

LAWYERS JOURNAL

ACBF Building Bridges to the Future endowment campaign fully funded

by Vicki L. Beatty

In May 1996, the Allegheny County Bar Foundation Board of Trustees created the ACBF Permanently Restricted Endowment Fund in order to aid the foundation in carrying out its philanthropic mission. Until 2005, contributions to the endowment were limited primarily to Fellows pledges. At that point the endowment stood at \$279,000 with investment income directly reinvested in the fund. The possibility of looking to the income from the endowment to provide additional assistance to local legal services providers or to expand the foundation pro bono efforts and education services appeared to be a long way off. This turned out not to be the case.

With the foresight of former Foundation President Bob Ridge and the enthusiasm and hard work of Endowment Campaign Co-Chairs Joan Ellenbogen and Ed O'Connor, the foundation launched the Building Bridges to the Future campaign on Sept. 21, 2005 making a commitment to build the endowment to at least \$1,000,000 by 2010. This was a lofty goal, but sometimes you need to dream big. In retrospect, perhaps we needn't have worried about reaching our mark. The generosity and commitment of our legal community has been underscored time and again. The Allegheny County Bar Association itself was the first to step to the plate with a \$300,000 pledge. From there, law firms big and small, sole practitioners and individual attorneys pledged their commitment to ensuring that the foundation continues to be the driving force in promoting justice within our community for the next generation.

Early last year, we announced that the endowment had in fact reached the \$1,000,000 mark and with the completion of the 5-year pledges in 2010 the campaign has now ended. To those of you who contributed to this success through direct contributions, making phone calls, or writing letters, thank you! Your hard work will be reflected in the new programs that can be started by our local legal service providers as the result of additional grant monies that will be available. It will be reflected in the additional community members who will receive legal representation as a result of the foundation's Pro Bono Center and its programs. These are real impacts which would not happen without your assistance.

Now that the campaign has ended successfully, we can sit back on our laurels and let things coast for a while, right? Unfortunately not. For

those of you who have been reading my articles and those written by Foundation Director Lorrie Albert, you know that the economy has not spared our organization. Given the level of contributions to the campaign, we would have expected that the interest income from the additional endowment revenue would have grown at a much faster pace over the past three years than it has. Since we are committed to not invade the principal of the endowment, our ability to use the income from these funds for additional grants to service providers and support for pro bono initiatives is limited by the economic recovery. At the same time, the need for our assistance continues to grow. Perhaps it is a good thing to know your program is needed, but it is frustrating as well to know that you cannot begin to meet the needs that exist.

The completion of the endowment campaign was a good start. It provides us with a solid foundation to begin to plan for the future and to start to meet our goal of additional assistance to the community. But it is only a start. Just as the need within Allegheny County continues to grow, our commitment—the commitment of this legal community—to meeting that need must continue to grow. If we have learned anything in the last three years it is that we certainly cannot count on the market to solve our problems. We must look within. As a legal community, we met the first challenge—we successfully completed the Building Bridges to the Future campaign. Our next challenge is to continue that good work. Whether through a contribution to the foundation unrestricted fund, the endowment, a named fund, or your volunteer efforts, together we can continue to make a difference. ■

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All letters must include signature, address, and phone number. All letters are subject to editing. We regret that we can neither print nor acknowledge every letter. We will not return letters.

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GENDER BIAS DUTY OFFICERS

If you have observed or experienced any form of gender bias, you may contact one of the following members of the Gender Bias Subcommittee of the Women in the Law Division. The duty officers will keep your report confidential and will discuss with you actions available through the subcommittee.

Kimberly Brown412-394-2323
Rhoda Neft.....412-261-2753
Susan Seitz412-544-7882

ETHICS HOTLINE

The ACBA Professional Ethics Committee "Ethics Hotline" makes available Committee Members to answer ethical questions by telephone on a daily basis.

January

Thomas Hollander412-922-8499
James R. Schadel.....412-765-3399
Richard E. Shenkan.....412-716-5800

February

Walter J. Blenko, Jr.....412-566-6189
C. Kurt Mulzet412-261-6400

THE FULL TEXT AND/OR HEADNOTES FOR THE CASES BELOW APPEAR IN THE ONLINE, SEARCHABLE PLJ OPINIONS LOCATED AT WWW.ACBA.ORG.

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Solicitation for Candidates for 2011/2012

President-Elect, Secretary, Governors, and Members of the Judiciary Committee for the Allegheny County Bar Association

The Nominating Committee of the bar association is seeking candidates for the positions of President-Elect, Secretary (two-year term), five (5) Governor positions (three-year terms), and eight (8) Judiciary Committee positions (three-year terms). Terms are to begin on July 1, 2011.

Qualifications:

President-Elect:

Candidate must be a member of the bar association and a current or former member of the Board of Governors of the bar association.

Secretary:

Candidate must be a member of the bar association.

Governor:

Candidate must be a member of the bar association and should have a history of active participation in one or more Committees, Divisions, or Sections of the ACBA.

Judiciary Committee:

Candidate must be a member of the bar association and should be actively practicing and appearing before judges of the Pennsylvania Court of Common Pleas, Appellate Courts, and/or Federal Courts.

Anyone desiring to run for the above positions must submit a resume and complete an ACBA Nomination Application Form. (The nomination form can be downloaded from the ACBA website at www.acba.org or obtained by contacting Janet Dalton, Administrative Assistant to the Executive Director at 412-402-6602 or jdalton@acba.org.)

The nomination application and resume should be sent to

David A. Blaner, Executive Director, ACBA,
400 Koppers Building, 436 Seventh Avenue,
Pittsburgh, PA 15219

by Friday, February 4, 2011.

Applications with resumes will also be accepted by e-mail at dblaner@acba.org.

President's Message

Resolve to provide more pro bono service this year



by Gary P. Hunt

If you are like me, you have had only limited success in carrying through with your New Year's resolutions. But the great thing about any resolution is that it can be reaffirmed anytime. Indeed, a resolution can be made anytime. And so, with the new year just beginning, I am asking each of our members to consider making a resolution to do something with your law license and your legal skills that makes a positive difference in our community.

We are all required by the Rules of Professional Conduct to provide pro bono public service (Pa. R. P. C. 6.1). Many of our members already contribute time to pro bono projects. To those members, I thank you and ask you to continue to do so. I also ask you to convince at least one other lawyer to get involved in some form of pro bono service. If we are successful in that effort, we will double the number of lawyers involved in pro bono activities, and will thereby double the positive impact the legal profession is having on our community.

For those members who are not yet involved in a pro bono project, I understand how difficult it is to meet all of the obligations we undertake as a lawyer. And I can therefore understand why not every lawyer renders pro bono

public service. Furthermore, I would not be so presumptuous as to define what that means for each of our members. For some members, it may mean continuing to volunteer as a pro bono lawyer representing a party in PFA proceedings. For others, it may mean providing your legal services on a pro bono basis to a local community organization.

The good news is that there is no shortage of opportunities to provide pro bono legal services to those in need, and many of those opportunities do not require the investment of significant amounts of time. It may involve a few hours advising someone on a landlord/tenant issue, or it could be an evening spent in a legal clinic a few times a year. But those few hours can make a huge difference to someone in our community.

The Pro Bono Center of the Allegheny County Bar Foundation is the clearinghouse for pro bono opportunities for our members. The mission statement of the ACBF makes the following promises:

The Pro Bono Center, formerly known as the Center for Volunteer Legal Resources, is the nexus between the members of the bar association and its 17 projects and member organizations that provide direct legal services to the poor. The center's mission is to provide well-trained attorney volunteers to help meet the legal needs of the indigent in Allegheny County. Volunteer attorneys will have access to the support they need, including free or reduced fee CLE training, free online research, mentoring, and malpractice insurance for volunteer efforts, as well as volunteer opportunities through the center's projects, organizations, and new initiatives.

