ACBA receives 2019 ABA Partnership Award in recognition of WILL program

By Shelly Anderson

With no apologies to the proverb purists, the ACBA, and particularly the Gender Equality Committee, are proclaiming a twist on a familiar phrase: Where there’s a WILL, there’s a way.

And now, there’s an award.

The ACBA, represented by Lori McMaster and Elizabeth Hughes, attended the Aug. 9 ABA’s National Conference of Bar Presidents Luncheon in San Francisco, where the ACBA received the prestigious 2019 ABA Partnership Award in recognition of the WILL program.

The WILL program – the ACBA’s Women’s Institute for Leadership in Law – not only got the validation that comes with a national award, but also did it after its first run.

“It’s a culmination of a lot of work over the years, and something we’ve wanted to do for a long time, so it’s really satisfying to see it not only done but have people recognize it,” said Christie Tillapaugh, co-chair of the Gender Equality Committee.

In 2018, after the years of groundwork Tillapaugh mentioned, a cohort of 28 women attorneys, most at the five- to eight-year point in their careers, went through a 10-month program to help them advance into leadership positions in local firms and corporate legal departments.

“We were focused on women at executive levels of law firms and private companies, and here in Pittsburgh we’re slightly behind the national averages (according to various statistics and sources),” says Beverly Block, also a Gender Equality Committee co-chair.

Tillapaugh, Block and McMaster cited the support of the ACBA, including key assistance from Alysa Keating, the Director of Diversity and Gender Equality, and a relationship with Carnegie Mellon Executive Education for getting WILL up and running.

It began with an overnight retreat in March 2018 with speaker Leanne Meyer, Executive Director of the Accelerate Leadership Center at the CMU Tepper School of Business and program director of CMU Leadership and Negotiation Academy for Women.

Then came nine monthly three-hour sessions that incorporated local and national speakers focused on professional growth areas such as self-assessment, resilience, finance, internal and external business relationships, effective leadership and team management.

Finally, there was a graduation where the keynote speaker was Justice Debra Todd of the Pennsylvania Supreme Court.

“The fact that this wasn’t simply talking heads giving information and women writing it down was really a key attribute to the success,” says McMaster, ACBA President and a founding member of the Gender Equality Committee. “It was an extraordinarily interactive, real-time exercise in leadership development. These women became very close and remain very close.

The WILL program took a dual-level support approach. The cohort gave the women contact with those on a lateral plane. There also were stewards from within each woman’s own firm or company, someone a couple of rungs up who could advocate and offer guidance germane to that particular workplace.

Tillapaugh calls the latter setup “mentorship enhanced,” because the stewards often were high enough up the food chain that the women might not otherwise have had such access to them.

ACBA President Lori McMaster, ACBA President-Elect Elizabeth Hughes, and ACBA Executive Director David Blaner receive the 2019 ABA Partnership Award from the Hon. Pamila Brown (second from right) for the Women’s Institute for Leadership in Law (WILL). Judge Brown is the Chair of the ABA Standing Committee on Bar Activities and Services.

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Workers’ Comp Section golf tournament set for September 19

By Ron Cichowitz

Since its inception two decades ago, the ACBA Workers’ Compensation Section’s annual golf tournament has directed some of its proceeds to support children of parents injured or killed at work.

Last year saw the largest contribution yet, with approximately $9,000 donated to KidzKare, a fund of the Pittsburgh Health Board.

According to Michael Quatrini, chair of the golf tournament committee since 2014, the goal is to provide an attractive event to anyone, even someone with neither the time nor inclination to golf, while also seeing the amount of the contribution to Kids’ Chance continue to climb.

“We (the committee) reconfigured the tournament to supercharge the philanthropic focus,” Quatrini said. “We solicited more sponsors and committed all the sponsorship dollars to go to the charity. We want the tournament to be about philanthropy first, but that we also should get together and have some fun. This allowed us to contribute more than $4,000 that first year and the amount has grown annually.

“We are trying to make this a mini Bench-Bar for the Workers’ Comp Section, he said. “We are trying to structure the day so that it’s efficient.”

