



THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

The WELLNESS Issue



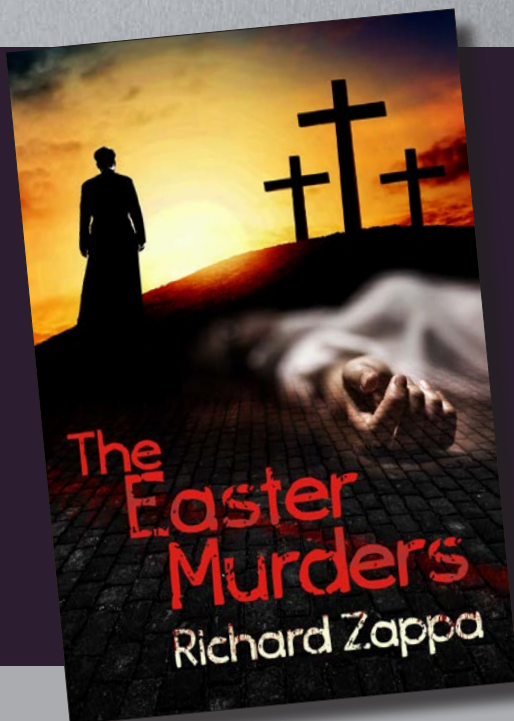
If you liked Identical Misfortune, you will love The Easter Murders.

Delaware trial lawyer

Richard Zappa

is now a crime drama novelist.

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“A marvel of suspenseful precision ... and the story’s conclusion will have the readers holding their breath. A twisty and highly readable thriller.”

— Kirkus Reviews

“The Easter Murders keeps readers entertained with solid police procedural work, tense courtroom drama, and insidious backroom dealing.”

— Indie Reader

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— Kirkus Reviews

“The role of genetics in antisocial personality disorder is explored in this utterly spellbinding crime drama thriller. From the compelling plot and writing to the dialogue and impressive character development, everything was top notch. 4 out of 4 stars.”

— Online Book Club

“A winding roller-coaster ride of betrayal and intrigue.”

— Charles Ray, author & AIB Awards assessor



*All books are available in hardback and paperback on
www.amazon.com and www.barnesandnoble.com and at your local bookstore.*

DSBA BAR JOURNAL

JUNE 2021 | VOLUME 44 • NUMBER 1 |

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The *Bar Journal* is published and distributed by the Delaware State Bar Association

405 North King Street, Suite 100

Wilmington, DE 19801

P: 302-658-5279

F: 302-658-5212

www.dsba.org

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The *Bar Journal* is the independent journal of the Delaware State Bar Association. It is a forum for the free expression of ideas on the law, the legal profession and the administration of justice. It may publish articles representing unpopular and controversial points of view. Publishing and editorial decisions are based on the quality of writing, the timeliness of the article, and the potential interest to readers, and all articles are subject to limitations of good taste. In every instance, the views expressed are those of the authors, and no endorsement of those views should be inferred, unless specifically identified as the policy of the Delaware State Bar Association.

The *Bar Journal* is published monthly with a combined July/August issue.

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

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Wilmington, DE 19801
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OF THE DELAWARE STATE BAR ASSOCIATION

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As I sit down to write my final article as President, I must look at how far we have traveled over the past year. We have spent the past year wrestling with an invisible, but deadly, pandemic that affected the way we lived and worked. We also saw the impacts of that pandemic on our society and our Bar. Despite all of that, I strongly feel that we stand in a better place today as a Bar and I look forward to the future.

I would like to thank the staff of the DSBA who have been of great assistance this year, especially Executive Director Mark Vavala who has been a tremendous asset to the Bar. Despite working from home, the DSBA staff has managed to keep the DSBA running and provide the services and programs that we come to expect, including several COVID-related programs.

I also would like to acknowledge the hard work of the DSBA Executive Committee who attended a year full of Zoom meetings and helped accomplish several of the significant initiatives previously set forth. The Zoom meetings and the various subcommittees seemed to bring us together as an Executive Committee, and I could not have asked for a better group to work with this year.

I would also like to thank Chief Justice Seitz for his unwavering support of the DSBA. Chief Justice Seitz and the Courts have worked together with the DSBA over the past year, and that close connection does make it so much easier to accomplish things.

We have made progress on several important initiatives. Much of the work of the DSBA was conducted by a variety of committees composed of various members of the DSBA Executive Committee.

In no particular order, here are some of what I view as the DSBA's significant achievement this years:


- Reconstituted the Diversity Committee under the direction of Chair Kathy Miller. Kathy took this assignment and ran with it to staggering heights. The Diversity Committee, with overwhelming support from the Bar, has created a Diversity Clerkship Program to recruit summer clerks for several Court positions this summer;
- Restructured the DSBA financial management policies to obtain a more secure reserve fund and obtain better returns on assets. Treasurer Frank Murphy spent countless hours on these tasks and the DSBA is the better for it;
- Restructured the dues for government lawyers to encourage more participation. This change has already resulted in all of the attorneys in the Office of Defense Services joining DSBA for the upcoming year. Our hope is that all government workers will also join our Association because participation from these attorneys is important to having diverse points of views among our members;
- Challenged the DSBA Sections to engage in a community service project. The Sections have responded positively. The MJL and the Young Lawyers Sections took this challenge to heart and established a working connection with The Warehouse, a nonprofit facility in Wilmington that mentors teens. Sam Pratcher has headed up the DSBA Executive Committee Community Service Committee. At the time of this writing, this Committee is finalizing its first community service project by donating items needed by the Ministry of Caring in Wilmington. I hope the community service aspect will continue;
- Restructured the Editorial Board of the *Delaware Law Review* to add a new Editor-in-Chief, Anthony Rickey, and a new Assistant Editor-in-Chief, Anthony Panicola. I believe that there is a role for the *Delaware Law Review* in our busy legal days and I have confidence that the "two Anthonys" will be successful in their efforts to do so;
- Formed a Committee to begin discussions about what should be the long-term plan for the DSBA office space. Thanks again to President-Elect Kathy Miller for also chairing this Committee. COVID has affected how all businesses consider what space is, or is not, needed on a regular basis. This will be an issue that will require further discussion by the DSBA.

