

AT ISSUE

A PUBLICATION BY AND FOR THE YOUNG LAWYERS DIVISION OF THE PENNSYLVANIA BAR ASSOCIATION

SUMMER 2017

Serve. Engage. Change.

By Jonathan D. Koltash, PBA YLD chair

In the fast-paced world we live in, young lawyers are often faced with competing interests – work, family, professional responsibilities, and our local communities. When choosing how to spend their time, many ask: “What does the Pennsylvania Bar Association have to offer? Why should I dedicate my time to this? What can the YLD do for me?”

As the chair of the Young Lawyers Division, I hear this a lot. Why take time away from something else to dedicate it to a bar association? To me, the answer is simple. It is all about the opportunity to serve, engage and change. As lawyers, we have an obligation to serve. That service can come in many forms and our association provides ample opportunities to accomplish this. It could be the pro bono case for the client who otherwise might not have access to counsel. It might be serving as a coach for a local high school mock trial team helping to teach future generations about our justice system. It may be preparing a will for a veteran or first responder at a local Wills for Heroes event, giving that person peace of mind as they put themselves,



Jonathan D. Koltash

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each day, in harm’s way. No matter what it is, it is those acts that change the world around us.

Our association also provides opportunities to build relationships by engaging with other lawyers from various practice types, locations and backgrounds to discuss the legal issues facing our profession. While we may not always agree (and face it, we are lawyers, we do not always agree), we do so with respect for the challenges we each face and our responsibility, as lawyers, to do good. Our association offers countless programs to serve our local communities, to educate each other, and to learn. It provides us an

opportunity to advocate for changing the law and to stand together when we do so.

The Young Lawyers Division has always taken this mission seriously. Each



year, countless young lawyers (as well as some veteran lawyers) participate in the YLD’s Statewide High School Mock Trial Competition and Wills for Heroes programs. The YLD is often in the forefront, working to improve the practice of law and the association. We strive to be leaders now rather than wait our turn. That voice of change, however, cannot just come from the YLD leadership; it has to come from its members as well. It has to be each of us getting involved in a section or committee and coming to events, conferences or meetings. It has to be young lawyers showing that this generation is ready to lead now.

This July, the YLD Summer Summit in State College will serve as an opportunity for young lawyers to gather and interact with judges, lawyers and leadership of the association. It will be a chance to forge

relationships with other young lawyers from around the commonwealth and learn how to get involved. As the YLD chair, I challenge each of our members to serve, engage and change. Start now by getting involved. Please join us in July!



AT ISSUE

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A Young Lawyer's Perspective

By Tara Pellicori, Esq.

We all remember the moment when the Pennsylvania Board of Law Examiners released its official press release congratulating the successful

applicants of that year's Pennsylvania bar examination. With trepidation, you found yourself scrolling through a list of names. Then, immediately before you were consumed by sheer panic, you saw it, amidst the sea of vowels and consonants, the letters that form *your* name. YOU are one of the successful applicants ... YOU passed the Pennsylvania bar examination ... YOU are now an attorney.

With your eyes on the horizon, you embarked on your professional journey. While the journey is exciting and rewarding, be cognizant of the many obstacles that can steer you off course – especially those over which *you have control*.

As you grow and develop as a young attorney, take time to focus on the perspectives below to help you avoid stormy seas:

Constantly prioritizing your loyalty to others above yourself will eventually result in self-sabotage.

The meanings of the words *loyalty* and *law/legal* derive from the same origin. As such, it should be no surprise that challenges associated with the practice of law are often tied to matters of loyalty. Loyalty is an admirable characteristic and one that is paramount to the practice of law. However, be aware of situations in which the loyalty you are demonstrating to someone is not being reciprocated. Warning signs include:

- He or she starts to ascribe value to your professional contributions based



Tara Pellicori

on how they benefited him or her personally, instead of based on how they benefited the client or your firm/organization as a whole;

- He or she expects your allegiance to be exclusionary, regardless of whether any actual exigency exists: "X cannot work for me and Y" OR "X cannot work for Y unless he/she commits to make my work a priority"; and/or
- You find yourself intrinsically tied to the individual and not the organization. Ask yourself: Who would know about your contributions if the beneficiary of your loyalty left? Is this individual's feedback constructive or does it lack objectivity or feel abusive? Does your interaction with this person make you feel championed and enlightened or suppressed and anxious? Are you advancing? Does this individual promote your advancement based on the merit of your work and your accomplishments? Reflect on your responses to these questions and decide if you are smooth sailing or if it is time to re-chart your course.

You do not need to always be "available."

This is not to imply or encourage millennial attorneys to be any less committed to their clients or professional duties than our baby boomer colleagues. Rather, it is intended to remind you that you have control over your schedule and that it is your responsibility to ensure you are honoring your commitments and responsibilities (*both* personal and work related). You should always be a team player, but train yourself to learn the difference between the personal sacrifices you *must* make for clients/projects you are responsible for versus ones where the personal sacrifice would clearly outweigh the professional obligation. If you learn this distinction, you will be perceived as someone well-rounded and reliable, and you will

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feel satisfied and fulfilled personally and professionally.

Own your mistakes and accept that not everyone is going to like you.

You made a mistake (we knew you would eventually). Calm down. Put your resume away. We do not expect you to be perfect. However, we DO expect you to take ownership of your mistakes and seek to resolve them as honestly and efficiently as possible. When a mistake has been made, do not defend or justify *why* the mistake was made (for example, I was working late, I relied on bad information from someone else, I had to turn the document quickly, *etc.*). Instead, focus on your proposed resolution. Additionally, remember that not everyone is going to like you, and that is okay. Treat everyone with respect, but remember that John Smith's endorsement of you may not be critical to your long-term prospects, so hold your head high and remain committed to your core values and the production of quality work.

Build strategic relationships.

Diversify and be strategic with your relationships. Will your champion be retiring two years before you are up for partner? Are you proactively seeking out relationships that will add the right value to you and/or your practice (*e.g.*, focusing on client or assignment opportunities in an area of interest to you or in which you want to grow and develop an enhanced expertise). Your relationships should be varied in terms of age (meaning stage of career), expertise and location. At all times, you should have at least one significant relationship situated junior to you (to delegate to and who can offer support for work overflow), a colleague a few years senior to you (to bounce ideas off of and who can quality check your work produc-

es/streams of consciousness), someone at a junior partner level (who you can support and who will support and encourage your growth and development within the firm/organization) and someone very senior in a position of power (to be a champion for you and who can keep you busy).

Be ready for a lack of diversity.

We have made a lot of progress since President Franklin D. Roosevelt signed the first executive order more than 75 years ago to prevent employment discrimination by private employers holding government contracts and the establishment of the EEOC in 1965, but we have a *long* way to go. I truly believed the progress made in respect of these initiatives was more substantial than my experience and observation indicates. We have seemingly transitioned from a world of macro-inequities to one of micro-inequities. The glass ceiling and discrimination-based obstacles are still there; they are just less egregious. My advice is:

- Do not try to change people. If you identify a "toxic" person, avoid him/her at all costs.
- Be part of the solution; do not try to force the solution on others. This means becoming a better generation than the one before, instead of trying to change the generation ahead of you.
- Communicate openly, honestly and professionally about any issues you identify. As a human being and an adult, it is your right and responsibility to ensure that you are being treated fairly and with respect.
- Always give 110 percent and be the most diligent and prepared person in the room.