To that end, the committee has added a CLE opportunity beginning at 10 a.m., followed by a lunch at 11:30 a.m. before golfers tee off at 1 p.m. This year’s event will be held September 19.

“We added a big lunch rather than a dinner so that those who aren’t golfing or need to get back to work in the afternoon can do so,” Quatrini said.

Another attraction is the location of the golf tournament, which has been held at Shannopin Country Club since the beginning. Located in Ben Avon Heights, the club is just 10 miles north of Pittsburgh, providing easy access to and from downtown.

“I love golf, but I hate slow golf,” he said. “The evolution of this tournament is that it’s structured to raise a substantial amount of money for Kids’ Chance without affecting the quality of the experience.”

The committee sees the golf tournament as an opportunity to

Continued on page 8
By Zandy Dudiak

An upcoming CLE program offered by the ACBA Family Law Section is essentially designed to equip you always wanted to know about family law. And the presenters hope that those attending the ACBA’s “Family Law 101” program won’t be afraid to ask questions along the way.

Maybe the corporate attorney isn’t sure what to say when his brother asks him about alimony rights. Or the one practicing criminal law hasn’t a clue about guardianships. And someone fresh out of law school focusing on administrative law might not be sure exactly how to help her neighbor in crisis get a Protection from Abuse (PFA) order.

Experienced attorneys who practice family law likely know what to do in those not-uncommon cases. But for those not practicing or just learning family law, the answers might not be readily available.

Those are some of the practitioners who are likely to benefit from Family Law 101, a six-hour program that addresses the basics of practicing family law. The course can also serve as a refresher for non-family law attorneys who want to keep up on current issues. Attendees can earn five substantive and one ethics CLE credits.

“The program is a must for less experienced attorneys looking to practice family law,” said Dorothy O’Neil, who is helping to coordinate the seminar.

Topics covered in the morning session include Protection from Abuse (PFA) orders, prenuptial agreements, divorce proceedings, support and custody. The afternoon session will cover equitable distribution, alimony, interim and special relief, alternative dispute resolution (ADR) and appeals.

Melaine Rothey has presented this program approximately every other year, so the content has been fully developed by her,” O’Neil said. “In working with Melaine and the programming committee, we wanted to choose a diverse panel of attorneys in small-, medium- and large-size firms, varying in experience.”

The panel includes family practitioners Joseph Williams, Robb Bunde, Julie Colton, Dawn Gull, Carla Donnelly and Courtney Knox. Rothey, who is one of three permanent masters in the Allegheny County Court of Common Pleas Family Division, said each of the panelists has appeared in front of her for hearings or conciliations and are well-versed in the law.

The panel may expand to include a judge or permanent master, something Rothey said tends to pique more interest in the program. Their names were not available at press time.

“If the speakers will provide examples and hypotheticals to really show how the law applies,” O’Neil said. “There will also be some war stories — of what to avoid — which can also be a valuable learning tool.”

Rothey, who serves as moderator, said the comprehensive program will be presented in a lecture format. Each panelist will present information on their particular area of expertise.

“I have a little script I prepare,” Rothey said. “Everyone will be chiming in on all the topics. I always encourage the panelists if they have something to add. I absolutely want them to jump in.”

If you’re going:

What: “Family Law 101”
Where: Mellon Room in the Koppers Building, 436 Seventh Avenue, downtown Pittsburgh
When: 8:30 a.m. to 4 p.m., Friday, Oct. 25
Lunch is provided.

By Zandy Dudiak

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Health and wellness for our legal community

By Lori McMaster

In my career services role, I regularly attend meetings and conferences with my law school counterparts across the country. We share information and best practices and discuss trends we are experiencing in our student counseling roles. Regardless of whether the law school is public or private, large or small, we are all seeing law students suffering from stress and depression. Nationally, law students are reporting high rates of depression and anxiety, and drinking excessively.

“A crisis in decades.”

by Jean Twenge, Ph.D., who concluded that members of iGen “are at the forefront of the worst mental health crisis in decades.”