We have spent the past year wrestling with an invisible, but deadly, pandemic that affected the way we lived and worked. We also saw the impacts of that pandemic on our society and our Bar. Despite all of that, I strongly feel that we stand in a better place today as a Bar and I look forward to the future.

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It would not be a complete report card without noting that there is still more work to do. I wanted to take a hard look at the provision of DSBA services in Kent and Sussex Counties. I also wanted to see what changes could be made to reach attorneys sooner before things spiral out of control and onto the ODC radar. These issues remain a work in progress. I hope that my successors will consider looking at these issues and I am willing to assist in any way needed.

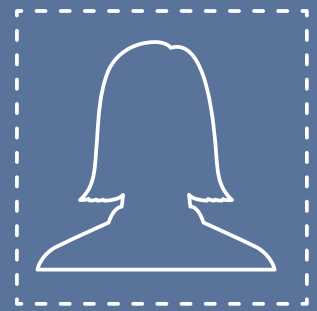
In preparing for this article, I re-read my first article from the July/August issue. At that time, I noted that the Delaware Bar is the best in the country. I still believe that and have witnessed it firsthand for

the past year. It has been a true honor to serve as your President and I have enjoyed the year from start to finish. Good luck to incoming President, Kathy Miller, who will do a great job. And that's a wrap!¹ 

Notes:

1. The statements expressed in this article are solely those of the author and are not to be attributed in any way to his employer.

Michael McTaggart is the current President of the Delaware State Bar Association. He is a Special Assistant United States Attorney in the U.S. Attorney's Office in Wilmington. In 2019, he retired from the Delaware Department of Justice after 31 years of service. He can be reached at MMcTaggart@dsba.org.



**It's time to update
your contact
information and photo
for the DSBA printed
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New contact info?

Let LaTonya Tucker know at
ltucker@dsba.org.

New photo?

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rbaird@dsba.org.



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Excuse Me, Counsel

**"Excuse me, counsel.
I have a question
for Mr. Powell."**

**"Mr. Powell, can
you dunk a
basketball?"**

"Yes, Your Honor."

**"Counsel, please
continue."**

In the history of Delaware trial testimony, I'm guessing this may have been the only time that a judge asked, and a witness confirmed — under oath — that he could dunk a basketball. I know because I was that witness, the aforementioned "Mr. Powell."

I was in my early thirties and had been appointed by the Court of Chancery as the attorney *ad litem* for a young adult, to advocate for their best interests during a guardianship proceeding. Counsel for a party opposing the guardianship petition questioned my report and conclusions. During cross examination, counsel wanted to know why a worker at the group home sat in on my initial interview with my client. I explained how I thought that the aide's presence would help lessen any anxiety that might come as my client met with me, a complete stranger, who stood six foot seven inches tall. At that point, the Vice Chancellor politely interrupted the cross examination to ask whether I could dunk. I leaned into the microphone and gave my answer while everyone waited for any follow-up questions, but none came. The Vice Chancellor directed counsel to proceed.

I answered the judge's question honestly that day. But, if the hearing happened today, I would not be able to respond the same way. At least not under oath. Because like so many of us, the pandemic has not been kind to my waistline, or my jump.

I recently served as a Receiver in another Court of Chancery trial, and thought I might need to testify once again. While I doubted that I would ever

have to comment under oath about my basketball skills again, I cannot help but smile when I remember that exchange in Court so many years ago. What does not bring a smile to my face is the reality that I face today on the basketball court. I am writing this column on my 49th birthday, a day which I also played basketball for only the second time since March 2020. Before the pandemic, I had not gone more than 2 or 3 days without playing basketball over the last 25 years of my life. At any given time, I played in up to three leagues or pick-up groups every week.

I finally played in my first game two weeks ago, and it felt incredible. I was so thankful to be playing again, even though I was rusty and sloppy. The next few days proved to be somewhat painful, after using muscles that had not been tested for far too long. But even so, I couldn't wait to play again.

I wish I could say that I was that guy who was able to adapt to the pandemic and altered my exercise plan accordingly. That I did not have to worry about injury as I resumed basketball. That I didn't miss a beat. In reality, I may have missed an entire symphony. The pounds quickly piled on. I meekly tried to bicycle or even (gasp) go for a run, but I could never get into any type of sustained program. Walking up stairs or bending over to pick up my takeout receipt came with new and unfortunate aches and pains. I probably worked too much and did not take enough time for myself or my family.

Running down the basketball court in the sunlit gymnasium on those gleaming hardwood floors felt like a rebirth. Play-



ing the game I love allowed me to think more about the past year and a half, and what I could and should have done differently. If I had to take a break from the court again, how would I make sure my return wouldn't be so challenging? You reflect, you acknowledge, you learn, and change so you don't make the same mistakes again. Easier said than done, of course.