Among the many projects and organizations that the ACBF Pro Bono Center works with are the following:

- Federal Court Prisoners Civil Rights Pro Bono Project
- Indigent Birthparent Attorney Project
- Juvenile Court Project

- Military Personnel Pro Bono Project
- Military and Veterans Legal Advice Call-In Day
- Anti-Predatory Lending Clinic
- Catholic Charities Legal Clinic
- Child Custody Guardian Project
- McKees Rocks Clinic
- Millvale Community Clinic
- Veterans Legal Clinic
- The Wills Project
- Greater Pittsburgh Arts Council Volunteer Lawyers For The Arts
- Jewish Family & Children's Service
- KidsVoice
- Neighborhood Legal Services Association
- North Hills Community Outreach, Inc.

- Pittsburgh Aids Task Force Legal Committee
- Pro Se Assistance Program, Court of Common Pleas of Allegheny County, Family Division—Adult Section
- Uptown Legal Clinic

This is only a partial listing of the projects or organizations to which you can be linked if you would like to get involved in providing pro bono services.

The manner in which you resolve to get involved is not important. What is important is that the legal profession provide pro bono services, in whatever manner each member feels best suits his/her individual desires and inclinations.

Back to resolutions—I ask that each of our members resolve to provide some pro bono service this year. I promise you, the rewards you will receive from that effort will significantly outweigh the burden of the time you give. Getting involved is easy. Just visit the ACBF website at www.acbf.org or contact Barbara Griffin at 412-402-6668 or bgriffin@acba.org. ■

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Chapter 9 and Act 47: A light at the end of the tunnel for municipalities?

by Kirk B. Burkley
and Jillian L. Nolan

A result of the Great Depression, in 1934 (*Pub. L. No. 251, 48 Stat. 798 (1934)*) Congress formulated the first version of Chapter 9 to protect debt laden cities and municipalities. Chapter 9 of Title 11 of the United States Code (the Bankruptcy Code) is only available to municipalities and provides municipalities protection from creditors while allowing the municipality to create a plan to restructure its debts.

Initially, the United States Supreme Court held the 1934 Act unconstitutional as an improper interference with the sovereignty of the states (*Ashton v. Cameron County Water Improvement District No. 1, 298 U.S. 513 (1936)*). In response to the Supreme Court's decision, Congress enacted a revised Municipal Bankruptcy Act in 1937, *Pub. L. No. 302, 50 Stat. 653 (1937)*, which was ultimately upheld on appeal to the Supreme Court (*United States v. Bekins, 304 U.S. 27 (1938)*). The law has been amended several times since 1937, most recently as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Since enacted in 1934, approximately 566 (See Nicholas McGrath and Ji Hun Kim, "The Next Chapter for Municipal Bankruptcy," *American Bankruptcy Institutes Journal*, June 2010, Vol.

XXIX, No. 5) cases have been filed under Chapter 9 of the Bankruptcy Code.

In the past, filing for Chapter 9 protection was considered a last resort because of the uncertain results for everyone involved including municipal employees and bondholders. However, in the current economic downturn, more and more debt laden cities and municipalities are finding themselves considering the Chapter 9 option. Many industry experts and commentators are now predicting that the coming financial crisis facing the nation's municipalities will dwarf the airline, auto industry, and banking sector crises of the past decade. It is because of this brewing storm that lawyers, politicians, and financial professionals should have a basic understanding of the tools available to financially distressed municipalities. The authors have primarily dealt with Chapter 9 in filings by municipal hospital districts in western states. This article will provide a basic overview of Chapter 9 bankruptcy and its interplay with Pennsylvania's Act 47.

In order to be eligible for Chapter 9 protection several factors must be present. Those factors are found in Section 109(c) of the Bankruptcy Code. Upon the filing of a petition under Chapter 9, the Bankruptcy Court will determine whether the proposed debtor meets these requirements. Notably, the chief judge of the court of

appeals for the circuit embracing the district in which the case is commenced shall designate the bankruptcy judge to conduct the Chapter 9 case.

The first and perhaps most important step is to determine whether the entity meets the statutory definition of a municipality under the Bankruptcy Code. A municipality is defined as a "political subdivision or public agency or instrumentality of a state" (11 U.S.C. §901). Municipalities include political subdivisions such as counties, parishes, cities, towns, villages, boroughs, and townships. A municipality may also include public agencies or instrumentalities that are organized for the purpose of constructing, maintaining, and operating revenue producing enterprises (*Bankruptcy Act §81(1), former 11 U.S.C. §404 (1976); In re County of Orange, 183 B.R. (594)*). Some courts have construed the definition of municipality under the Bankruptcy Code broadly. The United States Bankruptcy Court for the District of New Hampshire held that regional refuse disposal districts are considered instrumentalities of the state and were therefore held to be municipalities (*In re Sullivan County Regional Refuse Disposal District, 165 B.R. 60, 73 (N.H. 1994)*). In another instance, the United States Bankruptcy Court for the Southern District of Mississippi held that the Greene County Hospital was a public agency and met the statutory definition of a municipality because county officers had control over the hospital (*In re Greene County Hospital, 59 B.R. 388, 389 (S.D. Miss. 1986)*). However, the bankruptcy court for the District of Nevada held that the Las Vegas Monorail did not meet the statutory definition of a municipality because the nature of the monorail was more in line with that of a private business rather than an instrumentality of the state (*In re Las Vegas Monorail Co., Case No. 10-10464 (Bankr. D. Nev. Apr. 26, 2010), appeal docketed, No. 2:10-cv-00678 (D. Nev. May 11, 2010)*).

In addition to being defined as a municipality, a proposed Chapter 9 debtor must also have specific state authorization to be a debtor under Chapter 9. The authorization may be express and incorporated through state law or through a government organization empowered by state law. In the Commonwealth of Pennsylvania, the specific authorization for filing bankruptcy under Chapter 9

is found in the Financially Distressed Municipalities Act (53 P.S. §§11701.101 et seq.) which is commonly referred to as Act 47.

Once the municipality has obtained specific authorization from the appropriate state authority, the next factor is commonly referred to as the insolvency standard. A municipality must be financially insolvent to be a debtor under Chapter 9, meaning that the municipality cannot and has not been paying its debts as they come due. Determination of the municipality's insolvency requires a full cash flow analysis of factors including multi-year cash flows, available reserves, ability to reduce expenditures to borrow, and legal opportunities to postpone debt payments (*The Public Affairs Research Council for Louisiana, The Bureau of Governmental Research, Municipal Bankruptcy in Perspective 4-5 (April 2006)*). Another important factor in the insolvency analysis involves the municipality's taxing capacity. The municipality must have considered reasonable tax increases prior to filing and must show that despite its best efforts to generate income through reasonable tax increases, the municipality cannot generate sufficient revenue to pay its debts. (*In re City of Bridgeport, 129 B.R. 332 (D.Conn. 1991)*).

11 U.S.C. §109 defines who may be a debtor. In addition to the foregoing factors, the Bankruptcy Code in Section 109(c) requires that in order to be a debtor under Chapter 9 the municipality must have obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter; have negotiated in good faith with creditors and have failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter; is unable to negotiate with creditors because such negotiation is impracticable; or reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

After the Court determines that a municipality is authorized to be a debtor under Chapter 9, the municipality is charged with presenting a plan of adjustment. The plan of adjustment must provide for the restructuring of

Continued on page 8

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has been named a partner with the firm.

Ms. Miller's practice focuses on white collar criminal defense, corporate investigations and compliance, commercial civil litigation, and representing victims of crime in civil and criminal cases.

Under proposed NLRB rule, all employers must post notice of rights

by Maria Greco Danaher

The National Labor Relations Act (NLRA) is one of the few federal employment/labor laws which does not include a specific provision requiring employers to post a notice related to employee rights under that law. That may be about to change. On Dec. 21, 2010, the National Labor Relations Board (NLRB) issued a *Notice of Proposed Rulemaking*, pursuant to which all employers covered by the NLRA would be required to post educational notices which would inform employees of their rights to act collectively, to discuss the terms and conditions of their employment with each other or with a union, and to form a union for purposes of collective bargaining. Under the proposed wording of the notice to be posted, it will be illegal for an employer to

question employees about union-related activities, to stop them from soliciting for union formation during non-work time, and to prohibit them from wearing union insignias on clothing (except in certain special circumstances).