Legal industry experts are likewise concerned about the mental health and wellness of attorneys.

A 2016 study titled “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys” by Patrick R. Krill, JD, LLM, Ryan Johnson, MA, and Linda Albert, MSSW found that levels of depression, anxiety, and stress among attorneys are significant, with 28%, 19%, and 23% experiencing mild or higher levels of depression, anxiety, and stress, respectively. Fully 61% of respondents reported concerns with anxiety at some point in their career and 46% reported concerns with depression. The authors found considerably higher rates of mental health distress among attorneys than has been found in similar studies of physicians and surgeons.

To its credit, in 2018, the ABA’s Working Group to Advance Well-Being in the Legal Profession launched a campaign to address these issues among lawyers. The campaign seeks to raise awareness, facilitate a reduction in the incidence of substance abuse and mental health issues and improve lawyer well-being. As of June 2019, the number of signatories included 90 law firms and more than 20 corporate legal departments.

Law student and attorney wellness are issues of key concern to the profession, our justice system, and to the ACBA, which recently hosted an informational meeting for members interested in starting a Health and Wellness Committee. Please contact Christina Daub at cdaub@acba.org if you’d like to participate. The bar association is eager to hear your thoughts regarding how we can address this challenge.

A move to de-emphasize alcohol at bar association events! Strategies to recognize and respond to a colleague’s distress! Events featuring Lawyers Concerned for Lawyers (LCL), an independent, non-profit corporation run by judges and lawyers for the benefit of the bench and bar! ACBA member Aleksandra (Sasha) Phillips of Reed Smith’s Pittsburgh office established The Art Wellness Committee. Please contact Sasha Phillips at ophillips@reedsmith.com.

There are several Art Wellness programs now in place that will allow us to continue the discussion and raise awareness of mental health issues as well as provide different ways to cope with the stress and other issues often associated with a fast-paced legal career,” says Phillips. If you’re interested in becoming involved with The Art Wellness Program, please contact Sasha Phillips at ophillips@reedsmith.com.

Law schools are increasingly adopting programs to address student wellness. Alison Lintal, director of Career Services & Internship Programs at Dickinson Law, describes the school’s “Mindful Mondays” and “Wellness Wednesdays.” “On Mondays over lunch there is a 30-minute drop-in meditation available to all faculty, students, and staff. On Wednesdays, I

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Pa. Supreme Court expands Fourth Amendment protections for firearm owners

By David Shrager and Lyle Dresbold

On May 31 the Pennsylvania Supreme Court ruled in Commonwealth v. Hicks that a person cannot be subjected to a stop and frisk simply for possessing a concealed firearm in public. In so doing they overturned a Superior Court doctrine that had been in place for nearly three decades and replaced it with a holding that could have wide reaching and still unknown impact.

The Fourth Amendment of the United States Constitution guarantees the right to be free from warrantless searches and seizures absent limited exceptions. In the landmark case of Terry v. Ohio, the United States Supreme Court created a category of seizures which are less intrusive than a custodial arrest, due to their brevity and investigative nature. To legally seize a person for this limited investigation, the police would have to be able to articulate evidence which gives rise to reasonable suspicion that criminal activity was afoot. To go further and to perform what is now known as a Terry stop or a stop and frisk, there would need to be an additional showing of a reasonable belief that the person is armed.

In Pennsylvania, in order to legally conceal a firearm on one’s person or to travel with it in a vehicle, a person must first obtain a conceal/carry license, issued by the sheriff in the county where he/she resides. In 1991, the Superior Court created a rule that has acted as a per se exception to the reasonable suspicion standard articulated in Terry. In Commonwealth v. Robinson, the court looked at whether a police officer could seize a person he/she knows to be carrying a concealed firearm, for the limited investigatory purpose of determining whether the person is validly licensed to carry. The court held that a person in public who is armed poses a sufficient threat that it justifies a brief seizure by the police to ascertain whether or not the person is lawfully licensed.