I ran into a buddy recently, who I played alongside in my old league and intramural basketball days. If you play basketball in Delaware, most likely you have played with everyone at some point, either as a teammate or against them. He looked good; he handled the pandemic well and dropped significant weight (he is about the same height as me), and appeared to be living what looked like a healthy lifestyle. He told me he would be turning 50 later this year. I asked him if he was playing any basketball. He said no, but told me how he had dunked a basketball in every decade of his life — except in his 40s. It is something he did so easily, and so many times, back in the day. His goals focused on two things: dunking a basketball on the day before his 50th birthday, and dunking the day after.

If he achieves his goals, he told me that it may be the last time he will be able to say he has dunked a basketball every decade of his life. (At least he'll be able to justifiably brag about it for another 10 years, and I'll be rooting for him when he turns 60.) I am turning 50 next year. Like my buddy, I have dunked in every decade of my life, as I accurately testified under oath. But it has been a while. I do not think I could dunk today, let alone 12 months from now, unless I make some changes — changes I am committed to making and hope to achieve as I approach 50. So, if I ever have to testify under oath again, I can honestly say, yes, your honor, I can dunk a basketball. 🏀

Bar Journal Editor **Jason C. Powell** is the managing director of The Powell Firm, LLC, in Wilmington, Delaware. He may be reached at jpowell@delawarefirm.com and more information is available at delawarefirm.com.

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MEMBER BENEFIT OF THE MONTH

Section CLE Discount



Starting July 1, 2021, DSBA will be offering a 10 percent discount for any Section members of the Section sponsoring a DSBA seminar. We just thought it might be a nice way to thank the Section for assisting the association in achieving its budget goals. CLE attendance and revenue

helps us keep the cost of membership much lower than many Bar Associations and trade organizations and this discount is one way to show our appreciation to the many Sections who help DSBA create the best continuing legal education. The discount will be applied automatically upon registering and paying for a CLE, provided the Section has sponsored the CLE and the registrant is an active member of the Section. 

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DELAWARE STATE BAR ASSOCIATION

VIRTUAL ART SHOW

To celebrate our state's creative counsel, the DSBA will feature members who moonlight as artists and musicians in a virtual art and music show to be published in the July/August issue of the *Bar Journal*! Share your talents with the rest of the Bar!

How to Participate:

- For the artists, send us a photo of your paintings, photography, ceramics, textiles, jewelry, sculptures, prints, digital art, and more. All mediums accepted.
- For the musicians, send us a photo posing with your instrument.
- Include a brief description of your work (no more than 75 words).

Images should be submitted to Rebecca Baird at rbaird@dsba.org in JPEG, GIF, or PNG format.

UPDATED Submission Deadline: June 10, 2021.

TOP 5

HARDEST BAR EXAMS IN THE UNITED STATES

1 California

Often regarded as the toughest bar exam, California's exam has frequently had the lowest pass rate of all 50 states (sometimes as low as 40 percent) but that may change as it has cut its 3 day exam back to 2 days and announced in 2020 that it would lower its passing score to 1390 (rather than 1440).

2 Delaware

Delaware makes the list as one of the hardest bar exams in part because the score required to pass the multi-state is 145, which is the highest in the nation. Delaware also only offers the exam once per year, giving students who fail a very long wait before they can take it again. It also tests very narrow subjects that few schools in the country teach. Its pass rate of 69 percent for first-time takers is among the lowest in the country.

3 Louisiana

Louisiana's bar exam is probably the most unique in the country. It has not adopted any of the standard testing portions (MBE, MEE, MPT, etc.). Rather, you need to know both the common law and Civil Law, or traditional law in France and other portions of Europe.

4 Nevada

Nevada's pass rate was a mere 52 percent and its 60 percent pass rate for first-time takers tied it with California for the lowest in the country. Nevada also requires a very high score to pass at 140, tied for fourth highest in the country. It has a reputation for having extremely long model answers for the essays. This means that there is a lot that students are supposed to be able to identify and discuss.

5 Virginia

Virginia's bar exam is one of the hardest bar exams by virtue of the wide variety of topics — with 24 possible areas to test. One thing to note about Virginia is that it requires you to take the bar exam in a suit.


Source: "Which States Have the Hardest Bar Exams?" JD Advising, December 29, 2020. <https://www.jdadvising.com/states-hardest-bar-exams/>.

Calling All Authors!


The *Delaware Law Review*, the DSBA's scholarly journal, is currently seeking content for its next issue, due out this October. The *Law Review* publishes scholarly articles that focus on Delaware case law and legislation, preferably authored by DSBA members. Articles should be 7,000 to 20,000 words in length (including footnotes) and can address any area of law or legal theory. Your work just needs to be relevant to Delaware and its lawyers!

The *Law Review* is currently redesigning its website in order to make its scholarship available to a broader audience. Volume 18 will be the first to publish on the new platform, bringing the *Law Review's* work before a greater number of practitioners, scholars, and readers.

If you have an article, or an idea for an article, please contact Rebecca Baird (rbaird@dsba.org). She'll put you in contact with a member of the Editorial Board who can help with preparing your work for submission and editing. And, if you're having flashbacks to your law school days, with endless rounds of bluebooking, take heart — that's not our editorial process.