Join the Pennsylvania Bar Association and identify your section.

More than 26,000 lawyers have made the decision to be part of the Pennsylvania Bar Association for a variety of important reasons, including the PBA's deep commitment to enhance public understanding of the legal system, improve access to legal

services and to support the professional development and success of its members. One of the best ways to derive value from your PBA membership is by joining sections that are applicable to you and your practice (Note that enrollment in the Young Lawyers Division is free and automatic.).

My involvement in the PBA Business Law Section has offered me valuable networking opportunities and has assisted me with staying up to date on both the current and evolving aspects of business law in Pennsylvania. These sections perform valuable work. For example, the task forces of the Business Law Section have worked on matters ranging from the revision of Article 9 of the UCC in 2001 (further revisions in 2010) to work relative to the enactment the Uniform Voidable Transactions Act (amendments to the Uniform Fraudulent Transfer Act) and the enactment/revision of certain Title 15 matters. Sections like the Business Law Section are working hard to recruit attorneys like YOU to staff these task forces from as many varied constituencies as possible so consider joining today at www.pabar.org!

Tara Pellicori is a senior corporate lawyer at DLA Piper LLP (U.S.). She has a broad range of experience in the private representation of corporate, institutional and individual clients on domestic and multi-jurisdictional matters ranging from complex mergers and acquisitions, development and execution of complicated plans of strategic corporate reorganizations to strategic alliances and joint ventures and matters pertaining to general corporate governance. Pellicori has been recognized by Super Lawyers Magazine as a Rising Star, by The Legal Intelligencer as a Lawyer on the Fast Track, by Rutgers School of Law for the Recent Graduate Award. She is deeply committed to pro bono work and sits on her firm's North American Pro Bono Committee and the Nonprofit and Social Enterprise Subcommittee. She also teaches a corporate lawyering course as an adjunct professor of law at her alma mater, Rutgers Law School (Camden).

Enhancing advocacy through personal experiences

By Jennifer S. Dickquist, Esq.

I currently practice family law in Allegheny County. Family law was not an area of practice I had envisioned pursuing during law school. Despite having other plans for myself, I have come to realize that perhaps I am in the right place. After all, my childhood was spent navigating and coordinating my own custody schedule following my parents' divorce in 2001. Having grown up operating under a custody schedule has provided me with a unique perspective I can share with my clients, further helping them to weigh all their options prior to choosing a schedule.

My parents' divorce occurred when I was in eighth grade, with my sister in sixth. Believing that they were doing what was best, my parents opted for the traditional 50:50, 5-2-2-5 custody schedule. I remember this schedule to a T, mostly because this was my life for 12 years, but also because I was the one left to coordinate everything. My parents only live 10 minutes apart, so the frequent custody exchanges should not have been difficult. Despite their physical proximity and the fact that they had two

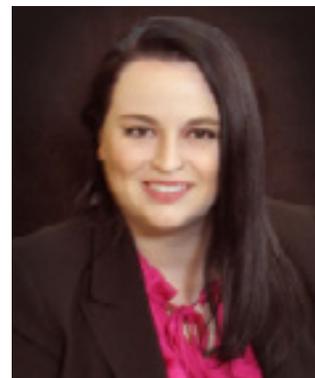
daughters to raise together, communication between my parents ceased entirely, thereby tasking me with ensuring that the exchanges were properly coordinated.

Attorneys who have been practicing for a long time often mention that the court used to utilize child custody coordinators to address minor disputes without revamping entire custody agreements. I was my family's custody coordinator since my parents refused to communicate with each other. Whenever either of my parents required a change in the custody schedule, I was the one who had to arrange for these amendments. Luckily, programs such as Our Family Wizard and Google Calendar exist, rendering direct communication virtually unnecessary.

Unfortunately for me, I had to memorize our calendars and arrange the upcoming schedule via telephone. I did not realize it at the time, but I was acting as a family law attorney in my own life well before obtaining my credentials.

In addition to acting as the logistics coordinator, I was also charged with the task of facilitating child support. My father paid my mother directly because they believed it was the easiest solution, though as attorneys, we discourage this arrangement. Biweekly checks for support, as well as reimbursement for activities, were primarily transferred through me.

As if the burden of my responsibilities were not enough, the 2-2-5-5 schedule



Jennifer S. Dickquist



"My sister and I lived out of duffel bags at first, but as we grew older and enrolled in more activities, the bags multiplied."

itself proved to be incredibly difficult. My sister and I lived out of duffel bags at first, but, as we grew older and enrolled in more activities, the bags multiplied. Our schedules were eventually packed with extracurricular activities, which became my responsibility to coordinate. Lugging school instruments and softball bats back and forth became our routine. Inevitably, one of us would forget something. Despite our parents residing within 10 minutes of each other, scrambling to figure out how to retrieve our forgotten items proved to be incredibly difficult, so we often improvised without.

We managed to get through those 12 rough years of 2-2-5-5 schedules, but it was far from easy. I do not judge my parents harshly; I know they were doing the best they could at the time. Their divorce was difficult for everybody, but we managed to make it through. After many years, my parents have worked out their communication issues, and now we all

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enjoy Christmas and other holidays together as a family. The road to this point, however, was a rocky one.

I've chosen to share the details of my past because as attorneys, judges, mediators and court officials, we are making decisions on behalf of children whose lives are deeply affected by our choices. We need to be cognizant of how our recommended custody arrangements will play out. We can tell our clients to "get along" and "co-parent," but the reality is that many of these parents lack the communication skills and emotional maturity necessary to successfully execute a schedule requiring frequent exchanges. The burden of responsibility in these cases may fall to the children to act as liaisons between their parents. In fact, I would argue that the prevalence of younger children with cell phones in today's culture enables divorced parents to avoid communication, transferring the responsibility to their kin.

Having lived a 2-2-5-5 schedule with non-communicative parents, I am not an advocate of the arrangement for those of my clients who find communication with the other parent to be difficult. Regardless of the communication problems, constantly switching my residence felt like a perpetual merry-go-round, never staying with one parent (or in one place) for too long. I could not wait to move away to college, if for no other reason than having one closet with all my stuff in one place for a change.

As young attorneys, we should strive to bring our own experiences to the table as they provide valuable insight into the situations we see on a daily basis. By using your own experience, you may have a different perspective than other attorneys and may be able to reach a specialized conclusion to your case. Be careful not



"...we are making decisions on behalf of children whose lives are deeply affected by our choices. We need to be cognizant of how our recommended custody arrangements will play out."

to let your own experiences cloud your judgment of your case.

Having an insider's perspective, my client's wishes are always my top priority, but I do provide a word of caution when I notice someone indiscriminately jumping on the 2-2-5-5 bandwagon without fully exploring alternative arrangements. I may be an attorney now, but I will forever be the child who had to lug those duffle bags back and forth.

