a.m. Saturday morning, poolside, and was open to all attendees. The photo at left does not represent all attendees, but those who were willing to appear in a photo. Both men and women attended, and the class, which provided a good way for members to meet and bond in a different type of social setting, was a great way to start a beautiful day on the island.

Pennsylvania Bar Association Commission on Women in the Profession

COMMUNICATIONS COMMITTEE EDITORIAL POLICY

Voices & Views is a publication of the Pennsylvania Bar Association (PBA) Commission on Women in the Profession and is published by the Communications Committee three times per year. The purpose of the publication is to facilitate communication among the membership of the commission on topics and events of general interest to women lawyers. The editors of *Voices & Views* reserve the right to accept or reject any submission and to edit any submission to ensure its suitability for publication, its adherence to the Mission Statement of the Communications Committee and its furtherance of the objectives of the Commission on Women in the Profession.

The articles and reports contained in *Voices & Views* reflect the views of the writer and do not necessarily represent the position of the commission, the editors of *Voices & Views* or the Pennsylvania Bar Association.

MISSION STATEMENT

It is the mission of the PBA WIP Communications Committee to foster improved communication among its members in the furtherance of the goals of the commission. To this end, the publication, *Voices & Views*, provides a forum for professional and open exchange among the WIP membership on all issues related to women and the law. *Voices & Views* shall be utilized for the following purposes:

- To publicize opportunities and events that may be of interest to the WIP membership;
- To provide information to the membership on topics that may be of general interest to women lawyers;
- To reach a wider audience and increase the visibility of the commission;
- To inform the WIP membership of the projects and goals of the commission; and
- To share information with the WIP membership regarding accomplishments of the members, other women lawyers and public figures.

Commission members in the news



Montgomery Bar Foundation President Steven H. Lupin (left) presented the Milton O. Moss Award to **Lisa A. Shearman** (right) for her work as national affiliate director of the Wills for Heroes Program. Since the beginning of the bar foundation in 1987, the bar foundation has honored Judge Moss by presenting the award to a Montgomery County resident who has provided exceptional service in support of the justice system. Shearman is an attorney at Hamburg, Rubin, Mullin, Maxwell & Lupin PC in Lansdale.

The Mediation Council of Western Pennsylvania honored **Chief Magistrate Judge Lisa Pupo Lenihan** of the U.S. District Court for the Western District of Pennsylvania with its 2013 Conflict Resolution Day Award at its Jan. 9, 2014, annual Conflict Resolution Day event. Lenihan was selected for this award due to her work in establishing the Prisoner Civil Rights Conflict Resolution Program for the federal court. Lenihan served as co-chair of the WIP in 1998 and remains involved with the Commission.

Congratulations to **Senior U.S. District Court Judge Donetta W. Ambrose** who is celebrating her 20th year as a federal judge. She was appointed to the United States District Court for the Western District of Pennsylvania on Nov. 24, 1993. Ambrose was the first female chief judge for the Western District of Pennsylvania. She served as chief judge from 2002-09. Ambrose has been

an active member of WIP over the years and is a former member of the WIP Executive Committee.

She graduated from Duquesne University in 1967, with the degree of bachelor of arts, and was awarded a J.D. cum laude at the Duquesne University School of Law in 1970. She was admitted to practice before the Supreme Court of Pennsylvania in December 1970 and is a member of the Westmoreland County, Allegheny County, and Pennsylvania, American and Women's Bar Associations. She is also a Fellow of the American Bar Foundation, a member of the American Judicature Society, the National Association of Women Judges, and the Inns of Court. She was a law clerk to the late Pennsylvania Supreme Court Justice Louis L. Manderino from 1970 to 1972, an assistant attorney general for the Commonwealth of Pennsylvania from 1972 to 1974, an assistant district attorney for Westmoreland County from 1977 to 1982 and engaged in the general practice of law from 1974 to 1982. She was elected to the Westmoreland County Court of Common Pleas in November 1981 on which she served from January 1982 until her appointment to the United States District Court for the Western District of Pennsylvania on Nov. 24, 1993.

She has been active in the Pennsylvania Commission for Women in the Profession, Big Brothers and Sisters of Westmoreland County and various civic, religious and charitable activities. She resides with her family in Lower Burrell.