To see past issues of the *Delaware Law Review*, visit www.delawarelawreview.org. If you have any questions, please feel free to reach out to the Editor-in-Chief, Anthony A. Rickey, Esquire, at arickey@margravelaw.com or the Assistant Editor-in-Chief, Anthony V. Panicola, Esquire, at apanicola@declasi.org. 

WELL-BEING WEEK

The month of May was Mental Health Awareness Month. For the second year in a row, DE-LAP and the Professional Guidance/Lawyers Assistance Committees of the DSBA, along with the ABA, State LAPS, and State Bar Associations hosted and facilitated Lawyer Well-Being Week from May 3 to May 7 with a special Member Appreciation Event hosted by DSBA and DE-LAP on Saturday, May 8 at Ramsey's Farm (photos on page 27). Each day focused on a facet of wellness, kicking off on Monday with the first of five courses on Meditation; Tuesday offered concurrent sessions on "If I Am Not Lawyering, What Else Can I Do?: Introduction to Hobbies, Hiking, Music and More"; Wednesday's Tri-County Walk was a big success in Kent and Sussex (New Castle County needed to be rescheduled due to rain); Thursday's session addressed "Well-Being and Mental Health Legislation/Suicide Prevention"; and the week wrapped up with a DE-LAP collaboration with the coaching firm, *Ask What Matters?! and a session on resilience and wellness.* 



Kent County Wellness Walk at The Green in Dover, DE.




Sussex County Wellness Walk in Georgetown, DE.

OF NOTE

Condolences to the family of **Louis H. Rombach, Esquire**, who died on April 28, 2021.

Condolences to **Susan List Hauske, Esquire**, on the death of her mother, Patricia (Pat) J. List, who died on May 7, 2021.

Condolences to the family of the **Honorable Pierre S. ("Pete") du Pont IV**, who died on May 8, 2021.

If you have an item you would like to submit for the Of Note section, please contact Rebecca Baird at rbaird@dsba.org. 

SAVE *the* DATE

JUNE 22, 2021 12 P.M. *to* 2 P.M.

ANNUAL MEETING *and* AWARDS CEREMONY

Join DSBA for the transfer of the gavel from outgoing President Michael F. McTaggart, Esquire, to incoming President Kathleen M. Miller, Esquire.

And celebrate the presentation of two special awards:

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Professional Guidance Committee

This committee provides peer counseling and support to lawyers overburdened by personal or practice-related problems. It offers help to lawyers who, during difficult times, may need assistance in meeting law practice demands. The members of this committee, individually or as a team, will help with the time and energy needed to keep a law practice operating smoothly and to protect clients. Call a member if you or someone you know needs assistance.

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CALENDAR OF EVENTS

June 2021

Tuesday, June 22, 2021 • 12:00 p.m. – 2:00 p.m.

DSBA Annual Meeting and Awards Ceremony

Live via Zoom

Thursday, June 24, 2021 • 1:00 p.m. – 3:00 p.m.

Bankruptcy Disclosures and Reporting

2.0 Hours CLE credit

Live Webinar via Zoom

Wednesday, June 30, 2021 • 12:00 p.m. – 1:30 p.m.

Things That Hold Lawyers Back: Impostor Syndrome, Fear of Failure, Fear of Success 2021

2.0 Hours CLE credit

Live Webinar via Zoom

July 2021

Tuesday, July 13, 2021 • 10:00 a.m. – 12:00 p.m.

E-Discovery & Technology Blockchain Technology Seminar

2.0 Hours CLE credit in Enhanced Ethics

Live Webinar via Zoom

Tuesday, July 20, 2021 • 12:00 p.m. – 1:00 p.m.

Environmental Law Recap of the 2021 Legislative Session

1.0 Hour CLE credit

Live Webinar via Zoom

Dates, times, and locations of Events and CLEs may occasionally change after time of press. Please consult the DSBA website for the most up-to-date information at www.dsba.org.

TIME TO RENEW

**Join
DSBA**



Stay connected through DSBA. Renew your membership for 2021-2022 before July 1 and enjoy uninterrupted access to DSBA benefits.

Renewing is easy! Renew today and PAY ONLINE by logging into the Members Area of www.dsba.org.

SECTION & COMMITTEE MEETINGS

June 2021

Tuesday, June 1, 2021 • 12:00 p.m.
Estates and Trusts Section Meeting
TBD

Tuesday, June 8, 2021 • 12:00 p.m.
Litigation Section Meeting
TBD

Wednesday, June 9, 2021 • 4:00 p.m.
Real and Personal Property Section Meeting
Teleconference Meeting, see Section listserv message for call-in information

Wednesday, June 16, 2021 • 9:00 a.m.
ADR Section Meeting
TBD

Thursday, June 17, 2021 • 11:45 a.m.
Executive Committee Meeting
Zoom Meeting, link will be sent via email

Thursday, June 17, 2021 • 4:00 p.m.
Elder Law Section Meeting
Teleconference Meeting, see Section listserv message for call-in information

Friday, June 18, 2021 • 12:30 p.m.
LGBTQ+ Section Meeting
Teleconference Meeting, see Section listserv message for call-in info

Wednesday, June 23, 2021 • 12:00 p.m.
Government and Consumer Law Section Meeting
Teleconference Meeting, see Section listserv message for call-in information

Refer to the DSBA Section Listserv messages for the most up-to-date information on Section Meetings. Please contact LaTonya Tucker at ltucker@dsba.org or (302) 658-5279 to have your Section or Committee meetings listed in the Bar Journal.