Jennifer S. Dickquist is an attorney who focuses most of her practice on custody, divorce and support. She graduated from Duquesne University School of Law in 2013 and from Le Moyne College in Syracuse, New York, in 2010.

Jonathan D. Koltash receives Michael K. Smith Award

The PBA Young Lawyers Division presented its Michael K. Smith Excellence in Service Award to Jonathan D. Koltash on May 10 during the PBA Annual Meeting Awards Luncheon in Pittsburgh.

The award is presented to a Pennsylvania young lawyer who, through his or her exemplary personal and professional conduct, reminds lawyers of their professional and community responsibilities.

Koltash is senior counsel at the Pennsylvania Department of Health and incoming chair of the YLD. He is also an adjunct professor at Central Penn College and Widener University Commonwealth Law School.

Actively involved in the PBA, Koltash is the statewide co-chair of the YLD High School Mock Trial Competition and contributing author of the hypothetical case used in the program. He is also a voting member of the Board of Governors and House of Delegates, the association's governing bodies, chair of the Government Lawyers Committee, immediate past chair of the PBA Administrative Law Section, a panel member of the Membership Engagement Blue Ribbon Panel and a graduate of the Bar Leadership Institute class of 2012-13.

Outside of the PBA, Koltash is the Law Students Division chair and Government Relations chair of the Middle District of Pennsylvania Chapter of the Federal Bar Association, a member of the Pennsylvania Bar Institute Board of Directors, and a member of the Dauphin County Bar Association. He is also president of the Widener University Commonwealth Law School Alumni Association, a member of its Board of Advisors, a moot court coach and a volunteer at its volunteer assistance site.

Koltash received a B.S. from The Pennsylvania State University and a J.D., cum laude, from Widener University Commonwealth Law School, from which he received the Outstanding Recent Alumni Award in 2010.

Protecting against employment discrimination claims by interns and volunteers

By Robert Gyenes, Esq

At some point in their careers, many young Pennsylvania attorneys will provide their time — and perhaps, even advice — to nonprofit organizations. Whether dubbed “volunteers” or “interns,” these unpaid staff allow for small nonprofits to stretch their budgets and achieve more. Many of us young attorneys have served as interns and are intimately familiar with the role, but did you ever consider the employment law implications of such a position? As your career progresses, you may begin to find yourself on the other side — advising a local church, club or community sports league on employment law issues related to their “volunteers.” This article aims to provide you with general ideas and concepts to consider when advising nonprofit organizations.

With the growing use of interns and volunteers to supplement a traditional workforce, a concurrent rise in employment discrimination claims is inevitable. Even a small, low-budget organization can face legal challenges just as significant as those of a large corporation. The twist with these lower-budget organizations is that many of their workers are unpaid volunteers. In fact, over the last decade, the volunteer rate in Pennsylvania has been almost continuously above the national average, according to Erie Vital Signs.

So what happens when a volunteer brings a federal employment discrimination claim? Federal employment discrimination statutes speak in terms of “employer” and “employee,” but what that means is often unclear. Take, for example, the



Robert Gyenes

wonderfully repetitive definition of “employee” in the federal Age Discrimination in Employment Act: “[t]he term ‘employee’ means an individual employed by any employer.” It is a completely circular logic, and the Congressional intent behind it is equally vague.

The Supreme Court grappled with the volunteer versus employee distinction in *Nationwide Mut. Ins. Co.*

v. Darden. In that case, the court outlined a set of factors that “must be viewed by a totality of the circumstances and no single factor is decisive of proving an employee-employer relationship.” In the Third Circuit, the court also looks to “the level of control an organization asserts over an individual’s access to employment and the organization’s power to deny such access.” The weight of the focus rests on whether the volunteer was a “hired party” in terms of the employment relationship. This includes factors such as: How did the organization bring the person onboard? And, were they clearly told they would be different than regular staff? In Pennsylvania, the lack of an “employment relationship” is severe, and courts consistently find that lack of pay or further compensation is significant evidence of an individual falling into the volunteer category, despite numerous other overlapping responsibilities with full-time staff.

Consider a common scenario. Your church or community sports league has a team of permanent volunteers who perform many of the same functions as the full-time staff. The volunteers attend the same trainings, participate in the same meetings and handle much of the



same day-to-day work as “staff.” Maybe the older volunteers even train new paid employees because they have a better grasp of how things work there. If an employment discrimination case arises, the focus will likely be on how the individual was brought onboard and how the volunteer has been treated in comparison to paid staff in order to determine the organization’s liability under Title VII or a similar statute.

A little planning can go a long way. When bringing on new volunteers, make sure to document the offer or the discussions to make clear that the position would be separate from a staff position and clearly voluntary. Make sure your organization knows what the volunteer is entitled to in the way of compensation — even small perks can add up. Compensation is analyzed, in part, by the amount, consistency, level of benefits given, retirement plans and even tax treatment. Often, temporary interns will look at their internship as a pathway for full employment and, in order to keep them happy, an organization will invent a title like “senior intern” or “trainee associate” in lieu of actually hiring the intern. Be cautious of this, as it might blur the lines between staff and volunteer, even if they are not paid. The more the volunteer or intern responsibilities or compensation sound like a paid position, the more risk of their being classified as staff with similar rights under federal employment law.

The damage, however, may be limited. Even in the case that a court finds a cause of action for a volunteer based on their

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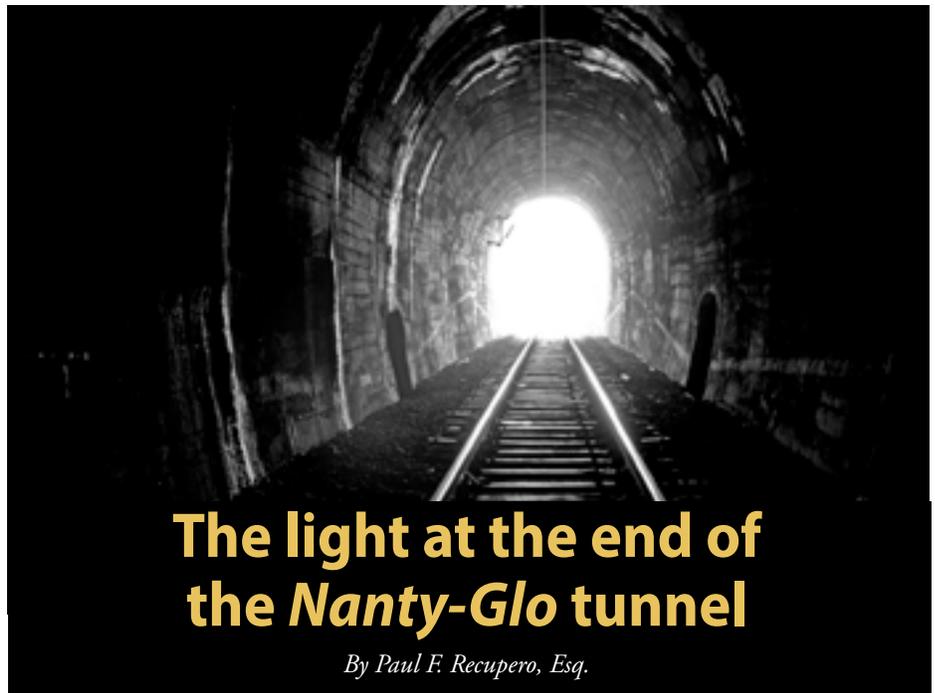
Protecting against employment discrimination claims by interns and volunteers

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exceptional duties and compensation, any potential remedy is limited by statute. No monetary damages can be given, because volunteers were not compensated or paid. The most likely remedies would be injunctive relief seeking an end to the discriminatory practice or reinstatement. There are other pitfalls to watch out for as well, such as a possible recovery for emotional distress under state law or related torts. The gray areas in the law related to volunteer employment discrimination, like many other gray areas of law, could be used to try to force a quick settlement in the face of large defense costs.