The defendant in Hicks was observed by a public surveillance camera operator to be showing a gun to another person in the parking lot of a convenience store. Hicks was then seen concealing the weapon in his waistband and entering the store. The camera operator alerted police and by the time they arrived the defendant had exited the store after making his purchases and was leaving in his vehicle, when he was stopped by police. Police approached the car and removed Hicks’ gun.

They confirmed that Hicks had a license to carry and conceal the firearm, but in the process, the police discovered evidence that Hicks was driving under the influence of alcohol and that he had marijuana on his person. Hicks was later charged with DUI and possession of the marijuana. He attempted to have the evidence suppressed arguing that the stop was illegal because the police had no reasonable suspicion that he had committed any crimes. The suppression court, and then after the Superior Court denied suppression relying on Robinson in determining that the presence of a concealed weapon alone was enough to justify the stop.

In reversing Robinson and its progeny, the Hicks court held that the stop and frisk policy that the Superior Court endorsed was in conflict with Terry and in violation of the Fourth Amendment. They reasoned that in Pennsylvania hundreds of thousands of people possess Concealed Weapons Permits and are licensed to carry firearms legally. Therefore, having a concealed firearm on your person or in your vehicle does not on its own give rise to reasonable suspicion sufficient to justify the stop.

Although all seven justices joined in the result, three wrote separately to share their concerns. Defense attorneys could have wide reaching and still unknown impact.

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Time management challenge solo practices must overcome

Starting a solo practice is hard. It takes persistence, attention to detail, and a realistic, implementable business plan in order to succeed as a solo lawyer. As a sole practitioner, your time is valuable and wasted time adds up to wasted dollars.

Legal administration

Besides the work you are doing in the courtroom, there is always more work to be done in the office when you run your own solo practice. Between answering emails, scheduling consultations, processing billing, and document preparation, solo attorneys may find themselves overwhelmed by paperwork.

The Thomson Reuter’s Solo and Small Law Firms Group completed a study asking attorneys about the most challenging aspects of their profession, and not surprisingly, time spent on non-billable, administrative tasks was at the top of the list. These types of tasks can include invoicing, phone answering, client intake paperwork, and payment processing.

Survey results concluded that 45 percent of all solo and small law firm time is spent handling administrative tasks. These results should be a wakeup call to solo practice attorneys. The 45 percent is even more shocking when you break down its impact on a firm’s profitability and bottom line.

Take the breakdown below, for example:

- 40-hour work week x 45 percent of admin. time = 18 hours of unbilled work
- 18 non-billable hrs. x $150 hourly rate = $2,700 in potential billing lost weekly
- $2,700 non-billable hrs./week x 48 weeks per year = $129,600 in potential revenue lost yearly

According to the study, when the firm’s own perception of success was accounted for, there was a large gap in reported time spent on administrative work. Of those describing themselves as “unsuccessful” up to the rating of “neither successful nor unsuccessful,” 31 percent reported that time spent on administrative tasks was a major challenge. Conversely, only 10 percent and 14 percent of the firms that view themselves as “successful” to “very successful” reported challenges with administrative time management.

The natural conclusion is that less successful attorneys lack time to collect billable hours and practice law due to operational and practice management tasks.

A better way

Obviously, no firm can carry the high costs of inefficient administrative methods without seriously diminishing potential revenue. However, hiring a skilled assistant or paralegal is often out of the question due to the cost. As a solo attorney, finding a better way will be essential to your success. Luckily, there are solutions to make life easier for solo practice law firms and attorneys. Online payment solutions can streamline your cash flow and make it easier for your clients to pay their bills, letting them pay you instantly – which means no more waiting for checks to arrive in the mail. In fact, studies have shown that law firms get paid 39 percent faster when they accept online credit card payments. To make it even easier, you can also set up recurring payments that will automatically charge your client’s card whenever your bill is due, letting you and your client focus on the case.

While hiring a paralegal may be outside of your budget, The Digital Age has also paved the way for affordable virtual assistance services. You could have a team of experienced assistants handling your calls and scheduling, performing data entry, preparing your documents and more - all without stepping foot in your office. With virtual assistance, you can keep your sights on the bigger picture items while the tedious tasks that eat up your day get taken care of by experienced, trained professionals.