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Technology Tips for the Lawyer Parent

BY KELLY A. GREEN, ESQUIRE

We are excited to announce that the "Tips on Technology" column is entering its next phase, with diverse contributing writers from the Richard K. Herrmann Technology Inn of Court, the E-Discovery and Technology Section, and the Young Lawyers Section to bring Bar Journal readers the latest advice and perspectives on how to effectively use emerging technologies in the practice of law. We thank the previous long-term column contributors, Richard K. Herrmann, Esquire, and Kevin F. Brady, Esquire, for their many years of insight and technology tips.

While quick to meet our professional obligations with respect to client-related technology, many of us have been slower to adopt new personal technology. Enter 2020. We were catapulted into work from home scenarios, coupled with responsibility for home childcare, home school, and the return of college-age students to the family home. It was time to embrace technology.

In-Home Office Technology and Mirroring your Office Environment.

As it became clear that the COVID-19 pandemic was going to change my work location, creating a home office became a priority and after several iterations, certain components for a successful space became apparent. By making your in-home office conform to the technology you are accustomed to using in your work office, you enable a more seamless work from home transition.

- **Double screens.** If you have double monitors in your office, you will want the same set-up at home. Two monitors allow for dedicated, uninterrupted reading without opening and closing windows. Double monitors also permit you to access multiple documents and emails simultaneously for comparisons and copying.
- **Printer and scanner.** If you work on a hard copy, make sure your in-home office has a printer. A scanner facilitates sending hand-written comments and execution copies of documents.
- **Set-up for Zoom or other digital meeting spaces.** A webcam and an appropriate background, whether physical or virtual, are needed. To avoid being photo-bombed by loved ones, consider choosing a camera height taller than your small children and pets.

- **Ear buds or headset.** If you don't have a high-quality speaker phone at your home that allows you to be hands-free while on calls, an in-ear or on-ear device allows you to hear and be heard more clearly by cutting down on background noise in your home.
- **A door.** I acknowledge this is not a technology tip but you need a dedicated quiet(ish) space to think, write, Zoom, and call.

Electronic Tools of the Trade

A desktop or laptop with Microsoft Office (or an equivalent) will be critical. You will also want access to your professional email and calendar, a PDF reader and writer, and other frequently used software specific to your practice area. To the extent you access your in-office desktop via remote means, the ability to do so, with the least lag possible, will increase productivity and the use of compatible hardware and software at both locations may be beneficial.

Using a tablet and/or stylus for daily law work and parenting tasks can be quite useful.

Apps you may want to consider for work include:

- Good Notes (create, organize and use electronic notebooks);
- Scanner Pro (small scanning jobs);
- Transcript Pad (code transcripts);
- Dragon Anywhere (dictation);



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- Timekeeping app;
- Document management app;
- File share app (Drop Box);
- Zoom; and
- A legal research program and Federal Rules of Civil Procedure.

Apps to assist with parenting include:

- Banking (Venmo to pay for childcare or tutoring);
- FaceTime;
- Telehealth (appointments, forms, prescriptions, and labs);
- School-related apps (provided by school district *i.e.* Schoology);
- Educational games (Prodigy); and
- Password app (since you are now responsible for your own personal and professional passwords, as well as those of your children, you may want one password to rule them all).

A smartphone is a key player in your in-home office. You may want to explore transferring calls from your office to your personal smart phone. Based on your personal safety and security concerns, consider whether to list your cell phone number on your email signature block. Learn the features of your smartphone such as the ability to create conference calls.

Vendors

Litigators need vendors skilled with virtual depositions and hearings. Vendors assist with exhibits, coordinating logistics, and technology support. For a worst-case scenario example of a lack of technology support during a hearing, perform an internet search for “I’m not a cat.”

On-the-Go Extras

Hot spot

Allows you to have protected internet access wherever you go, including at outside sporting events, and serves as a back-up internet provider if your in-home internet goes down.

Virtual Private Network or VPN

Provides a secure private internet connection when you are accessing the internet through a public network.

Car inverter

Plugs into your car’s cigarette lighter and creates a 110-volt outlet to charge electronics and serve as a back-up in the event your home loses electricity.

Progress

COVID-19 caused sweeping changes to the practice of law and parenting. Hopefully, we can retain the technology gains we made during this challenging time to benefit our legal practices, personal lives, and children. 🎧



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The Intersection of European Data Privacy and Domestic Discovery

BY RYAN P. NEWELL, ESQUIRE

In 2016, the European Union (“EU”) adopted the General Data Protection Regulation (the “GDPR”), which replaced its Data Protection Directive that was adopted in 1995. Described as “the toughest privacy and security law in the world,” it purports to “impose[] obligations onto organizations anywhere, so long as they target or collect data related to people in the EU.”¹ For domestic litigators, one might assume that the GDPR’s purported extraterritorial jurisdiction would be of no consequence when litigating in the United States. Indeed, the GDPR’s broad assertion of jurisdiction is arguably contrary to domestic principles and common law regarding permissible discovery. So while it is less than clear how the GDPR will or could be enforced in connection with potential violations in U.S. litigation, litigators would be wise to, at a minimum, be aware of its reach and potential consequences for violations.