Thus, when young attorneys in Pennsylvania take their first seat on the board of their favorite nonprofit, it is important to keep in mind that they might be practicing in areas of law that might be far removed from their day job. When the time comes to put together a policy for new volunteers, be careful to differentiate them from regular, full-time employees, especially in terms of remuneration. Remember, of course, to keep in mind that Pennsylvania is a wonderful commonwealth in which to volunteer and the generous, giving spirit of its citizens helps small groups achieve what they otherwise could not.

Robert Gyenes is a former Chancellor Nordenberg International Law Fellow at the University of Pittsburgh. He is currently a contract attorney in the litigation department of a federal agency in Washington, D.C., where he works in a number of areas including employment law, torts and military law.



The light at the end of the Nanty-Glo tunnel

By Paul F. Recupero, Esq.

Defense litigators have experienced it over and over.

“Your honor, summary judgment is proper because Mr. A said X, Y and Z.”

“Response?”

“Nanty-Glo, your honor.”

“Motion denied.”

The *Nanty-Glo* rule seems to loom ahead like an impenetrable barrier. Simply stated, in *Borough of Nanty-Glo v. American Surety Co. of New York*, 163 A. 523 (Pa. 1932), the Pennsylvania Supreme Court held that the truth of oral testimony on a matter essential to the plaintiff’s case, even if uncontradicted, must be determined by the jury.

Since 1932, the plaintiffs’ bar has used the *Nanty-Glo* shield, time and time again, to defeat motions for summary judgment. Credibility is a determination to be made by the jury, so even uncontradicted deposition testimony that decimates a plaintiff’s case cannot alone justify summary judgment.

But some lawyers are surprised to learn that there are exceptions to the *Nanty-Glo*

rule and situations in which the rule is inapplicable.

A recognized exception to *Nanty-Glo* is that a motion for summary judgment may be granted based upon an oral adverse admission by an opposing party. See *Post v. Dodd*, 541 A.2d 56 (Pa. Cmwlth. 1988). So if the plaintiff at deposition testifies the vehicle that hit her was a dark gray

SUV, and your client’s car is a candy apple coupe, this adverse admission can be used to support your motion for summary judgment.

A similar exception exists where there is more than one defendant, and a co-defendant makes an adverse admission. Uncontradicted deposition testimony of a co-defendant, who is an adverse party and equally liable to the plaintiff, can create a sound basis for summary judgment in favor of the other defendant. See *Askew By Askew v. Zeller*, 521 A.2d 459 (Pa. Super. 1987).

One legal concept often overlooked is that the *Nanty-Glo* rule is inapplicable altogether where the plaintiff has failed



Paul F. Recupero

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to state a *prima facie* case. See *Miller v. Sacred Heart Hosp.*, 753 A.2d 829 (Pa. Super. 2000). Indeed, the plaintiff must not only state a *prima facie* case, but there also needs to be a discrepancy of material fact.

The Pennsylvania Superior Court has phrased this as follows:

Initially, it must be determined whether the plaintiff has alleged facts sufficient to establish a *prima facie* case. If so, the second step is to determine whether there is any discrepancy as to any facts material to the case. Finally, it must be determined whether, in granting summary judgment, the trial court has usurped improperly the role of the jury by resolving any material issues of fact. **It is only when the third stage is reached that *Nanty-Glo* comes into play.** *Dudley v. USX Corp.*, 606 A.2d 916, 920 (Pa. Super. 1992) (emphasis added).

Stated differently, unless a plaintiff has shown a *prima facie* case **and** there exists discrepancy of material fact, the *Nanty-Glo* rule doesn't even enter the picture.

So fear not, defense litigators, when a plaintiff's response to your motion for summary judgment comes back peppered with the name of that dreaded borough of Johnstown. Look at the substance of the deposition testimony. All may not be lost.

Paul Recupero is a civil litigation attorney for Andrew Moore & Associates LLC in Abington, where he frequently is tasked with preparing complex filings on obscure legal issues across the board. He enjoys all types of writing and moonlights as a community theatre actor/director in the Philadelphia area. Paul recently moved into a new house in Malvern, where he happily resides with his wife.

Animals and the Fair Housing Act: A dilemma for landlords, property managers and their attorneys

By Gwen Bratton, Esq.

Comfort hogs, turkeys, ducks, monkeys, ponies ... The list of "comfort" animals seems endless. Many disabled persons, such as war veterans with PTSD, find that comfort animals are essential to their well-being. Yet, some people could disguise their pet as a "comfort animal" to avoid pet restrictions and pet fees. Even genuine assistance animals can upset the persons who live in pet-free housing because they have allergies or fears of animals.

This is a dilemma for housing providers that prohibit pets or exclude some animals. If they bend the rules to allow an assistance animal, this will likely result in complaints from other residents. On the other hand, the federal Fair Housing Act and the Pennsylvania Human Relations Act prohibit discrimination against persons with disabilities.¹ A housing provider is required by law to make "reasonable accommodations" in its rules for the benefit of persons with disabilities.² Reasonable accommodations typically include an assistance animal in a pet-free building. Because it is also unlawful to publish discriminatory statements,³ a landlord or community association can be charged with discrimination for having statements such as, "no assistance animals" in its lease or its rules.

Noncompliance can be costly and brings bad publicity for the community. What should landlords and community



Gwen Bratton

associations know about the Fair Housing Act to avoid this kind of liability? At a minimum, they should be mindful of the following: (1) assistance animals can include "comfort" animals; (2) housing providers cannot ask for too much information; and (3) housing providers may be liable if other residents are hostile to the disabled owner of the assistance

animal.

What exactly is an assistance animal?

The obvious example is a guide dog that assists a blind person, but, for housing providers, the list of assistance animals is potentially endless. Restaurants, businesses and other places of public accommodation are subject to the Americans with Disabilities Act (ADA).⁴ The ADA only allows service animals, meaning dogs (or miniature horses!) that have been individually trained to work or perform tasks for disabled persons.⁵

The Fair Housing Act is different from the ADA. The recent trend is that comfort animals, whose sole function is to provide emotional support to a disabled person, should be included in the definition of "assistance animal." This is the position of the U.S. Department of Housing and Urban Development (HUD). In a 2013 memorandum, HUD clarified that assistance animals include emotional support animals, and they do not need to



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have been individually trained or certified.⁶ Recently, the U.S. Court of Appeals for the Third Circuit confirmed that emotional support animals may be required under the Fair Housing Act.⁷ Therefore, housing providers should keep in mind that assistance animals do not need to be trained, and they do not have to be dogs or miniature horses.