Roberta Liebenberg, a partner at Fine, Kaplan and Black in Philadelphia, was honored with the inaugural "Sharing Her Passion Award" by the Ms. JD organization at its annual conference in Austin, Texas, on Feb. 20, 2014. This award was given in recognition of Li-



ebenberg's dedication throughout her career to "inspiring younger women lawyers through sponsorship, mentorship and sharing her passion for the practice." Liebenberg currently serves as chair of the American Bar Association's Commission on Women in the Profession and is also chair of DirectWomen, the only organization dedicated to increasing the representation of women lawyers on corporate boards. She focuses her practice on complex commercial litigation and class actions.



Marion Laffey-Ferry received the Susan B. Anthony Award from the Women's Bar Association of Western Pennsylvania on Feb. 18, 2014, at the Omni William Penn Hotel in Pittsburgh. She is shown in the photo above with her husband, Warren Ferry.

Also, Laffey-Ferry, PBA Zone 10 governor, received the Chief Justice John P. Flaherty Award at the Conference of County Bar Leaders, on Feb. 27 – March 1, 2014, at The Nittany Lion Inn, State College. The award was presented in recognition of her outstanding efforts to promote the objectives

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PENNSYLVANIA BAR ASSOCIATION POLICY RELATING TO DUES WAIVERS ADOPTED MAY 8, 2013

1. Dues waivers may be granted only on the basis of medical disability, financial hardship or other hardship as described by the member.
 2. Dues waivers must be applied for each dues year unless granted for a longer period of time.
 3. Any member who is granted a dues waiver has a duty to promptly notify the PBA if his/her condition changes so that payment of full dues is possible.
 4. Dues waivers are granted by the Membership Development Committee based upon written requests submitted by members.
 5. The Membership Development Committee will keep the Board of Governors informed with respect to the granting of all dues waivers.
- DUES WAIVER POLICY GUIDELINES**
1. In making a dues waiver request, the member is asked to affirm that the medical disability, financial hardship or other hardship is a direct cause of his/her inability to pay dues in whole or in part.
 2. An assertion that a member is not currently employed or engaged in the practice of law and that the payment of dues would give rise to a financial hardship may be considered. However, the member must state the circumstances giving rise to the financial hardship, as well as the efforts being pursued and prospects for a change in the ability to pay.
 3. When a dues waiver is granted, any approval of a dues waiver for the same individual under the same or similar circumstances for a second or subsequent year will require the individual to pay a fee of \$50 per year. The maximum number of years for which an individual may receive a dues waiver shall be equal to 50% of the number of years such individual was a dues paying member of the PBA, not to exceed ten (10) years. The Membership Development Committee shall have the right to recommend a dues waiver which would exceed the maximum allowed herein, when, at the sole discretion of the Committee, unusual circumstances justify such recommendation.
 4. An applicant for a dues waiver must be a current member of the Pennsylvania Bar Association or, in the case of an application for a waiver renewal, a recipient of a dues waiver for the preceding year.
 5. Dues waivers are for the purpose of providing temporary assistance to members in need so that in a close case the member should be given the benefit of the doubt at least with respect to an initial dues waiver request.
 6. Requests for dues waivers must be submitted by January 31 of each year.

Members in the News

(Continued from Page 28)

and purposes of the CCBL and to improve the legal profession, the justice system or the community.

WIP member **Joanne M. Murray**, a partner at Antheil Maslow & MacMinn LLP, has been elected to serve as vice president/president-elect of the Bucks County Bar Association. The BCBA has more than 800 members and is dedicated to providing support and fellowship for the advancement of the legal profession. Murray has been an active

member of the BCBA and as served in a variety of leadership roles, including secretary, board member, Womens Lawyers Division chair and founding chair of the Business Law Section.

Murray concentrates her practice in the areas of business law, business transactions, contracts, banking and finance.

At the Conference of County Bar Leaders, on Feb. 27 – March 1, 2014, at The Nittany Lion Inn, State College, Philadelphia Bar Association Immediate Past Chancellor **Kathleen Wilkinson** received the Gilbert Nurick Award for her dedication and service to leader-



ship and promotion of the organized bar and its activities.