Underscoring the fact that the NLRB is serious about its enforcement of the proposed notice-posting requirement, the Board has announced that an unfair labor practice charge could be filed against an employer that fails to comply with the proposed rule, once it becomes effective. Also, if an employer fails to post the required notice of employee rights, the Board may find that the six-month period for filing any unfair labor practice charges by employees of that employer does not begin to run until the notice is posted or until the employee filing the charge "otherwise acquires actual or

constructive notice that the conduct in question may be unlawful," thereby extending the applicable statute of limitations.

It is of note that the proposed rule provides that an employer's failure to comply with the notice-posting requirements may have an effect on that company's defense of other unfair labor practice charges, because the Board may consider "knowing noncompliance with the posting requirement" in determining whether unlawful motive has been established in situations where such an "unlawful motive" is an element of the violation.

If the proposed rule comes into effect, employers with significant numbers of employees who lack proficiency in English will be obligated to post the notice in the language spoken by those workers. Further, employers that customarily communicate with

employees via electronic mail will be required to distribute the notice by e-mail or by posting it prominently on the company's website or intranet.

In short, this proposed rule may make up for the perceived ground that was lost in the legislative fight over the Employee Free Choice Act, which is now viewed as all-but-dead; and while most employees are unfamiliar with their rights under the NLRA, this proposed notice-posting rule will certainly broaden the resources available to employees to educate them about those rights.

Public comment has been invited on the rule and its proposed enforcement provisions. Such comments should be submitted electronically to www.regulations.gov or can be mailed to Lester A. Heltzer, Executive Secretary, NLRB, 1099 14th St. N.W., Washington, D.C. 20570. ■

Foreign adoption rules streamlined under new Orphans' Court rules

by Jim Koval

The Supreme Court of Pennsylvania has approved a new rule aimed at streamlining the foreign adoption process by establishing guidelines to be used when the child's adoption was not "full and final" in the foreign country.

"Adopting a child from a foreign jurisdiction can be daunting and complicated. By these rule changes prospective parents in Pennsylvania can complete the adoption process in a less burdensome manner assuring the legality of a new child and his/her new parents," Chief Justice of Pennsylvania Ronald D. Castille stated.

Newly enacted Orphans' Court Procedural Rule 15.9 provides a

relatively easy and inexpensive procedure for finalizing an adoption when for immigration purposes, the child's adoption in the foreign country was deemed not to be "full and final." This situation can arise, for example, when both parents were not present in the foreign country at the time of the adoption hearing. The action complements a related rule (Rule 15.8) adopted previously by the Supreme Court in response to Act 96 of 2006, whose aim was to simplify, expedite, and standardize on a statewide basis the registration of foreign adoption decrees. New Rule 15.9, along with the registration procedure in Rule 15.8, will allow the foreign-born child to obtain a Pennsylvania birth certificate.

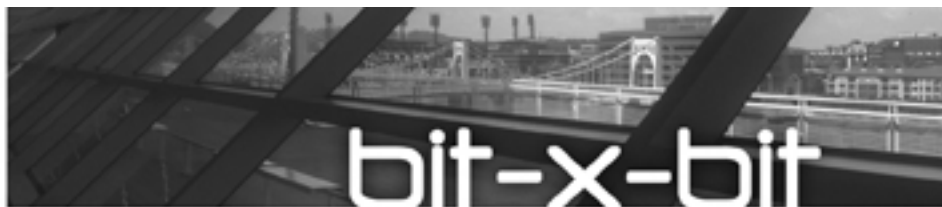
New Rule 15.9 requires less information than what might otherwise be required in completing a domestic adoption because the courts may rely on information the parents have already provided to the Department of Public Welfare to ensure that Pennsylvania's pre-adoption requirements have been met, and information already obtained by the U.S. Citizenship and Immigration Services to ensure that the child is orphaned. Adopting parents may proceed in any county in the Commonwealth by filing the form petition and several required documents with the Clerk of the Orphans' Court, except in Philadelphia County, where the form petition and documents are filed in the Family

Court Division. Adopting parents and the foreign-born child must be present at the hearing.

The Supreme Court also has amended Rule 15.8 to permit name changes during the registration process for children who are younger than 12 years of age. Also, for a foreign adoption decree that cannot be registered, Rule 15.8 now refers the petitioning adoptive parents to newly enacted Rule 15.9.

Forms for Rule 15.9, including the uniform statewide petition, proposed decrees, intermediary's report, and translator's verification will be available for downloading on the Pennsylvania Judiciary's website, www.pacourts.us. ■

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Marketing your law practice in a down economy in a few easy steps

by Anthony Kalikas

For the past couple of years, all the news about our economy has been grim. And that's putting it mildly. From one coast to the other, large law firms which have been in existence for decades have been crumbling. This has triggered a dramatic phenomenon: a drastic shift in the legal services market. For example, lawyers from those disbanded large law firms have formed smaller "boutique" firms. Yet other attorneys from those firms who once practiced with big firms have decided to "hang their shingle" as solo practitioners. Finally, other lawyers have left the profession all together.

For those attorneys who have chosen to remain and brave the stormy waters of this economic climate, a new task—marketing—has now been added to their "to do list." Some firms have a designated individual whose sole function is to "sell the firm" to large institutional clients in the hopes of sending large volumes of cases to the firm. Thus, where the marketing may have been handled by other individuals previously, attorneys must now not only embrace marketing, but more importantly, make it a "systematic" function of their office in order to maintain a steady flow of cases. This article is meant to provide a few little or no cost

ideas which you can employ immediately to improve your marketing efforts. The ultimate goal is to be more competitive in today's legal market.

Set up a contact management system

We have all heard the phrase "the power of information." Every attorney has this power, but very few harness and channel this power into something productive. As a sole practitioner for almost 20 years, I would collect business cards. Sometimes I would contact that individual again, but on most occasions the card went into a drawer. In order to market your law practice efficiently, you must take the time to not only collect, but also properly organize all of your contact information in one place. This means clients, friends, acquaintances, relatives, and yes—even your fellow attorneys. All of the above are great sources of case referrals.

You most likely already have a contact manager, but may not utilize it to its full potential. There are several contact management programs available to the general public. Microsoft Outlook is one such contact management system, but there are others which cater specifically to the legal profession. Microsoft Outlook allows you to export your data to a CSV file (comma separated values) file. The use of the CSV files will be discussed later in this article.

For starters, you or your staff should follow up with each person on your contact list to ensure his/her information is accurate and current. Thereafter, you should periodically (i.e., once or twice a year) have your staff confirm the accuracy of your contact list. An added benefit of keeping in touch with members of your "contacts" list is that a simple telephone call to verify the accuracy of contact information may very well result in the inheritance of a case or a referral of a client.

Develop and maintain an online presence

Take a moment and ask yourself, when was the last time you reached for a yellow page directory? For most of us, it has probably been well over a few years. The Internet has essentially rendered the "yellow pages" and other similar directories almost valueless. Like it or not, the internet is now part of our daily lives, and in the future will only become increasingly more so. It is a rare day that you do not send or receive an e-mail message, download a file, or Google something. Over the last ten years, Internet usage worldwide has virtually tripled.

At some point, most of us have purchased airline tickets, hotel reservations, or other goods and services online. Others have used the Internet to find a car, a home, or even search for a soulmate. You do not need to look any further than such sites as *Cars.com*, *Zillow.com*, and *Match.com* to understand the far reaching grasp of the Internet. Individuals—your potential clients—are placing their trust and faith in the Internet to not only make some of the largest purchases of their lives (houses and cars), but also to find a husband, wife, or life partner. That helps demonstrate the power of the Internet.