What documentation can the housing provider legally require?

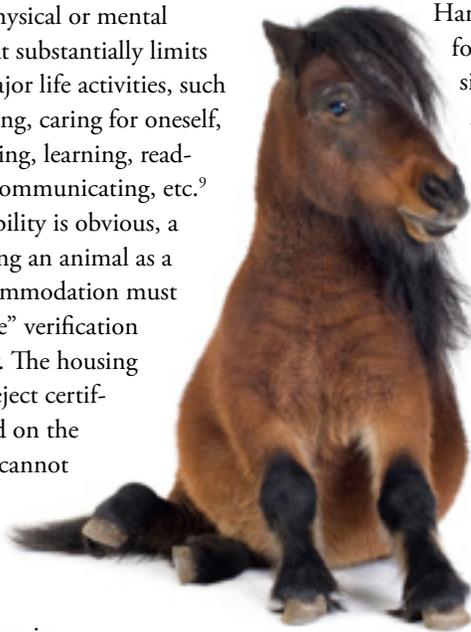
It is the responsibility of the person requesting the animal to demonstrate (1) that he or she is disabled, and (2) that the animal is necessary to alleviate one or more symptoms of the disability.⁸ A disability is a physical or mental impairment that substantially limits one or more major life activities, such as such as walking, caring for oneself, speaking, standing, learning, reading, thinking, communicating, etc.⁹ Unless the disability is obvious, a person requesting an animal as a reasonable accommodation must provide “reliable” verification of the disability. The housing provider may reject certificates purchased on the internet, but it cannot require detailed information about the nature of the disability, nor require a certificate from a medical doctor. According to HUD, credible statements by other medical professionals, peer support groups, non-medical service agencies or other reliable third parties should be sufficient. The information received from the disabled resident must be kept confidential.¹⁰

The person with a disability must also establish a “nexus” between the animal and the disability. Last year, the Commonwealth Court of Pennsylvania decided that

a resident with a mobility impairment and chronic pain was not entitled to an assistance dog. While the dog helped the resident keep a regular routine, it did not specifically help with her mobility impairment.¹¹ This decision indicates that it is more difficult for persons with physical disabilities, rather than mental disabilities, to establish that they are entitled to a comfort animal.

Can the housing provider be liable if other residents are hostile to the assistance animal?

A housing provider can be vicariously liable for harassment of a disabled person by other residents if its employees or agents: (1) knew or should have known of the conduct and (2) had the power to correct it, according to new HUD regulations adopted in September 2016.¹²



Harassment can take many forms, and, in some cases, a single incident can constitute harassment.¹³ These new regulations already found application in the Third Circuit. In *Revoock v. Cowpet Bay West Condominium Association*, a resident vehemently criticized two of his neighbors on his blog for having assistance animals. The court decided that the blogger and the board president could have been liable for harassment.¹⁴ *Revoock* outlines many errors that housing providers should avoid: denying a comfort animal,

disclosing confidential information to other residents, imposing fines for keeping an assistance animal and attempting to remove an assistance animal.

Endnotes on page 16

Gwen Bratton is an attorney with the law firm of Ekimoto & Morris, of Honolulu, Hawaii. She has been representing community associations for 10 years. Although she was recently admitted to the Pennsylvania Bar, she does not practice law in Pennsylvania.

PBA Young Lawyers Division presents the Liberty Bell Award to Specker and Spector of The Rendell Center

The PBA Young Lawyers Division presented its 2017 Liberty Bell Award to Beth Specker and Anne Spector of The Rendell Center for Civics and Civic Engagement during the PBA Annual Meeting in Pittsburgh in May.

The Liberty Bell Award honors individuals for their outstanding community service and for promoting the “blessing of liberty” guaranteed by the Constitution.

Specker is the executive director and Spector is the curriculum director of The Rendell Center, a nonprofit in Philadelphia that offers opportunities for educators and students to develop the knowledge, practices and dispositions of engaged citizenship. Both were recognized for their “extraordinary work in promoting community involvement, active education and volunteerism.”

Through their efforts, numerous programs have been created to fill voids or enhance the current civics curricula in Pennsylvania schools. One important example is of a literature-based mock trial program created for Philadelphia schools. The center, which partnered with the PBA Law-Related Education Committee, brought together volunteer attorneys and teachers to work with students to develop a mock trial script based on an assigned work of literature. The script was then acted out before a judge, as well as a jury of students from a different class. The program, which began with two schools, has expanded to seven, engaging more students in the process and profession of law.



Hello from the other side

*An opportunity to reach across the political divide
& discuss provocative issues*

Spotlight on the Villanova Law Bipartisan Initiative

By John Vernon

In my prior life before law school, I pursued an entrepreneurial path. I enjoyed the challenge of finding new creative solutions to problems presented by customers and some issues that were not yet even fully identified. This is not unlike those working in various branches of the government who are searching for ways to create a better way of life for all Americans. However, it is becoming more apparent that ideas about how to accomplish these goals evoke passionate discord. At Villanova Law School, this realization prompted us to establish a place where interested and informed rising attorneys could engage each other in a respectful and enjoyable way. With a nod to the First Amendment, this discourse checks many of the boxes, while providing camaraderie, building negotiation and debate skills, and serving as a valuable learning experience for new lawyers.

In the heightened climate of political tension fueled by the 24/7 news cycle and social media, individuals are feeling increasingly polarized and pressured to align with one side or the other. Conservatives and even some of my more moderate Republican friends feel reluctant to share their opinions and risk being labeled or lumped into one pile without really having their voices heard. Shortly after the highly controversial 2017 election and inauguration, those identified as being on the opposite side of the political divide were suspect, without really knowing or being willing to listen to their viewpoints on specific issues. Every week there were

new images posted on Facebook and Twitter about the angry and partisan actions being taken by students. These stood in sharp contrast and rejection of a fundamental right of free speech that is particularly embraced by those who study and support the law. For me, law schools seem to be a perfect venue for encouraging respectful political discussions.

In truth, the idea for a new initiative first surfaced while chatting with friends at the annual Villanova Barrister's Ball. The idea of starting a new club on campus with a bipartisan political theme became the focus of our conversation. In order to heal some of the tension and support students across the entire political spectrum, this would need to be an organization that embraced diversity of thought and encouraged healthy and non-judgmental discussion across the aisle. Two fellow students approached me to gauge my opinion, even though they knew I leaned more to the conservative side while they identified more with the liberal camp. They said they thought we could work together on improving the climate among the students because they trusted me for presenting my views in a respectful and caring way and being open to hearing their ideas as well, even though we often disagreed. We dialogued about a wide range of policy issues almost every day prior to and right after the election. I was pretty sure that I was beginning to hear echoes of Adele saying "Hello, from the other side" in the background as our discussions continued to broaden our perspectives about these very provocative and potentially divisive issues. My colleagues invited me to become the conservative voice in forming their new board, and the Villanova Law Bipartisan Initiative (VLBI) had taken its first steps.

Our mission is to engage in and facilitate bipartisan discussion on legal and political scholarship and current events.