The Broad Reach of the GDPR

Article 3 of the GDPR sets forth its territorial scope, the extreme breadth of which cannot be ignored:

1. This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in the Union, regardless of whether the processing takes place in the Union or not.
2. This Regulation applies to the processing of personal data of data subjects who are in the Union by a controller or processor not established in the Union, where the processing activities are related to:
 - (a) the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
 - (b) the monitoring of their behaviour as far as their behaviour takes place within the Union.

In other words, the GDPR’s protections are triggered when (1) organizations in possession of the data are in the EU (even if the data is not) or (2) organizations outside the EU offer

goods or services to people in the EU (or if the organizations are monitored by the EU). (There is a third smaller category concerning discovery from groups such as embassies.) In today’s global and virtual economy, a broad interpretation of the GDPR could raise implications for many domestic lawsuits.

If the GDPR applies, in order to process the data governed by the GDPR, one of the provisions of Article 6 must be satisfied. First, you can obtain consent from the person to whom the data belongs. Consent, however, is not easily obtained under the GDPR. It must be “freely given, specific, informed, and unambiguous”² and requests for consent must be in “clear and plain language.”³ Further complicating matters, consent can be withdrawn.⁴ It can be withdrawn on the eve of a discovery deadline, a deposition, or even trial. This poses a potential nightmare for litigators looking to rely on critical discovery that is subject to the GDPR. Moreover, in the employee-employer relationship, the GDPR makes it very difficult for employees to fully consent as there is a presumption that the employer holds significant leverage over the employee that would eviscerate the employee’s ability to freely give consent.⁵

In addition to consent, the additional bases for data processing under Article 6 include:

- i. processing is necessary for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject prior to entering into a contract;
- ii. processing is necessary for compliance with a legal obligation to which the controller is subject;
- iii. processing is necessary in order to protect the vital interests of the data subject or of another natural person;
- iv. processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

- v. processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.


Assuming Article 6 can be satisfied, the GDPR further provides requirements for how the data can be processed and provides robust protections to the person to whom the data belongs. While this article does not permit a deep dive into all of the GDPR's nuances, it is worth noting the severe sanctions that the GDPR suggests can be imposed.⁶ There are two levels of potential fines that can result from GDPR sanctions. The "lesser" sanctions can be as much as €10 million or 2 percent of an organization's annual revenue from the prior year, whichever is higher. The more severe sanctions can be as much as twice the lesser sanctions.

Effect of Blocking Statutes on U.S. Courts

Given the intricacies that must be adhered to and the magnitude of the penalties for lack of compliance, one might assume that the GDPR provides an adequate basis for resisting discovery requests directed at discovery protected by the GDPR. While Delaware courts have yet to resolve whether the GDPR as a "blocking statute" is an adequate basis for resisting discovery from the EU, other U.S. courts have been reluctant to preclude discovery on these grounds.⁷ For example, this past year, the District Court of South Carolina held that, it "is well settled that [foreign] statutes do not deprive an American court of the power to order a party subject to its jurisdiction to produce evidence even though the act of production may violate that statute."⁸

Indeed, some courts have acknowledged the conflict posed by the GDPR's protections and the mandates of domestic discovery. The Northern District of California has held that the GDPR "do[es] not deprive an American court of the power to order a party subject to its jurisdiction to produce evidence even though the act of production may violate that statute."⁹ Similarly, the Eastern District of Pennsylvania has concluded that "[t]he United States 'has a substantial interest in fully and fairly adjudicating matters before its courts — an interest only

realized if parties have access to relevant discovery — and in vindicating the rights of American plaintiffs.' The interest of the United States in adjudicating this matter is substantial and requires production of relevant discovery." The court in that matter acknowledged the interest of the foreign country, but ultimately concluded that the protective order in that matter afforded adequate protections to the data subject to the GDPR.¹⁰

While it remains to be seen whether the EU will successfully enforce the provisions of the GDPR when implicated by discovery in the U.S.,¹¹ litigators should consult the provisions of the GDPR and consult with practitioners licensed in the appropriate jurisdiction. And as has been suggested in prior articles in this publication, the best course is always to plan as early as possible in a transparent matter with the other parties and the court.¹² 

Notes:

1. For information on the GDPR, please visit <https://gdpr.eu/what-is-gdpr/>.
2. Article 4(11).
3. Article 7(2).
4. Article 7(3).
5. See <https://gdpr-info.eu/issues/consent/>.
6. See <https://gdpr.eu/fines/>.
7. *But cf. In re Activision Blizzard, Inc.*, 86 A.3d 531 (Del. Ch. 2014) (granting motion to compel and requiring use of two-tier confidentiality order notwithstanding French blocking statute).
8. *Rollins Ranches, LLC v. Watson*, No. 0:18-3278-SAL-SVH (D.S.C. May 22, 2020) (citing *Société Nationale Industrielle Aérospatiale v. U.S. Dist. Court for S. Dist. of Iowa*, 482 U.S. 522, 544 n.29 (1987)).
9. *Finjan, Inc. v. Zscaler, Inc.*, 2019 WL 618554, at *1, *3 (N.D. Cal. Feb. 14, 2019) ("the Court concludes that the GDPR does not preclude the Court from ordering Defendant to produce the requested e-mails in an unredacted form, subject to the existing protective order.").
10. *Giorgi Global Holdings, Inc. v. Smulski*, 2020 WL 2571177, at *2 (E.D. Pa. May 21, 2020).
11. *In re Mercedes-Benz Emissions Litig.*, 2020 WL 487288, at *8 (D. N.J. Jan. 30, 2020) (not permitting personal data to be redacted; "Defendants failed to produce evidence that producing the information at issue here would lead to an enforcement action against Daimler by an EU data protection supervisory authority for breach of the GDPR. Indeed, whether an EU authority aggressively polices this type of data production in the context of pre-trial discovery in U.S. litigation remains to be seen.").
12. See *A Low-Tech Solution to High-Tech Discovery*, *DSBA Bar Journal* (Oct. 1, 2019) (addressing use of discovery plans) available at www.dsba.org.