However, consumer trust in the Internet does not cease when it comes to shopping for legal services. Make no mistake, consumers are using the Internet to search for attorneys as well. Internet searches are increasingly becoming more precise and more detailed, as today's users become increasingly sophisticated about how to fine-tune their searches. Many bar associations have established online attorney directories on their websites where attorneys can list themselves under various practice areas for a nominal fee. Yet other paid sites such

as Findlaw and *Lawyers.com* offer similar services bundled with web design and hosting. Finally, there are free sites such as Plaxo and LinkedIn serve the same function to some extent by allowing you to post a free profile and classify yourself under a particular occupation or area of expertise.

Websites

Once an attorney makes the decision to develop an online presence, he/she must then decide the form the online presence will take. There are several options, but for purposes of this article, I will address websites and social media sites as these are the most widely used methods by which individuals currently obtain information on the Internet.

Before Google and other search engines came along, if a client needed to consult an attorney, the client often turned to the yellow pages or he/she obtained a referral from a friend, relative, or co-worker. The Internet has provided consumers with the ability to perform their own "due diligence" in the comfort and safety of their own home. Thus, public perception of your online presence becomes paramount. Simply stated, attorneys cannot hope to remain competitive in today's legal marketplace unless they have an online presence. More specifically, a website which can be found easily, is easy to navigate, and is attractive. Finally, the site should provide some basic information consumers and potential clients want and need to know about the attorney's office (i.e. types of cases the attorney handles, results on similar cases, fees charged, office hours, location and directions, etc.).

Most people who perform Google searches expect their search to result in locating relevant websites. There is an expectation that a search will result in locating a website. In other words, a website is no longer a luxury; it is now a necessity. Consequently, the absence of a website dramatically reduces your chances of having a potential client who was given your name contact you. The importance of having a website to remain competitive in today's legal economy cannot be understated.

The cost of setting up and maintaining a website can range from the very affordable to ridiculously expensive. Everyone's budget is different. If you

Continued on page 9

Understanding Technology is a Matter of Degree.

Attorney	Technical Degree	School
William H. Logsdon	B.S. Mechanical Engineering	University of Notre Dame
Russell D. Orkin	B.S. Metallurgical Engineering	Ohio State University
David C. Hanson	B.S. Ceramic Engineering	University of Illinois
Richard L. Byrne	B.S. Electrical Engineering	Carnegie Mellon University
Kent E. Baldauf, Sr.	B.S. Metallurgical Engineering	Carnegie Mellon University
Paul M. Reznick	M.S. Mechanical Engineering	Carnegie Mellon University
John W. McIlvaine III	B.S. Petroleum Engineering	Pennsylvania State University
Julie W. Meder	M.S. Chemical Engineering	University of Virginia
Lester N. Fortney	M.A. Physical Chemistry	University of Texas
Kent E. Baldauf, Jr.	B.S. Chemistry	University of Pittsburgh
Kirk M. Miles	B.S. Chemistry	Gannon University
Randall A. Notzen	B.E. Electrical Engineering	Youngstown State University
James G. Porcelli	B.S. Mechanical Engineering	University of Illinois
Christian E. Schuster	B.S. Mechanical Engineering	University of Pittsburgh
Ann M. Cannoni	B.S. Chemical Engineering	Villanova University
Nathan J. Prepelka	B.S. Chemical Engineering	Pennsylvania State University
J. Matthew Pritchard IV	B.S. Civil Engineering	Carnegie Mellon University
Patricia A. Olosky	Pharm.D.	University of Pittsburgh
Alexander Detschelt	B.S. Computer Science	University of Pittsburgh
Lari A. Northrop	B.A. Physics	Colgate University
James R. Franks	M.S. Colloids, Polymers, and Surfaces	Carnegie Mellon University
Douglas M. Hall	B.A. History	Duke University
James J. Bosco, Jr.	B.S. Computer Science	San Jose State University
Thomas C. Wolski	B.S. Biology	University of Pittsburgh
Tarasa J. Fenus	B.S. Biochemistry	Chatham University
Ryan J. Miller	B.S. Electrical Engineering	Duke University
Adam J. Komorowski	B.S. Mechanical Engineering	University of Dayton
Bryan P. Clark	B.S. Chemical Engineering	University of Wisconsin
John W. Zorr	B.S. Mechanical Engineering	University of Pittsburgh
Daniel H. Brean	B.S. Physics	Carnegie Mellon University
Anthony W. Brooks	B.S. Chemical Engineering	Pennsylvania State University
Julie A. Heitzenrater	B.S. Metallurgical Engineering & Material Science	Carnegie Mellon University
Steven M. Johnston	B.S. Chemistry	United States Military Academy
Donald C. Lepiane Of Counsel	B.S. Metallurgical Engineering	University of Pittsburgh
Michele K. Yoder Patent Agent	B.S. Chemical Engineering	Youngstown State University

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First Circuit holds Title VII does not protect employees from all issues

by Maria Greco Danaher

The First U.S. Circuit Court of Appeals reminds us that while Congress' antidiscrimination laws are designed to protect workers' rights, they are "not intended to function as a collective panacea for every work-related experience that is in some respect unjust, unfair, or unpleasant." Consistent with this statement, the court dismissed the claims of four female radiology technicians who complained that their supervisor's abrasive behavior and its resulting "nerve-racking" work environment caused each of them to leave her employment at a Department of Veterans Affairs (VA) hospital. *Ahern, et al. v. Shinseki*, First Cir., 09-1985, Dec. 13, 2010.

Eileen Ahern, Debra Auger, Maureen Mastalerz, and Lynda Parker were employed as radiology technicians in the diagnostic imaging service (DIS) of a VA Hospital in Providence, R.I. All four reported to a chief technologist (Joan Beaudoin) who, in turn, reported to the administrative officer, Mehrdad Khatib, who was in charge of personnel management. When Khatib first took over, the DIS employed 16 staff technologists, 14 of whom were female. Khatib hired contract technologists, 11 of whom were male and seven of whom were female.

Beginning in 2003, the plaintiffs and several of their co-workers complained to Beaudoin about Khatib's management style, claiming that Khatib was creating "stressful working conditions" and a "hostile working environment." Khatib was advised of the issues, and was asked to work to resolve them.

Early in 2004, Khatib advised Beaudoin that the 4-day workweek schedule by certain of the technologists, including all four plaintiffs, was creating inefficiencies, and asked Beaudoin to change that schedule to a regular 5-day workweek. This change was not implemented, although Beaudoin ultimately instituted a modified version of Khatib's proposal that included keeping the 4-day workweek intact.

In April 2004, the plaintiffs, along with three female and two male co-workers, submitted a formal complaint about Khatib, suggesting that he had proposed the 5-day workweek in retaliation for the employees' initial complaints against him, and complaining that he had treated a particular male employee "with more respect" than others, that he was "bullying" the staff, that he harbored "unreasonable and unrealistic expectations," and that he was setting employees up to "look and feel like failures." While the complaints were identified as "sex discrimination,"

they included a statement that Khatib also treated certain male employees "horribly."

All four plaintiffs ultimately left the VA Hospital and filed a lawsuit, claiming gender-based discriminatory hiring, retaliation, and constructive discharge. The lower court entered summary judgment for the hospital, which was upheld by the First Circuit on appeal.

The First Circuit found that because none of the plaintiffs actually applied for any of the positions filled by Khatib, there could be no gender-based hiring discrimination against them. In response to the claim of retaliation, the Court held that the plaintiffs were unable to show the required "materially adverse action" that underlay the claim. While the plaintiffs pointed to Khatib's attempt to change their 4-day workweek, the Court specifically found that "[m]erely proposing a change in an employee's schedule does not, in and of itself, constitute a materially adverse action." Because Khatib's plan was never brought to fruition, no materially adverse action occurred, and therefore no retaliation could be proven. In response to the plaintiff's last claim, the Court found that the allegation of constructive discharge was not sufficiently supported, because the plaintiffs failed to show that their

working conditions were "so difficult or unpleasant that a reasonable person . . . would have felt compelled to resign." While the Court agreed that plaintiffs' evidence showed that Khatib's behavior "created divisiveness and unrest among employees who worked under him," and that it "may have engendered a "nerve-racking environment," that environment was not based on gender. The Court pointed out that "generally disagreeable behavior and discriminatory animus are two different things."