By doing so, we aim to create productive dialogue between students of differing political views and ideologies and to promote a unified and conversant political atmosphere on campus that encourages acceptance and support. This club will be a new tool to bridge the political divide and also model positive professional discourse and relationship building for future career success.

Several ideas are being discussed about our events and will be finalized in early fall. These include hosting a blog where students from both sides can voice their opinions and then come together to either agree or agree to disagree. We are also planning events such as "Coffee and Conversation." This will create an opportunity for students to interact with each other while discussing a previously chosen topic based on interests expressed by surveying the group. There will likely be a guest speaker or professor to moderate the discussion and provide his/her thoughts and insights on the legal elements of the policy topic.

Clearly, free speech and open conversation have become a hot button topic on campuses throughout the country. My undergraduate alma mater, Notre Dame, was all over the headlines for a couple of days when students walked out of the

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John Vernon

Hello from the other side

Continued from page 10

commencement address by Vice President Mike Pence. While the students had every right to do this, and this was their choice to make, they rejected the opportunity to hear an alternative position from their own. This was unfortunate, especially since the majority of the vice president's remarks did not even focus on politics. In the speech, Pence discussed how it is important to be willing to have this type of dialogue, and these students missed the point by refusing to be open to hearing from the other side.

We have seen worse instances of this opposition to differing opinions on other campuses like UC Berkeley and Middlebury. A lawsuit has even been filed against Berkeley after Ann Coulter was denied a speaking engagement. No matter on what side of the aisle you stand (I'm a conservative, and I certainly don't agree with everything she says), she should still have the right to speak. Even other prominent liberals agreed. However, our strength as a democracy is built on the right to advocate for our position without preventing another person from expressing theirs. I believe that many of the excessive actions

being highlighted on college campuses are dangerously stepping on our First Amendment rights.

On a more positive note, some organizations are taking steps to improve dialogue and reduce tensions between people with different positions and ideas. Starbucks sponsored a startup company that developed a social media app to bring people of diverse views points together. There have also been efforts by those of the Islamic faith to open their doors and teach others the truth about their own religious views. These continued efforts are exactly what we need to quell the rising tide of closed-minded intolerance.

We see the VLBI as another way to come together and try to fight the narrow-mindedness perpetuated by both sides of the aisle. It is about time we discuss these issues and work to bring respect and civility back to campuses and political arenas. Our hope is to end stubborn ignorance and fear and empower and educate people about the benefits that can be gained by understanding and embracing different perspectives. It is fine to disagree, but this is not an excuse to shut down or demean another person's viewpoint. My fellow board members and I frequently disagree on topics, but we recognize

that we can still have positive productive conversations together. Through our work, we hope that students will learn from one another, respectfully disagree when necessary, and maybe even find some common ground.

John Vernon is a rising 2L at the Villanova University Charles Widger School of Law. An innovator and go-getter, John started the Nova Bipartisan Initiative with several of his law school colleagues and friends. He currently serves as the club's secretary, and the organization's inaugural academic programs will begin in August 2017. If you are interested in getting involved or would like to hear more about its mission and future events, please contact him at jvernon@law.villanova.edu.

He will also be part of the inaugural Villanova on the Hill Experience, which introduces current students to D.C. politics, with a focus on how diverse opinions can come together to learn from one another. Vernon has a B.S. in neuroscience and M.S. in engineering & entrepreneurship from the University of Notre Dame. He is originally from Annapolis, Maryland. His interests include movies, classic rock music, startups and investing.



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Does the law protect LGBT employees in Pennsylvania?

By Eva Zelson, Esq.



Eva Zelson

Over the past decade, there have been sweeping changes to laws affecting the rights of lesbian, gay, bisexual and transgender (LGBT) people. Most attorneys are aware of those changes as they relate to the right to marriage and the right to adopt children. The employment rights of LGBT people in Pennsylvania, however, is a subject that has received considerably less attention and therefore can be confusing for many attorneys.

Both the Pennsylvania Human Relations Act (PHRA) and Title VII of the federal Civil Rights Act of 1964 (Title VII) make it illegal for employers to discriminate against prospective or current employees on the basis of race, color, sex, national origin or religion. The PHRA, as well as federal laws passed subsequent to Title VII, also prohibit discrimination on the basis of age and disability. But neither the PHRA nor Title VII address employment discrimination against LGBT individuals. So how should an attorney advise a client who believes he/she suffered LGBT-related employment discrimination in Pennsylvania? The answer depends on where in Pennsylvania the client worked, whether the client suffered discrimination related to sex stereotypes, and whether the client can proceed under federal or state law.

Federal Law

The Third Circuit, unlike several other federal circuits, has not ruled that federal law explicitly prohibits LGBT employment discrimination. The Third Circuit has, however, allowed certain LGBT

employees to proceed with claims under a specific theory of sex discrimination: non-conformity with gender stereotypes. This theory was first articulated by the U.S. Supreme Court in the case of *Price Waterhouse v. Hopkins*. In that case, the court allowed a sex discrimination claim by a plaintiff who claimed she had been denied partnership at an accounting firm because she did not fit the partners' stereotypical ideas about how a woman should walk, talk, dress and behave.¹

Since *Price Waterhouse*, certain LGBT employees have been successful bringing cases under this theory. For example, in the 2009 case, *Prowel v. Wise Business Forms Inc.*, the plaintiff, a homosexual man, sued his former employer in part due to the harassment he had suffered on the job. The plaintiff testified that he was harassed in part because he "had a high voice ... and walked and carried himself in an effeminate manner."² The district court dis-

missed the plaintiff's case, noting that his sexual orientation claim was not viable under the then-interpretation of Title VII.³ Reversing the district court's grant of summary judgment, the Third Circuit ruled that the plaintiff's claim could survive under a theory that he was harassed due to his supposed failure to conform to masculine stereotypes.⁴

The holding of *Prowel* was recently followed by the Eastern District of Pennsylvania in the case of *Ellingsworth v. Hartford Fire Insurance Co.*, where a fe-

male employee claimed that she was constantly harassed based on her perceived homosexuality. The harassment centered on the plaintiff's supposed masculine way of dressing, speaking and otherwise presenting herself. In denying the defendant's motion for summary judgment, the court noted that although Title VII does not

prohibit sexual orientation discrimination, the plaintiff's claim could go forward on a theory of gender stereotyping; the harassment of the plaintiff was caused partly by the fact that she "did not conform to [her supervisor's] idea of how a woman should look, act, or dress."⁵

Although the Third Circuit has not yet explicitly ruled that sexual orientation is prohibited under federal law, the Western District of Pennsylvania recently ruled just that in *U.S. Equal Employment Opportunity Commission v. Scott Medical Health Center*. There, the Western District departed from Third Circuit rulings that sexual orientation discrimination was actionable only under a theory of sex discrimination, holding that Title VII "prohibits discrimination on the basis of sexual orientation."⁶

In another recent departure from precedent, the Eastern District of Pennsylvania ruled on May 18, 2017, that transgender discrimination might be actionable under a theory of disability discrimination. The case involved a transgender woman who, throughout her employment, was continually harassed based on her gender identity and was denied use of the women's restroom. In denying the defendant's motion to dismiss, the court held that the plaintiff's gender dysphoria could constitute a disability requiring accommodation under the Americans with Disabilities Act, a federal law protecting people with disabilities.⁷ In this case, the plaintiff's accommodations would include the defendant allowing her to use the restroom of her choice. It remains to be seen whether the plaintiff will ultimately

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Does the law protect LGBT employees in Pennsylvania?