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Wonder if your decisions, legal advice or other professional actions are ethical?

Members can get consultation on their legal actions and potential actions through the ACBA Professional Ethics Hotline. See ACBA.org/OfficerAssignments for details.
ABA offers new guidance for splitting fees in contingency cases when a lawyer is replaced

By Dennis Rendleman

In June, the ABA’s Standing Committee on Ethics and Professional Responsibility released Formal Opinion 487, which addresses fee splitting arrangements when a lawyer in a separate firm replaces the first counsel rather than works together on a contingency-fee case.

Formal Opinion 487 clarifies that a lawyer who is a successor counsel in a contingency-fee matter must notify the client, in writing, that a portion of any fees recovered may be paid to the original counsel. The opinion addresses a common misunderstanding about which model rules apply to successor relationships in contingency-fee agreements, and the duties of successor counsel.

The original lawyer in a contingency-fee matter will often assert a lien on the proceeds. But if the client retains new counsel, they may not understand there is a continuing obligation to pay the original lawyer for the value that lawyer contributed or was entitled to under the original contract.

Often the original lawyer and the successor counsel mistakenly believe Model Rule 1.5(e) governs in these situations. But 1.5(e) only applies when there is division of fees between lawyers from different firms who are simultaneously representing a client and maintaining responsibility for the matter—not in the case of sequential representation. Rule 1.5(e) specifically requires that lawyers who are dividing a fee in a matter either split the fee in proportion to the services delivered or assume joint responsibility for the representation.

Comment 13 states, in part, “A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and must often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist.”

Where lawyers are original and successor lawyers, respectively, joint responsibility is not appropriate as the original lawyer is no longer representing or retaining responsibility to the client in any manner.

Instead, Rule 1.5(b) and (c) apply to the successor lawyer in the fee relationship with the client. As Comment 2 to the Rule states, “[A]n understanding as to fees … must be established.” Moreover, there is not a specific time frame in which that understanding must occur. The opinion notes that under 1.5(a), client consent must be obtained before the fee is divided—and that includes up to the conclusion of the matter and prior to disbursement of any money.

The opinion presents a hypothetical where the client has a written contingency-fee agreement with a lawyer under which the lawyer is entitled to one-third of any recovery. Without cause, the client terminates the original lawyer and retains successor counsel on the same terms—a written contingency-fee agreement for one-third of any recovery. This successor agreement is silent on any obligation to the original lawyer. Opinion 487 notes that the duty to disclose the original lawyer’s potential claim and entitlement to some portion of the recovery does not constitute an “unreasonable burden” on the successor counsel.

While a client may discharge a lawyer at any time for any reason, they may be unaware of obligations to pay not only the successor lawyer, but also the original lawyer. Opinion 487 requires successor counsel to clear up any confusion and inform the client, in writing, that their original attorney may have a claim against the contingency fee.

In many jurisdictions, the original lawyer may be entitled to, at a minimum, quantum meruit, for the value added to the case or payment under a “termination” or “conversion” clause in the original client agreement. And while the exact recovery and division may not be known until the end of the case, successor counsel still has a duty to inform the client about a potential fee split.

The opinion notes that in many instances, the fees paid to both attorneys will not affect the client’s recovery, as a client cannot be exposed to more than one contingency fee when switching attorneys, under Rule 1.5(b). However, in a situation where the client’s original counsel was terminated for cause, they may not have any claim to recovered fees.

If the successor lawyer needs to negotiate fees with the original lawyer on the client’s behalf, the successor lawyer must advise and obtain a waiver from the client to avoid Rule 1.7 personal conflict of interest regarding the distribution of the funds. And if a dispute arises regarding any distribution of the recovery, the successor lawyer has the obligation under Rule 1.15(e) to retain the funds in the client trust account pending resolution.