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Wellness and the Challenges of Change

We are practicing law in challenging times. The changes brought on by the pandemic have been significant. We had to adapt to closed offices and closed courts and the learning curve of using Zoom as an alternative. But the cost in lives, financial hardships, isolation, and anxiety should not be discounted. However, the practice of law always evolves — albeit in normal times at a much slower pace. As a profession, we have always coped. I expect, we always will.

Changes, even in the course of my career, have been dramatic. While I was still in law school and working as a summer law clerk, it was a paper world. The postman delivered the “snail” mail twice a day. Attorneys enjoyed the luxury of knowing that they had a grace period of at least a few days before a response was expected. That delay provided an opportunity for a more thoughtful response and sometimes a chance to cool off before sending a rash reply in anger. Today, it is too easy to send a regrettable reply in the heat of the moment in the time it takes to hit “send.”

More pressing, but local, correspondence was sent by court “runners.” There was a small army of mostly high school students, usually boys from Salesianum and girls from Padua, who would arrive every afternoon when they finished school to begin their rounds, picking



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up mail and pleadings to be delivered or picked up and returned, throughout downtown Wilmington.

Those papers were generated in a way that would likely seem primitive to many readers of this column. Home and office computers were nonexistent. I was working for the State of Delaware when secretaries received the first IBM Selectrics, mammoth typewriters that occupied much of the desk top. Instead of individual keys striking the page, there was a single ball with typeset around the outside. Each keystroke caused the ball to strike the page at a different angle with the selected character hitting the page. There was no monitor. Instead, there was a small, single-space window appearing above the keyboard with a digital display of the last few words that were typed. Amazing at the time, the Selectric had several pages of memory, and copies of the document could be retyped.

Large firms had a copy center, sometimes with a full-time operator. Typically, copies would be made for the client, the file, the correspondence file, and the “tickle” system. A lot of trees were destroyed in the process. However, when it came time to answer discovery or produce a copy of your file, it was all there on the shelf. There was not a need to search the cloud, emails, and texts. Document production involved cardboard cartons and trucks instead of drop boxes and thumb drives.

Paper also had its own rules. Some courts were still using 8 ½ x 14 inch pleadings. The Supreme Court required color backing, which is a sheet of color bond artfully stapled and folded over the top. Different colors were used to denote Opening, Answer, and Reply pleadings. Before accepting a filing, the clerks of the court would place a template over the page to make sure that the margins adhered to standards. Letters would be counted to ensure that the permitted typeface had been used, and the page count would be checked against the maximum for the type of pleading.

Cutting-edge technology at the time included the first facsimile transmission devices. There was rarely more than one per office. Unless there was a dedicated phone line, the sender would call to announce the transmission. The devices were so noisy that they often had plexiglass covers to deaden the sound. Instead of individual pages, the transmission would print on a continuous roll of thermal paper, which would have to be manually cut into pages. The printed document would continue to darken over time. The waxy surface of the paper would often become completely black after several months as it continued to curl back to its original, rolled shape.

Cell phones? Not yet. We had to endure the evolution from car phones and bag phones to the “smart” phones we know today. Attorneys were initially cautioned against using cell phones to discuss confidential matters because the early analog models transmitted on public airways. When we were not communicating by mail or fax, there was the desk phone. We had our choice of carrier. We could use Bell Telephone or we could go without a phone. Landlines only. No voicemail. Computers? Non-existent.

Before you dismiss this as the dark ages, imagine the practice of law occurring only during “business hours.” There was no expectation on the part of clients, other attorneys, or the Court that you would be reachable at night, on weekends, or while on vacation. No cell phones acting as electronic leashes. No texts tethering you to your practice. No

need to set boundaries with clients to inform them that you cannot provide 24/7 access.

There were fewer attorneys. The exponential growth in admissions had not yet occurred. My first job out of law school was serving as the Family Court Law Clerk. You read that correctly. I was the Family Court Law Clerk. The only law clerk statewide for all twelve judges. I also had to serve as the Family Court Law Librarian. There were Superior Court law libraries in the courthouse in each county. Larger firms had their own law libraries. Solo and small firms usually did not. Regardless, slip opinions would go to the law libraries before they were submitted for publication in the reporters, making trips to the courthouse law libraries a necessity for research. Libraries were social hubs.

The courts also enjoyed a slower pace. The Supreme Court was closed (or at least not in session) most of the summer. As I recall, the Superior Court also did not schedule trials for two weeks in the summer. As a young Deputy Attorney General who grew up in New Castle County, I was taken aback when advised that my multi-day downstate jury trial was adjourned for the first day of duck season.