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prevail on her disability discrimination claim, but the case represents a major step forward for those who advocate broadening employment discrimination protections as they apply to LGBT people.

State Law

Under Pennsylvania state law, public employees that identify as LGBT are protected from employment discrimination. In 1975, Pennsylvania became the first state to enact an executive order banning sexual orientation discrimination against state workers. In 2003, a second executive order extended these protections to include a ban on gender identity discrimination, as well.

As for private employees, protections vary based on location. More than 40 municipalities in Pennsylvania, including

Philadelphia, Pittsburgh and Harrisburg, have passed local ordinances forbidding private employers from discriminating against LGBT people.⁸ For employees working in a municipality without one of these laws, however, state law generally does not offer any protection. That may soon change, though, as the commission that administers the PHRA has recently solicited public comments on whether the PHRA protects LGBT individuals from employment discrimination on the theory that LGBT discrimination can be sex discrimination — the same theory applied by the Third Circuit in *Prowel* and by the Eastern District in *Ellingsworth*.⁹

It is not yet certain whether LGBT discrimination will ever be banned outright by Pennsylvania law. The Pennsylvania Fairness Act, which would protect LGBT people from employment discrimination, was introduced in the General Assembly in May 2017.¹⁰ Rep. Dan Frankel, who introduced the bill, has introduced similar legislation for each of the past seven cycles.

Conclusion

Ultimately, it is important for attorneys representing LGBT people to consider a variety of factors. Federal law currently protects Pennsylvania employees from discrimination based on sex stereotypes, and those employees in the Western District are protected from sexual orientation discrimination altogether. State law varies widely, with protections for private employees ranging by municipality. As such, it is imperative for any attorney that encounters this issue to research the ever-changing and often unclear landscape of LGBT employment discrimination law.

Endnotes on page 16

Eva Zelson is an attorney at the Zeff Law Firm, which protects the employment and civil rights of individuals throughout Pennsylvania and New Jersey. Zelson received her J.D. from William & Mary and her undergraduate degree from the University of North Carolina. She can be reached at ezelson@gtzefflaw.com.

PBA names young lawyers for Bar Leadership Institute, Class of 2017-18

PBA President Sharon R. López has named 11 Pennsylvania lawyers to the 2017-18 class of the association's Bar Leadership Institute (BLI).

"Our young attorneys are the bright lights in the bar's future. The investments that we make in them now are critical for the profession's growth," said López.

This year's BLI co-chairs are Melinda C. Ghilardi, Office of the Federal Public Defender, U.S. District Court for the Middle District of Pennsylvania, Scranton, and Philip H. Yoon, Superior Court of Pennsylvania, Philadelphia. Both Ghilardi and Yoon have served in a number of PBA leadership roles.

The BLI class members are PBA members currently licensed to practice law in Pennsylvania. They had to be age 38 years or younger or have practiced five years or less. They also had to demonstrate leadership ability and commitment to attend and participate in the required PBA events.

The new BLI class members include:

- Sharon Barney, Leech Tishman Fuscaldo Lampl, State College (Centre County)
- Jordan Fischer, XPAN Law Group, Philadelphia (Philadelphia County)
- Donald Gual, Monroe County Court of Common Pleas, Stroudsburg (Monroe County)
- Jon Higgins, Beard Legal Group, Altoona (Blair County)
- Michael Lyon, Kane Pugh Knoell Troy & Kramer LLP, Norristown (Montgomery County)
- Gina Miller, Pennsylvania Public Utility Commission, Harrisburg (Dauphin County)
- Katie Nealon, Munley Law PC, Scranton (Lackawanna County)
- Frank Paganie, Beaver County Public Defenders Office/Law Office of John Salopek, Ambridge (Beaver County)
- Amber Reiner, Picadio Sneath Miller & Norton P.C., Pittsburgh (Allegheny County)
- Keri Schantz, Allentown (Lehigh County)
- Emily Shaffer, Westmoreland Court of Common Pleas, Greensburg (Westmoreland County)



PENNSYLVANIA BAR ASSOCIATION • YOUNG LAWYERS DIVISION

2017 Young Lawyer Summer Summit

July 26-28, 2017 • The Penn Stater Hotel and Conference Center



Dress is casual. Leave your business attire at home!

SCHEDULE

Wednesday, July 26

5:30 p.m. – 6 p.m.	Meet and Greet
6 – 10 p.m.	Reception and Dinner

Thursday, July 27

8 a.m. – 8:50 p.m.	Continental Breakfast
9 a.m. – 10:30 a.m.	Business Meeting
10:45 a.m. – 11:45 a.m.	Pro Rep Tech: Know It, If You Use It” (1 ethics CLE credit)
10:45 a.m. – 11:45 a.m.	State Practice: Tips from the State Bench (1 substantive CLE credit)
11:45 a.m. – 12:45 p.m.	Lunch Buffet
1 p.m. – 2 p.m.	Giving Back – The Need for Pro Bono Services (1 substantive CLE credit)
1 p.m. – 2 p.m.	Law-Related Education in Pennsylvania: What’s Going On and How You Can Get Involved (1 substantive CLE credit)
2 p.m. – 7 p.m.	Free Time
2:15 p.m.	Penn’s Cave
2:30 p.m.	Big Spring Spirits Distillery
2:30 p.m.	Beaver Stadium Tour
7 p.m. – 11 p.m.	Dinner/Entertainment

Friday, July 28

8:30 a.m. – 9:20 a.m.	Continental Breakfast
9:30 a.m. – 10:30 a.m.	Federal Practice: Tips from the Federal Bench (1 substantive CLE credit)
10:45 a.m. – 11:45 a.m.	Planning for Disaster (1 ethics CLE credit)

This premier legal conference for young lawyers will provide an excellent opportunity to hear from and interact with state and federal judges, to network with senior members of the profession and PBA leadership, and to share work experience and information — and have fun — with young lawyers from across the commonwealth.

The Young Lawyer Summer Summit offers:

- incredible, affordable and relevant CLEs geared toward enhancing a young lawyer’s legal skills, as well exposing you to opportunities to become change makers and give back to your local communities;
- exciting social opportunities, including a behind-the-scenes tour of Penn State’s Beaver Stadium, a trip to Penn’s Cave and a tour of Big Spring Spirits Distillery.

FOR MORE DETAILS, SEE THE [BROCHURE](#).

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PENNSYLVANIA BAR ASSOCIATION
REAL PROPERTY, PROBATE & TRUST LAW SECTION

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August 16-18, 2017

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YLD members: Register by July 14 to get \$250 registration fee, which includes overnight accommodations!



Nemacolin Woodlands Resort, one of North America's five-star luxury premier resort destinations, is the location of the 2017 PBA Real Property, Probate & Trust Law Section Annual Retreat. Located in the picturesque Laurel Highlands of Southwestern Pennsylvania, the impressive facility provides a welcomed summer respite for section members, colleagues and guests.