If you have an idea for a substantive law article or would be interested in authoring one, please email Jennifer Pulice at jpulice@acb.org.
Have hiring needs?
Post your open positions on the ACBA Job Board

By Jennifer Pulice

The ACBA Job Board remains one of the first places legal professionals visit when they are looking for careers in the Pittsburgh legal community. The ACBA Job Board, located at jobs.acba.org, is one of the association’s most visited webpages, with nearly 12,000 impressions per month. Over 180 employment matches were made as a result of postings on the job board in 2018.

The ACBA Job Board allows job seekers to:
• Search and apply to the best attorney and legal support jobs.
• Upload their anonymous resume into a resume bank that is viewable by prospective employers.
• Receive an alert every time a job becomes available that matches their personal profile, skills, interests, and preferred location(s).

The ACBA Job Board allows employers to:
• Post their job at an affordable rate and ensure their job posting will be seen by an audience who is looking for legal job openings in the Pittsburgh region.
• Promote their jobs directly to job seekers who have registered to receive the weekly Job Flash email.
• Search the resume database and contact qualified candidates proactively.
• Benefit from social media marketing: Once an employer posts a job on the ACBA Job Board, ACBA staff also publicizes that position on the association’s social media channels.

The association is offering a special to all employers who are looking to hire. Enter the code JOB15 and receive 15 percent off any of the first three job posting packages offered on the job board. The “30 Day” package, “First Seen” package, and “Job Flash” package. This coupon code is valid until Oct. 1.

Members who have additional questions about the ACBA Job Board are welcome to contact me at jpulice@acba.org or 412-402-6623.

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To register for the 2019 Workers’ Compensation Section golf tournament, contact Michael Quatrini at mvq@qrlegal.com. Pre-registration closes at 11:59 a.m., Tuesday, September 17.

“Were taking a lot of their time on top of what we know are extremely busy, challenging, jam-packed times of their lives,” Block says. “It was really amazing to see some of the incredible personal accomplishments.

“We also lost a member of our cohort to ovarian cancer. We got to see how we also handle life, how we balance life when we know we’re this group of incredibly driven women and we know we’re going to encounter these things.”

The organizers feel strongly that WILL can serve as a template for other organizations, legal and otherwise, to chip away at the glass ceiling around the country.

“These programs should be widely incorporated into bar associations,” Block says.

Another WILL program will be held in 2020. The ACBA plans to begin accepting applications for that cohort this fall. Information can be found at www.acba.org/WILL or by contacting Keating at akeating@acba.org.

GOLF TOURNAMENT continued from front page

encourage camaraderie and communication among attorneys both inside and outside of the Workers’ Compensation Section. The tournament is open to everyone and attendees are encouraged to invite friends or colleagues interested in participating.

“It’s a nice day for collegialty,” said Quatrini. “If I have a personal connection with someone, it’s a nice opportunity to say, ‘Hey, we’ve never had a chance to talk about referrals.’ We can spend some time building relationships while we enjoy a round of golf and raise money for a worthwhile charity.”

Quatrini said the goal of his committee is to continually evolve the golf tournament to appeal to a larger number of participants, including younger lawyers.

“I believe people have a tendency to want to get involved but don’t always know what to do,” he said. “So we’d like to take those philanthropic endeavors already successful for the bar association but involve a new generation with a new vision as to what these events should be nowadays versus what they were 20 to 30 years ago.

“If we can make a connection with people in their 20s, 30s and 40s, they’ll want to get involved with nonprofits. As individuals, we have a duty to help others. Maybe for you it won’t be Kids’ Chance, but if you can walk away inspired to get involved in something, I feel I’ve won the day because I’ve helped motivate someone to do something.”

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Law emphasizes that “student wellness says Jernigan. their thoughts and rest when needed,” a quiet place for students to collect reduce stress, snacks, supplies, and other techniques. They are encouraged to take up the practices on their own and reflect on what mindful lawyering means to them.