Working for a difficult or even unreasonable supervisor can be burdensome, but unless evidence exists to show that such behavior by a supervisor is gender based, Title VII is not the appropriate vehicle for recourse. Of course, this case should not be read to justify overlooking or ignoring complaints made by employees. An employer's obligation to effectively and promptly investigate employee complaints should not be taken lightly. While Title VII and other state and federal antidiscrimination laws are not meant to be viewed as a code of general civility, the parameters set by those statutes should be reviewed, understood, and enforced by employers, in order to avoid the risk of liability that accompanies their violation. ■

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CHAPTER 9 continued from page 4

the municipality's debts similar to a Chapter 11 plan of reorganization for private entities (both businesses and individuals). Typically, Chapter 11 is utilized by corporations to restructure or liquidate pursuant to a confirmed plan. Unlike Chapter 11, there is no statutory deadline imposed on a Chapter 9 debtor for filing its plan of adjustment. However, the bankruptcy court may dismiss the case if a plan of adjustment is not filed in a timely manner. In Chapter 9, like Chapter 11, creditors holding impaired claims are entitled to vote to accept or reject the plan of adjustment. In order to be confirmed the plan must receive votes accepting the plan by 51 percent in number of creditors voting and two-thirds in dollar amount of votes cast, as well as satisfy all of the other Bankruptcy Code.

In the event creditors do not vote to accept the plan of adjustment by the requisite numbers, the Chapter 9 debtor may move to "cramdown" the plan of adjustment. In order to cramdown a plan that has been rejected through balloting, the Court must find that the plan is fair and equitable. In order to be fair and equitable, the plan must be in the best interest of creditors, meaning in Chapter 9 that it is the best of all reasonable alternatives, and that the plan is feasible, meaning that the plan has a reasonable likelihood of success and the municipality won't return to bankruptcy soon.

A plan will only be confirmed if it satisfies the following seven criteria set forth in 11 U.S.C. §943:

(1) the plan complies with the provisions of this title made applicable by sections 103(e) (1) and 901 of this title;

(2) the plan complies with the provisions of this chapter;

(3) all amounts to be paid by the debtor or by any person for services or expenses in the case or incident to the plan have been fully disclosed and are reasonable;

(4) the debtor is not prohibited by law from taking any action necessary to carry out the plan;

(5) except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that on the effective date of the plan each holder of a claim of a kind specified in section 507(a)(2) of this title will receive on account of such claim cash equal to the allowed amount of such claim;

(6) any regulatory or electoral approval necessary under applicable non-bankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and

(7) the plan is in the best interests of creditors and is feasible (11 U.S.C. §934(b)(1-7)).

Once the plan of adjustment is confirmed, the municipality and all of its creditors are bound by the terms of said plan. The municipality shall then be discharged of all its debts, except for the debts retained under the plan and the creditors who did not have prior notice or knowledge of the municipality's Chapter 9 filing.

Municipalities in Chapter 9 enjoy many benefits. It is often described as a protection of the public as much as a protection for the creditors primarily because if a municipality goes under, the people living there are going to suffer as well. The municipality's financial woes affect all constituents and not just those running city hall. Chapter 9 allows a municipality to restructure debt and rebuild with minimal effect as possible on the people. It also provides a path for repayment of creditors while discouraging citizens from taking direct legal action against the municipality.

The automatic stay provisions of the Bankruptcy Code prohibit creditors from continuing their collection efforts against the municipality. In the Chapter 9 scenario, Court interference is also minimal. Generally, the Court does not interfere with the management and administration of a local government. The Bankruptcy Code does not afford the Court with the power to appoint a trustee or examiner to run the city or municipal government.

Another benefit to Chapter 9 protection is that the Court cannot force a city to sell assets nor restrict the hiring of professionals such as accountants or lawyers or auditors. The normal restrictions on "disinterestedness" of professionals found in Section 327 of the Bankruptcy Code do not apply to Chapter 9.

Further, the Court cannot limit the municipality's ability to go out in the market and try to issue more unsecured debt. Even though the Court may not restrict the municipality's ability to incur unsecured debt, the Court must approve any issuance of secured debt. The Chapter 9 plan of adjustment must come from the municipality and creditors cannot submit their own competing plans.

Perhaps one of the most controversial, yet beneficial, aspects of Chapter 9 is a municipality's ability to reject onerous collective bargaining agreements (CBA) with its unionized workforce. Recently, the Eastern District of California in *City of Vallejo*, held that a municipality in Chapter 9 bankruptcy was empowered to reject and, hence, renegotiate an onerous CBA (*In re City of Vallejo, California*, 403 B.R. 72 (Bankr. E.D. Cal. 2009), *aff'd*, 432 B.R. 262 (E.D. Cal. 2010)). The Court held

that the United States Constitution gives Congress the power to establish uniform laws with respect to bankruptcy (*Id. at 75*). While the various states are entitled to prohibit or restrict their political subdivisions from filing bankruptcy, once authorized to file, a municipality can utilize Chapter 9 in its entirety. This includes the ability to reject onerous contracts, including CBAs. This concept likely also applies to underfunded pension obligations. Pension claimants are creditors of the municipality and the same concepts of federalism authorize a municipality to adjust its pension obligations under a confirmed plan of adjustment upon appropriate court approval under the Bankruptcy Code.

While Pennsylvania generally follows the provisions set forth in Chapter 9 of the Bankruptcy code, there are some slight differences. In Pennsylvania, municipalities are specifically authorized by the state to pursue a Chapter 9 filing. Pennsylvania is one of nineteen (19) states with such an authorization (See Eric Montari, "Chapter 9 Bankruptcy: What it means for Pennsylvania's Municipalities," Allegheny Institute for Public Policy, Report No. 09-05, December 2009).

The city of Pittsburgh has the extra requirement of seeking the permission of the governor to commence a Chapter 9 filing under terms of Act 11 of 2004. In Pennsylvania the specific state authorization that a municipality must obtain prior to filing for Chapter 9 protection is contained in Act 47. While the state specific authorization flows from Act 47, there has never been a definitive ruling or substantive opinion by a court in this Commonwealth of whether the municipality had the right to appear before a judge in a Chapter 9 proceeding without first being in Act 47. Many public policy commentators suggest that the legislature needs to make Chapter 9 filings more accessible in Pennsylvania because state specific authorization for Chapter 9 filing is contained solely within the Act 47 statute. For example, the state might want to think about extending the permission to seek Chapter 9 bankruptcy to its authorities and school districts because states are free to prohibit or place as many pre-conditions it wishes on its local subdivisions when it comes to Chapter 9 bankruptcy. Since Act 47 only applies to municipalities, school districts and authorities are not permitted to file for Chapter 9 protection.

Act 47 provides fiscally challenged Pennsylvania municipalities essential options for financial recovery. The Act details criteria for identifying distress and sets forth the powers and duties of the Department of Community and Economic Development (DCED) in assisting a municipality to improve its distressed status. Under Act 47, the Pennsylvania DCED will review the criteria as it relates the municipality at issue and determine whether to declare a municipality as financially distressed. Once this designation goes into effect, the municipality is eligible for, inter alia, debt restructuring, federal debt adjustment actions, bankruptcy actions, and possible consolidations of neighboring municipalities to relieve financial distress.

Act 47 not only provides criteria for identifying distressed municipalities, it also outlines the authority and obligations of the DCED in aiding the distressed municipality in alleviating its distressed status. The Act allows numerous parties to request a determination that the municipality in question has financially distressed status, including, inter alia, the municipality's governing body, the

DCED itself, or 10 percent of electors voting in the previous election. Once a party requests a determination of distressed status, the DCED will follow a detailed set of criteria in declaring a municipality as being distressed.

Once the DCED determines that the municipality requesting distressed status is in fact financially distressed under the Act, the newly named distressed municipality must formulate a fiscal recovery plan. This recovery plan should be specifically designed to meet the special needs of each individual municipality so it can emerge from its distressed status consistent with applicable law.