The retreat offers:

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- Free time on Thursday afternoon to enjoy a "Death vs. Dirt" challenge, a trip to Fallingwater or a variety of resort activities and amenities.
- Wine-pairing dinner on Wednesday and a musical murder mystery dinner on Thursday.

CLE PROGRAMS

Wednesday, Aug. 16

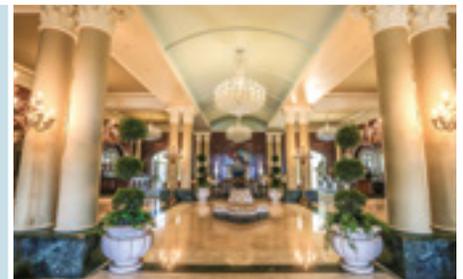
- Avoiding Legal Malpractice in Estate Practice (CLE 301)
- Code of Professional Responsibility (CLE 302)
- Zoning and Land Use (CLE 303)
- Crossroads of Estate & Litigation (CLE 304)

Thursday, Aug. 17

- Annual Update on Probate Law (CLE 305)
- Annual Update on Real Estate Law (CLE 306)
- Mediating Estate Disputes (CLE 307)
- Sheriff Sales/Tax Sales (CLE 308)
- Dead Tenants Society (CLE 309)

*PBA YLD members:
Register by July 14 to receive
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FOR MORE DETAILS, SEE THE [BROCHURE](#).





PBA meetings & events this summer

- July 13-16 Family Law Section Summer Meeting** · Richmond, Va.
Get the [event brochure](#). [Register online](#).
- July 19-21 Solo and Small Firm Section Conference** · Bedford Springs
Get the [event brochure](#). [Register online](#).
- July 20-21 20th Annual Elder Law Institute** · Harrisburg
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- July 26-28 Young Lawyer Summer Summit*** · State College
Get [more information](#). [Register online](#).
- Aug. 16-18 Real Property, Probate and Trust Law Section Annual Retreat** · Farmington
Get the [event brochure](#).

* YLD business meeting will take place during the event.

CLICK [HERE](#) FOR UPCOMING PBA YLD EVENTS.

Upcoming Wills for Heroes events

- July 29 Uwchlan Ambulance Corps, Chester County
Sept. 9 TBD, Dauphin County
Sept. 9 Penn State York, York County
Sept. 16 Lancaster County Public Safety Training Center,
Lancaster County
Sept. 16 TBD, Mercer County
Sept. 30 TBD, Carbon County
Oct. 14 TBD, Dauphin County
Oct. 28 TBD, Cumberland County
Nov. 4 TBD, Lehigh County
Nov. 18 TBD, Pike County



Check the [YLD Wills for Heroes webpage](#) throughout the year to see events or to sign up to volunteer.

Calling all writers!

The YLD *At Issue* editor is now accepting article submissions.

- The subject matter should be relevant to young lawyers.
- Articles should be no longer than 1,200 words. Longer articles may be considered to run as a series.
- All submissions must include a short author biography and a digital photo of the author (300 dpi resolution preferred).
- Electronic submissions (MS Word) are preferred.

Submit articles to:
Keli Neary
kmnearyesq@yahoo.com

and

Aaron Schwartz
aaronlewischwartz@gmail.com

Articles for the next issue are due Sept. 1, 2017.

Endnotes: Animals and the Fair Housing Act

- 1 42 U.S.C. § 3604(f)(3)(B) (2016); Section 5(h) of the Pennsylvania Human Relations Act, P.L. 744, No. 222, as amended, 43 P.S. § 955(h).
- 2 42 U.S.C. § 3604(f)(3)(B) (2016); Section 5(h)(3.2) of the Pennsylvania Human Relations Act, P.L. 744, No. 222, as amended, 43 P.S. § 955(h)(3.2). See *Lapid-Laurel v. Zoning Bd. of Adjustment of the Township of Scotch Plains*, 284 F.3d 442, 459 (3d Cir. 2002) regarding the burden-shifting analysis for requests for reasonable accommodations.
- 3 42 U.S.C. § 3604(c) (2016); Section 5(h)(5) of the Pennsylvania Human Relations Act, P.L. 744, No. 222, as amended, 43 P.S. § 955(h)(5).
- 4 42 U.S.C. §§ 12101-12213 (2016).
- 5 28 CFR § 36.104 (2016) (for dogs) and 28 CFR § 36.302(c) (9) (2016) (for miniature horses).
- 6 U.S. Department of Housing and Urban Development, Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs (Apr. 25, 2013).
- 7 *Revoek v. Cowpet Bay West Condominium Association*, Nos. 14-4776 and 14-4777, slip op. at 29 (3d Cir. March 31, 2017).
- 8 *Kennedy House v. Philadelphia Comm'n on Human Relations*, 143 A.3d 476, 491 (Pa. Commw. Ct. 2016).
- 9 See 42 U.S.C. § 3602(h) (2016); Section 4(p.1) of the Pennsylvania Human Relations Act, P.L. 744, No. 222, as amended, 43 P.S. § 954(p.1). The federal Fair Housing Act uses the word "handicap" instead of "disability."
- 10 U.S. Department of Justice and U.S. Department of Housing and Urban Development, Joint Statement of the Department of Housing and Urban Development and the Department of Justice: Reasonable Accommodations under the Fair Housing Act (May 17, 2014).
- 11 *Kennedy House*, 143 A.3d at 490.
- 12 24 C.F.R. § 100.7 (2017).
- 13 24 C.F.R. § 100.600 (2017).
- 14 *Revoek*, slip op. at 41-42.

Endnotes: Does the law protect LGBT employees in Pa.?

- 1 *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989).
- 2 *Prowel v. Wise Business Forums Inc.*, 579 F.3d 285, 287 (3rd Cir. 2009).
- 3 *Id.* at 289.
- 4 *Id.* at 291.
- 5 *Ellingsworth v. Hartford Insurance Fire Co.*, 2017 WL 1092341 at 6 (E.D. Pa. Mar. 2017).
- 6 *U.S. Equal Employment Opportunity Commission v. Scott Medical Center PC*, 2016 WL 6569233 at 5 (W.D. Pa. Nov. 2016).
- 7 Daniel Trotta, U.S. judge allows first transgender person to sue under disability law, *Reuters* (May 18, 2017), <http://www.reuters.com/article/usa-lgbt-idUSL2N1IK2Q4>.
- 8 Municipalities with nondiscrimination ordinances, Equality Pennsylvania, <http://equalitypa.org/municipalities-with-nondiscrimination-ordinances/> (last visited May 21, 2017).
- 9 Seeking Public Comment For Proposed Guidance Protections For LGBT Individuals—PHRA, PA.gov, <http://www.phrc.pa.gov/Pages/default.aspx#.WSyMhkrLBI> (last visited May 22, 2017).
- 10 Sarah Anne Hughes, Can Pa. House Democrats get their bills out of State Government?, *The Incline* (May 19, 2017), <https://theincline.com/2017/05/19/can-pa-house-democrats-get-their-bills-out-of-the-state-government-committee/>.

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