Ella Kwisnek, Associate Dean of Students at Duquesne University School of Law, includes wellness topics during first-year student orientation. “Students hear from speakers from the University’s office of Counselling and Wellbeing that includes our counselling center, health, services, and fitness center. Someone from LCL is also on the panel. We also host a Wellness Day in early- to mid-October where representatives from various University offices are available, we provide information about community resources, and there are healthy snacks and chair massages. In addition to the above events we have a mindfulness and meditation room where weekly yoga is hosted and have puppy days, and therapy dogs. Also, once per semester someone from the counseling center comes to the school of law and hosts a program on mindfulness. For the upcoming academic year, the counseling center will have a mobile unit in the School of Law one day each week.

The Assistant Dean for Student Life at West Virginia University College of Law is also focused on student wellness and is pleased that the West Virginia Board of Law Examiners voted unanimously in 2019 to remove question 33 regarding mental health diagnosis for the West Virginia application to Practice Law. WVU Law’s student orientation also focuses specifically on mental health and wellness.

WVU Student Life and the West Virginia Judicial and Lawyers Assistance Program will sponsor a sober advice tent at the annual homecoming tailgate where the law school will continue to have monthly programming focused on reducing stress, including free chair massages, puppy days, and expanding other stress-busting activities. “WVU Law will continue the use of the Wellness Room my new LCL Counseling Center Suite. That room holds activities to help reduce stress, snacks, supplies, and resources for anyone struggling. It’s a quiet place for students to collect their thoughts and rest when needed,” says Jernigan.

Vice Dean Haider Ala Hamoudi of the University of Pittsburgh School of Law emphasizes that “student wellness is a high priority at Pitt Law, and one on which we have placed a great deal of emphasis over the past several years. Our wellness program begins at student orientation, where we highlight different forms of support that exist within the law school, as part of the broader University, and in the Pittsburgh community generally. Within the law school, our support includes faculty and staff with decades of experience in wellness, including Professor Theresa Brustoff, who has a medical background and regularly leads a meditation session for the Pitt Law community. Dean of Students Kevin Deary, who has a background in social work, and Rob Wible, Director of Academic Success and Bar Exam Services, who is a member of a state-wide task force dealing with wellness in the legal profession.”

ACBA member Mary McKinney Flaherty will also be teaching one- hour yoga classes at Pitt Law this year. Students at Pitt Law utilize the University’s Wellness Center and the Counseling Center Pitt Law has a strong relationship with LCL, which holds student hours once per semester for students dealing with substance abuse issues.

“Most importantly, the Law School has trained in select faculty as well as staff with significant student contact to identify students facing wellness issues, and to engage such students early. The Law School is also quite excited that Pitt Law alum Brian Cuban has generously contributed to a student wellness fund that will provide additional forms of support and student support. Our aim is very much to be on the frontier in this vitally important area, and to continue to innovate and develop whatever programming we can to help our students maintain wellness during their entire tenure at Pitt Law,” says Hamoudi.

Finally, my Golden Doodle, Toby (whose full name is “Toby McMaster, JD” – just dog regularly comes to the law school during study and exam periods to provide students with stress relief and canine kisses. Toby has his own email address at Pitt Law and regularly sends selfies to students; his typing skills and pronoun usage are horrible but the students always know what he’s saying.) Pitt students in need of more than one adorable dog can visit the Cathedral of Learning every Tuesday to play with about 20 therapy dogs brought by volunteers from various University offices.

Please do share your thoughts with me about how the ACBA can support the health and wellness of our members at mcmaster@pitt.edu or 412-648-2356.

All my best, Lori.
Make asset protection part of your wealth management plan

By Thomas Crowley

There’s a popular piece of advice offered to many new business owners. Hire the best lawyer you can, because if you’re successful, you’re going to need one. It is advice often offered half-heartedly – in jest – or received with cynicism. But there is wisdom in it. As your business grows, it becomes subject to more opportunities and more risks, and a skilled lawyer can help you navigate both.

Asset protection planning is similar. As you gain wealth, you develop a greater need to protect it. Why? Because a lawsuit is filed once every two seconds in the United States, and the more significant your assets, especially if you are a physician, public personality or business owner, the more prone you are to risks and frivolous lawsuits. This is why developing an asset protection plan should be a component of every wealth management plan. Not only should it be a component, but it should also be a priority. For many people, it is the last line of defense to protect their personal assets and wealth.