To assist in the formulation of the plan, the Secretary of the DCED shall appoint an Act 47 coordinator. In the majority of the cases, an Act 47 coordinator is appointed to develop and implement the plan, however in some cases the municipalities chief executive officer or the municipal governing body shall develop a plan and implement it. The Act 47 coordinator is responsible for developing a recovery plan that addresses all areas of municipal operations. The Act 47 coordinator will look to organizational structure, financial administration, municipal service levels, and overall economic base in creating a plan of financial recovery. The coordinator's job consists of formulating the fiscal recovery plan and assisting in the implementation of the plan.

Once the municipality formulates and implements its recovery plan, the municipality will remain a distressed municipality under the Act until there is an official determination that the municipality is no longer eligible for distressed status. A municipality may have its distressed status terminated by petitioning the secretary of the DCED to rescind its Act 47 status. The secretary may issue a determination that the conditions which led to the earlier determination of municipal financial distress are no longer present and the determination shall rescind the status of municipal financial distress and shall include a statement of facts as part of the final order. (53 P.S. §11701.253(a)). Upon receipt the petition, the secretary may issue a determination to rescind following a duly advertised public hearing with notices given as provided in section 203 (53 P.S. §11701.253(b)). In sum, Act 47 is an open-ended designation and a municipality is in it until the Secretary of DCED determines that it has erased the conditions that led it into Act 47 in the first place.

The City of Pittsburgh petitioned the state in 2007 to be removed from Act 47 status. In rendering his decision in July of 2008, the Secretary of the DCED noted "rescission at this time would be premature and could subject the City to a return to distress status in the near future...many of the conditions that originally led to the distress determination have not been fully alleviated." If Act 47 is unable to alleviate these concerns, the municipality and in turn the DCED should seriously consider Chapter 9 bankruptcy.

Act 47 and Chapter 9 of the Bankruptcy Code are important processes that any financially distressed municipality in Pennsylvania should consider when debts become crippling to long term fiscal health. With the sharp economic downturn in the past decade, more and more municipalities are finding themselves in financially distressed situations. While not always politically popular, Act 47 and Chapter 9 can assist in financial recovery and provide a means for putting municipalities on sound financial ground for future generations. ■

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STORY IDEAS WANTED

If you have an idea for a story, please contact Joanna Taylor Stone at jstone@acba.org or 412-402-6604.

MARKETING continued from page 6

belong to a bar association, visit their website and take a look at their member benefits. Chances are your bar association may have done a lot of the work for you already by forming working relationships with companies which specialize in developing and maintaining websites for law firms and solo attorneys. You do not have to spend thousands of dollars to develop a web presence. There are several free services available and other companies which charge a modest cost to develop and host your site.

Social media**(Facebook, Twitter, LinkedIn)**

Most everyone has heard of Facebook, Twitter, and other social media sites. These free social media sites have become increasingly popular among the general population, and more recently, among attorneys. The additional online exposure available to the attorney and potential SEO (Search Engine Optimization) benefits that stem from an attorney's presence on such sites can be rather significant.

In their most basic form, each social media site has a common function. Every time a message is posted or a "tweet" is issued, the communication is "broadcast" to all of the contacts (i.e., to "friends" or "followers") in your social networking group. Therefore, it is imperative to make the decision early on as to whether to use social media sites as a marketing tool for your law practice versus an online chat room for you and your friends. If so, you may want to restrict access to clients and business acquaintances. Otherwise, your college roommates, high school buddies, or old friends may (and almost assuredly will) post or tweet something which you feel may detract from the professional image you wish to project.

Electronic e-mail marketing

CSV contact files, referenced previously in this article, are a critical part of your marketing plan. CSV files are easy to import and export into and out of programs. More significantly, they make communication with your intended recipients dramatically less expensive than conventional mail. However, moderation is the key to success.

There are several free or open source e-mail marketing programs such as PHPlist and Open EMM, but both require some level of technical knowledge to efficiently send out e-mails on a systematic basis. There are other paid services such as icontact and Constant Contact which streamline and simplify the process for those who are less technologically sophisticated. Most e-mail marketing services allow for the importation of CSV files. Used properly, these services can be a very powerful tool. Most paid services offer free trials and monthly subscriptions as low as \$25 a month. More importantly, you avoid the high cost of a postage stamp. The cost of a stamp is now 44 cents, but multiply that number by a few hundred or thousand, and postage becomes a very sizeable expense. Once the contacts have been imported into your e-mail marketing program, you are ready to hit the ground running.

Electronic newsletters can be an invaluable source of generating client leads. The newsletter should be informational in nature and provide legal tips. For example, if you handle drunken driving cases, you may want the newsletter to focus on "what to do

(or not do) in case you're pulled over." The same can be said for personal injury attorneys (i.e., instructing the reader what to do in case of an auto accident, etc.). The newsletter can also be sent to inform clients about recent changes to the law in your jurisdiction. Finally, you can offer clients some insight on how to handle themselves in small claims court.

The frequency of the newsletter should be sent out on a quarterly basis or even less frequently. Overuse of the electronic newsletter concept may cause the recipient to view and/or report your communication as spam. In that event, most e-mail services will shut down your account and refuse to allow you to send further such electronic newsletters.

Holiday/birthday cards

Just because we have entered the digital and paperless age, does not mean we must abandon historically successful techniques. Up to this point, the focus of this article has been to illustrate the various methods attorneys can utilize to get their name in front of a client. However, we can take some of the ideas from the past and use them to our advantage. Over the years, we have seen this take many different forms, such as newsletters, holiday and/or birthday cards, etc. The popularity of the Internet has made these methods of communication easier and less expensive.

Every December, the U.S. mail service is bombarded with mail, parcels, and other packages. The same can be said of any company or law firm. Just think how many holiday cards you receive over the holidays. Though its good practice to send such cards, "timing can be everything." In other words, is it written in stone that a greeting card is meant only to be sent during the months of November and December? Cards can be sent at any time for any holiday and do not need to say Merry Christmas, Happy Chanukah, or Joyous Festivus. For example, cards can be sent to wish a client (present and former) a happy birthday, Independence Day, or St. Patrick's Day.

The idea is to separate yourself from the rest of the crowd. As discussed with electronic newsletters, the same use of electronic e-mail services can be employed to send out a holiday or birthday greeting card. There are also many free services available that will allow you to actually schedule when the cards should be sent. Thus, you or your staff can complete the task in one sitting.

Conclusion

I'll end by sharing this experience. Frequently, I ask lawyers what efforts they take to ensure repeat business from a client. Often, the answer is "nothing!" Consider the following scenario. You represent a client on a divorce matter. The attorney/client relationship is great. The case goes smoothly, concludes, and is paid in full and on time. However, more often than not, once a client's case concludes, few attorneys attempt to capitalize on the positive experience and use it as a marketing tool.

Hopefully, the suggestions in this article have provided an introduction to a variety of inexpensive, Internet-based methods and ideas to improve your ability to present yourself successfully in an increasingly competitive legal market.

Anthony Kalikas is an attorney in California and the founder of EsqSites123.com.

In Memoriam

Hon. M. Bruce McCullough, 1944-2010



by **George L. Cass and Thomas M. Thompson**

The Hon. M. Bruce McCullough, former Chief Judge of the Bankruptcy Court for the Western District of Pennsylvania, passed away on November 23, 2010 at the age of 66. Judge McCullough was appointed to the bench in 1995 and served as Chief Bankruptcy Judge from 2005 to 2008. Before his elevation to the bench, Judge McCullough had practiced for over 25 years with Buchanan Ingersoll as a leading banking and commercial lawyer and as principal counsel for the reorganizing companies in some of the largest Chapter 11 proceedings in Western District history.

Judge McCullough was the son of a Presbyterian minister and spent his childhood in a variety of diverse locations, including New Jersey, China, Connecticut, Missouri, Michigan, and Montana. He graduated from high school in Havre, Mont., which he regarded as his boyhood home. He maintained a strong bond to the west and in many ways was motivated as a lawyer and judge by a strong sense of frontier justice and had a no nonsense, plain-spoken approach to the law.

Judge McCullough obtained his law degree from the University of Michigan in 1969 after having graduated from Whitworth College in the state of Washington. At Whitworth he served as president of the student body and was elected by his classmates to give the senior oration entitled "Motivation, Commitment, Involvement." Following his own advice to the Whitworth seniors, McCullough was motivated, committed, and involved and a leader in the affairs of both his community and profession. He served as chairman of the board of directors of the Allegheny County Chapter of the American Red Cross during its building drive, lead counsel for Allegheny International, Sunbeam Corporation, and Wheeling Pittsburgh Steel in their bankruptcy reorganization cases in the 1980s, and as chairman of the bankruptcy practice at Buchanan Ingersoll. One of his major contributions to the community was his tireless and skillful mediation of a multiparty dispute over the reorganization of the Pittsburgh Penguins, resulting in a resolution saving NHL hockey in Pittsburgh.

In his early practice he handled a variety of litigation cases as well as commercial transactions. He

eventually became a leading lending lawyer representing banks including Union National Bank. His direct, practical, and creative approach to the law and negotiations was perfectly suited to representing banks in negotiating loans, major collections and as creditors in bankruptcy proceedings. Doug Campbell, a bankruptcy lawyer who often litigated against and later appeared before Judge McCullough, explained that, "He made a wonderful switch to entities that owed the money, becoming a debtor's lawyer. It was like watching someone who's always played offense go over and be a star on defense."

On the bench he was decisive and efficient. He did not tolerate lawyers who were unprepared. As one colleague observed, he strongly believed that clients are entitled to effective representation. Although he could be gruff at times, his nature was generous, as demonstrated by many acts of spontaneous kindness and the encouragement and support he gave to aspiring and younger lawyers. As one example, shortly after McCullough was appointed to the Bankruptcy Court a young full-time employee of the Bankruptcy Clerk's office who was in his fourth year of night law school at Duquesne received a call. The voice at the other end said "McCullough here. Come down to my office." The employee did what he was told and when he arrived Judge McCullough said, "I hear you are in law school. My staff tells me you are a hard worker. If you need help finding a lawyer job when you graduate, let me know. I'd be glad to help you out." In 2005, after practicing in Judge McCullough's court for about nine years, the employee became a bankruptcy judge and Judge McCullough embraced his addition to the Bankruptcy Court with open arms and insured that Judge Deller's transition was a smooth one, offering help on numerous occasions, and going out of his way to thank him for his assistance in mediating cases.

Away from the law, Bruce McCullough loved carpentry and doing a variety of his own home repairs. When he ran out of projects at home, he would build various improvements for his friends' homes and often show up unannounced with a new porch swing, a gas grill or a bag of dimmer switches or door knobs to install. Friends found it necessary to defend ailing trees in their yard from Bruce's passion for wielding his beloved chainsaw. Among other diversions, he rode powerful motorcycles well into middle age and got enormous enjoyment out of what some regarded as less than world class golfing talent, reveling not only in his own successful shots but those of everyone in his foursome. He took pride in the "McCullough Mulligan Rule"—if you could run to the ball and catch it before it stopped rolling, the stroke didn't count. He enjoyed annual golfing trips to Ireland with a foursome of friends. He also enjoyed hunting and shooting, particularly in the open spaces of the west.

He is survived by his wife of 25 years, Kathy (Ryan), two brothers, Brian of Helena, Mont. and Barrie of Sandy, Utah, and eight nieces and nephews. ■

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Bar Briefs

News & Notes



Bernadette
Puzzuole

Bernadette Puzzuole was elected Chair of the Board of Directors of the Pittsburgh Airport Area Chamber of Commerce (PAACC). Puzzuole is a partner in the Corporate and Real Estate Departments of Rothman Gordon.

The Pittsburgh Paralegal Association is pleased to announce its officers and board of directors for 2011: President Christine Boyd, Vice President Christie Salimbene, Secretary Roberta Cramer, Treasurer Debbie Donnelly, NFPA Primary Donna Huntermark, NFPA Secondary Jody Nelson Burgess, Keystone Alliance Primary Phyllis Taranto, and Keystone Alliance Secondary Fay Luther; Board of Directors: Michele Alexander, Stephanie Barber, Charles Long, Monique Luck, Toby Marchionno-Adams, Michele Rosenblatt, Diana Roth, and Saveria Saunders.



Justin D.
Ackerman

Justin D. Ackerman, an associate in the Business Services Group of Babst, Calland, Clements and Zomnir, P.C., was elected to the board of directors of Habitat for Humanity for Greater Pittsburgh. Ackerman concentrates his practice on representing closely-held and family businesses, providing a broad range of services including general corporate representation, real estate services and transactions, tax planning, and business succession planning.

People on the Move

McGuireWoods LLP has announced the promotion of two Pittsburgh attorneys to partner level. Jennifer Cairns, of the Product & Consumer Litigation practice area, defends cases involving complex scientific and medical issues in the complex toxic tort and products liability areas. Gary Regan, of the Corporate I practice area, focuses on transactional, securities, and general corporate matters. Laura Lange, an associate with McGuireWoods' Business and Securities Litigation Department, has transferred from the firm's Chicago office to the Pittsburgh office.



Aimee V.
Scott



Jessica C.
Tully

Aimee V. Scott and Jessica C. Tully recently joined Babst, Calland, Clements and Zomnir, P.C., as associates in the Business Services and Natural Resources Development Groups. Scott's practice includes general corporate and real estate transactions. She also concentrates on natural resources and energy issues, and has experience with issues concerning oil and gas well development, including title analysis and land use permitting for Marcellus Shale developers. Tully's practice focuses on general corporate transactions, analyzing oil and gas title defects, and suggesting cures for said defects.

Burns White is pleased to announce the hiring of former Assistant U.S. Attorney Stephen S. Stallings as chair of the firm's White Collar Criminal Defense Practice Group.



Mark A.
Lindsay



Richard W.
Saxe, Jr.

Babst, Calland, Clements and Zomnir, P.C. recently named Mark A. Lindsay and Richard W. Saxe, Jr. shareholders in the firm. Lindsay, a member of the Debtor/Creditor Rights Group, focuses his practice in the areas of bankruptcy and creditors' rights, commercial and residential real estate, and general commercial litigation. Saxe, a member of the Construction Services and Litigation Services Groups, concentrates his practice in the areas of construction and commercial litigation and arbitration.



David M.
Chmiel

Matis Baum O'Connor, P.C. is pleased to announce the election of its newest shareholder, David M. Chmiel. Chmiel is a civil litigator with an emphasis in health care litigation.

Duane Morris recently named Amy M. Joseph of the Trial Practice Group to the firm partnership. Joseph practices primarily in the areas of general commercial litigation, construction litigation, complex civil litigation, and class action defense work.

New Members

The following individuals were accepted as new ACBA members at the January 4 meeting of the ACBA Board of Governors: (attorneys) Mindi M. Albert, Mary Elizabeth Andriko-Moore, Gregory V. Aughenbaugh, Jennifer L. Bentley, Shanon K. Buchanan, Eleanor L. Bush, Jessica C. Caggiano, Danielle Alyce Cairns, Joshua H. Carlson, Tia L. Churchfield, Matthew M. Cianflone, Daniel J. Colaizzi, Krista M. Corabi, Michael J. D'Amico, Jeremy B. Darling, Nathan B. Dodge, Christian A. Eehalt, James M. Elsen, Christopher A. Febbraro, Amanda M. Fisher, Ashley L. Folio, Michael B. Fox, Jacob D. Friedman, Enami Y. Gilbert, Cara Group, Frank J. Guadagnino, Mark C. Hamilton, J. Christian Hart, Sarah L. Holz, C. Derek Horner, Phoebe E. Juel, Christopher J. Kenny, Dennis M. Kozimer, James M. Leety, Angela C. Liberto, Matthew B. Lovewell, Ashley M. Lypson, Nathan J. McGrath, Aaron J. McKendry, Andrea L. Miller, Frederick J. Miller, Jessie R. Minerich, Brendan J. Moran, Anjali M. Nair, Brendan A. O'Donnell, Joe Osborne, Ty M. Osterman, Diana L. Page, Jonathan P. Payne, Nicole E. Petrovich, Matthew J. Ploskunak, Matthew S. Reddinger, John Edward Rigney, Sean P. Ritchie, Terry D. Roberts, Alana E. Rutkowski, Matthew