What you need to know

A lack of awareness or guidance appears to be the main reason people lack an asset protection plan. Quite simply, asset protection is proactive planning to safeguard personal assets from future potential claims, such as unjust lawsuits and outrageous jury awards from personal or professional liability. The goal of an asset protection plan or structure is to discourage possible legal action against the individual and to bring any pertinent legal problems to a swift conclusion.

The most effective asset protection plan is one that goes unchallenged. For example, if the protective structures of an individual are perceived as too formidable or expensive to breach, the creditor might come to the conclusion that he may not be able to collect the claim. This may force the creditor to pursue a smaller settlement or abandon the pursuit of claims altogether.

Understand your options

When it comes to asset protection planning, there is no single effective strategy. It typically involves a series of arrangements and structures, and it should be developed and implemented as early as possible. This will make it more effective in providing protection against potential future lawsuits. The following are various strategies that can be used.

Liability insurance. Liability coverage can be an effective way to provide asset protection, as long as the creditor’s claim is not a result of unpaid bills. Insurance is typically the first line of defense in managing risks associated with protecting one’s assets.

At minimum, families should have an umbrella liability insurance policy. For life insurance and annuities, some states offer protection of only the cash value while other jurisdictions account for the financial needs of the beneficiaries when determining the extent of conservation. All businesses should have some form of general liability insurance policy, including directors and officers (D&O) insurance. Those with staff members should also have an employee practices liability insurance (EPLI) policy.

Estate Planning as a Wealth Shelter Mechanism. A properly structured and funded trust is a common and effective arrangement for personal asset protection. Using certain types of irrevocable trusts and gifting strategies can help shelter assets from claims against the donor.

With lifetime exemption amounts now at all-time highs, many families now have even greater opportunities to shift assets to descendants, either directly or for their beneficial interests through trusts and other arrangements. Domestic Asset Protection Trusts (DAPTs) allow an individual to establish an irrevocable trust, which provides asset protection, while also retaining the ability to receive income from the trust. A properly planned DAPT can protect assets – including those from a closely-held business – from future creditors. It can also be used as an effective premarital planning mechanism to ensure the preservation and protection of wealth.

Domestic Asset Protection Trusts (DAPTs) are a crucial component of your comprehensive asset protection plan and a legal mechanism that allows for the transfer of assets to descendants. DAPTs are irrevocable trusts that are designed to provide asset protection for the grantor and the beneficiaries.

In summary, asset protection planning is an essential part of any comprehensive wealth management plan. It is not just about protecting your assets from lawsuits or dissipation, but also about providing a buffer for the creditor to make it more difficult for them to collect.

Thomas Crowley is a managing director for Key Private Bank’s Western Pennsylvania Market. He may be reached at 412-807-2755 or thomas.crowley@keybank.com. This material is presented for informational purposes only and should not be construed as individual tax or financial advice. Please consult with legal, tax and/or financial advisors. KeyBank does not provide legal advice.
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Richard D. Klaber

Richard D. Klaber passed away on July 19, 2019, surrounded by his family. He was born in Pittsburgh on May 21, 1933 and spent the majority of his life living in Mount Lebanon, Pennsylvania. He was predeceased by his parents Elmer and Gladys Klaber and his sister Carol Elvers and survived by his brother David G. Klaber. Togetherness, rich and his late wife of 62 years, Judith B. Klaber, lovingly raised 6 children, Bethany Succop (Gus), Susan Burke (Dave), Katherine Cox (Ted), Lucy Albrect (Scot), Doug Klaber (Joelle), and Andrew Klaber Cox (Ted), Lucy Albrecht (Scot), Doug Klaber (Joelle), and Andrew Klaber Cox (Ted), Lucy Albrecht (Scot), Doug Klaber (Joelle), Jason Langhorne (Katie). He was grandfather to 12 grandchildren ages 19-30. He proudly attended numerous sporting events, graduations, weddings, birthdays, and other social events. Zupancic is equipped with specialized training in the collabora- tive law process.

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