A. Samberg, Christopher T. Sasada, Daniel S. Schiffman, Katherine A. Sebastiano, Christelle L. Seide, Joanna C. Serago, Lynne P. Sherry, Aaron W. Smith, John A. Spitale, Timothy R. Stienstraw, Suzanne M. Susany, Matthew S. Sutphen, Eve M. Tasio, Edward F. Twomey, Kimly C. Vu, Jennifer L. Webster, Deborah A. Wysni, and Jessica Ziemski; (student) Sarah M. Pagan; (associate members) Anthony L. Colaizzo, Robert P. Dappenbrook, Thomas DiStefano, AnnMarie E. Everett, and Beth E. Teacher; (reinstatements) Robert A. Conroy, James L. Cook, Alexis Gursky Sebastian, Chris Hallock, Marissa L. Hicks, Raymond Vincent Knobbs, Jeffrey T. Morris, and Robert J. Perkins.

Bar Briefs Policy

1. All submissions for "Bar Briefs" should be sent to the attention of David Blaner, ACBA Executive Director, 400 Koppers Building, 436 Seventh Ave., Pittsburgh, Pa., 15219, or e-mailed to dblaner@acba.org.

2. The "News and Notes" section is limited to announcements regarding legal or community service awards or organization appointments. Announcements related to Best Lawyers in America, Pennsylvania Rising Stars, or Pennsylvania Super Lawyers will not be published.

3. The "People on the Move" section is limited to promotions, new positions, and firm establishments. Only ACBA member announcements will be published.

4. The "Changes in Status" section is limited to Court notices regarding attorney status. These announcements come directly from the state and federal courts and are not edited by ACBA staff.

5. The editors retain the right to accept, edit, or reject submissions at their sole discretion.

6. Due to the overwhelming number of submissions received and the nature of the *Lawyers Journal* production schedule, your announcement will be placed in a queue upon receipt and will be published in the next available issue. If you have a question regarding when or if your announcement will be published, contact Joanna Taylor Stone at 412-402-6604 or jstone@acba.org. ■

Publicize Your Section and Committee News!

The ACBA Communications Department is eager to promote any special activity or newsworthy event emanating from your Committee or Section of interest to ACBA members, the media, or the general public. E-mail us at news@acba.org with the following information:

- ◆ Name and description of the event
- ◆ Name(s) of the sponsoring section/committee(s)
- ◆ How many people do you expect to attend?
- ◆ Will there be an admission fee or ticket sales? If so, how much?
- ◆ Is there any other information you would like to share with us?
- ◆ Date, time, and place of the event
- ◆ Name(s) of speakers and titles of presentations
- ◆ Name and phone number of a contact person
- ◆ Are reservations needed to attend the event?

Thank you for your cooperation! ■

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CLE PROGRAMS

ACBA Registration Information: Register for any of these programs via: Mail: CLE Dept., ACBA, 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, PA 15219; Fax 412-261-6438; Phone: 412-402-6612.
PBI Registration Information: MAIL: PBI, 5080 Ritter Road, Mechanicsburg, PA 17055-6903; FAX: (717) 796-2348; PHONE: (717) 796-0804 or (800) 932-4637; ON THE WEB: www.pbi.org. All PBI CLE programs are sponsored by The Pennsylvania Bar Institute & The Allegheny County Bar Association.

FAMILY LAW SECTION

Billing Done Right: From Nightmares to Nirvana and Fraud Prevention

The substantive portion will focus on ways to make billing easier, including timekeeping tips, software programs, and measuring monthly trends. The ethics portion will provide real cases of fraud and advice to protect the firm and clients.

Credits: 1.5 CLE credits (*substantive*) and 1 CLE credit (*ethics*) • **When:** Thursday, February 17, 2011; registration at 2:00 p.m. • **Where:** ACBA Conference Center Auditorium, 920 City-County Building, 414 Grant St., Pittsburgh, PA 15219 • **Tuition:** \$75.00 for Family Law Section Members; \$85.00 for Non-Section Members; \$100.00 for Non-ACBA Members.

FEDERAL COURT SECTION

Qui Tam Litigation in the Western District of Pennsylvania: Open for Business

This panel will provide an overview of *qui tam* litigation under the False Claims Act. Topics include working with relators, health care *qui tam* cases, and the litigation and trial of *qui tam* cases.

Credits: 2 CLE credits (*substantive*) • **When:** Thursday, February 17, 2011; registration 3:00 p.m. • **Where:** Courtroom of Judge Nora Barry Fischer, 5B, USPO & Courthouse, 700 Grant St., Pittsburgh, PA 15219 • **Tuition:** \$60.00 for Federal Court Section Members; \$70.00 for Non-Section Members; \$85.00 for Non-ACBA Members.

GENERAL PRACTICE

The Impact of the Midterm Elections on Law and Policy

Part of PBI's Public Policy Series. Sign up now and learn more about issues that will impact your practice and your life!

Credits: 2 CLE credits (*substantive*) • **When:** Simulcast - Friday, January 28, 2011; 12:00 p.m. to 2:00 p.m.; check-in and lunch begin at 11:30 a.m. • **Where:** PBI Professional Development Conference Center, Heinz 57 Ctr., 7th Fl. • **Tuition includes course book and lunch:** *Early Registration Discount - Member-Pa., or any co. bar assn.: \$149; Member admitted after 1/1/06: \$129; Nonmember: \$169; Paralegals attending with an attorney: \$99; Paralegals attending alone: \$129; Judges & judicial law clerks: \$75; Judges & judicial law clerks admitted after 1/1/06: \$65. *Standard Registration - Member-Pa., or any co. bar assn.: \$174; Member admitted after 1/1/06: \$154; Nonmember: \$194; Paralegals attending with an attorney: \$124; Paralegals attending alone: \$154; Judges & judicial law clerks: \$100; Judges & judicial law clerks admitted after 1/1/06: \$90. *Registrations received more than 2 days before the presentation qualify for the Early Registration Discount.

REAL ESTATE

PLI – “Commercial Real Estate Financing 2011: Turning the Corner”

For more information please go to: www.pli.edu

Credits: 12 CLE (11 *substantive*/1 *ethics*) credits • **When:** Simulcast – Monday & Tuesday, January 31 & February 1, 2011; 9:00 a.m. to 5:00 p.m.; check-in begins at 8:30 a.m., each day • **Where:** PBI Professional Development Conference Center, Heinz 57 Ctr., 7th Fl. • **Tuition includes course book and lunch:** \$1,495.

WORKERS' COMPENSATION SECTION

Impact of Social Media on Workers' Compensation Discovery

This will focus on ethical issues that surround discovery in Workers' Compensation litigation in the context of social media. It will examine laws, regulations, and cases that control discovery.

Credits: 1 CLE credits (*ethics*) • **When:** Monday, March 7, 2011; registration at 11:30 a.m. • **Where:** ACBA Conference Center Auditorium, 920 City-County, 414 Grant St., Pittsburgh, PA 15219 • **Tuition:** \$30.00 for Workers' Compensation Section Members; \$40.00 for Non-Section Members; \$50.00 for Non-ACBA Members.

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Pennsylvania. For more information contact the Foundation at www.pghpresbytery.org/pghpresbyterianfdn.htm or Rev. Dr. Douglas Portz at 412-323-1400 Ext 318.

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DO YOU HAVE ANY JURY VERDICTS TO REPORT?

If so, please forward the following information: Court; Case Number; Jury Verdict; Date of Verdict; Judge; Plaintiff's Attorney; Defendant's Attorney; Type of Case; Experts; and Remarks to: Jennifer Pulice, ACBA, 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, PA 15219

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