Delaware still has the same *bona fide* office rule now that it had when I first started practicing. While some of the rules regulating the practice of law were relaxed during COVID, the Court has been silent on the *bona fide* office requirement. However, anecdotally, neither the Court nor the Office of Disciplinary Counsel has shown interest in enforcing the rule during this crisis. There are reports of law firms in other jurisdictions buying out or not renew-


Each new generation of attorneys faces the same challenge of balancing the often-competing interests of adapting to change, maintaining professionalism, and preserving a sustainable quality of life in the process.

ing their office leases. Many attorneys and their staff have been advised that they will be permitted to work remotely indefinitely. Nationally, there has been increase in the number of virtual, cyber, and concierge office arrangements. But I miss the lunchtime strolls on the Market Street mall where you could run into half the Bar — including the attorneys you had been trying to get on the phone.

It will be interesting to see what changes to the practice of law result from and survive the COVID crisis. Newer admittees will face their own challenges to the profession: the lightning speed of practice both enabled and demanded by technology; offshore outsourcing of legal services; litigation funding that makes lawsuits a commodity; competition from legal services provided by artificial intelligence; and law firm structure changes such as non-equity members, non-attorney partners, or owners. Each new generation of attorneys faces the same challenge of balancing the often-competing interests of adapting to change, maintaining professionalism, and preserving a sustainable quality of life in the process.

We’re up for the challenge!

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

“Ethically Speaking” is available online. Columns from the past five years are available on www.dsba.org. 

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Successfully Navigating Yet More Change

THE MAN IN THE GLASS

When you get what you want in your struggle for self
And the world makes you King for a day
Just go to the mirror and look at yourself
And see what that man has to say.

For it isn't your father, or mother, or wife
Whose judgment upon you must pass
The fellow whose verdict counts most in your life
Is the one staring back from the glass.

He's the fellow to please-never mind all the rest
For he's with you, clear to the end
And you're passed your most difficult, dangerous test
If the man in the glass is your friend.

You may fool the whole world down the pathway of years
And get pats on the back as you pass
But your final reward will be heartache and tears
If you've cheated the man in the glass.

-Peter Dale Wimbrow, Sr.

You know it. Within the COVID-19 world, we have been looking in the glass — changing constantly. Now, after a long and difficult year of fighting this pandemic war, most of us can see signs our lives are returning to normal. Or are they? Will even more change be necessary to effectuate our well-being? And will we be satisfied with the changes that we implement as we look into the glass?

The journey during the past year implemented many changes: wearing a mask; maneuvering around travel restrictions; closed schools and businesses; virtual schools and businesses; new technology and virtual conferences; loss of jobs, furloughs, and working from home; witnessing illness and throughout it all, most of us survived. Congratulations! On the other hand, we know that the war is not over yet and the call is out to battle yet another change from the COVID-19 world to post-COVID-19 world.

According to Roberta Tepper in the article “Ethics in the Time of COVID”:

The year 2020, aka *Law in the Time of COVID...* was a time of extreme and rapid change. Lawyers had to quickly adapt to shelter-in-place orders and the challenges of working remotely, and address business continuity and succession planning. Innovative lawyers shifted their business models, offering new services and options to their clients. The one thing that never changed was the duty of lawyers to adhere to the mandates and restrictions of the rules of professional conduct.¹

There is no one answer to why lawyers disproportionately suffer from mental health and addiction problems compared to the general population. Yet the fact remains that they do. What is beyond dispute is that lawyer distress is systemic. There exists a strong correlation between the legal profession and lawyer distress that can not be ignored. Learning to spot, cope with, and manage it by recharging and changing positively is imperative to fight burnout, anxiety, and other mental health issues. Letting the person in the glass learn to cope with stress and change in a healthy way will make you, the people you care about, and those around you become more resilient.

It is natural to feel stress, anxiety, grief, and worry during COVID-19. Whether it is voluntary or involuntary, big or little, sudden or gradual, returning to the joys of full-time office work or virtual hybrid — most of us will be facing new challenges, stress, and change once more.

Change

Change may range from minor everyday events to major life events. It can be about ourselves or our environment. Often when we are confronted with change, either through necessity or choice, we are being given an opportunity to see ourselves in the glass, redefine ourselves and to choose an outcome that will allow us to be fulfilled. After all, by embracing and promoting positive change, we learn more about who we are and what we can do.

The process of change is often tough and challenging. Think of your state of mind when you choose to do something that is positive, enjoyable, and easy for you. Conversely, think

of the flip side, the feeling of deprivation you have when you try hard to kick a bad habit or change something. Generally, doing something new is easier than attempting to stop something you are already doing. Moreover, while some of us are able to transform our plans for change into actions resulting in successful achievements, some of us dream, overthink, and experience anxiety and actually accomplish little or fail entirely when attempting a positive change.

Sometimes one side of us wants to engage in a productive activity to change. For example, it is our intent to speak to the supervising partner — and not procrastinate — about a hybrid work week of partially in office and partially remote. But, another side of us wants to think about it tomorrow and instead watch a lacrosse game or do anything else to avoid doing that task or implementing change.

This battle of wills brings us to the Jekyll and Hyde Syndrome that could be the greatest roadblock to personal and professional change. Most psychological theories support that humans are made up of several different selves. Literature, too, supports this theme describing the inner struggle within us. A strong example of the inner turmoil is the story of Dr. Jekyll and Mr. Hyde.

A Strange Case of Dr. Jekyll and Mr. Hyde is the original title of a novella written by the famous Scottish author Robert Louis Stevenson that was first published in 1886. It is about a London lawyer named Gabriel John Utterson who investigates strange occurrences between his old friend, Dr. Henry Jekyll, and the evil Edward Hyde. Recently, I discovered how Theodore Bryant, MSW, in his book *Self-Discipline in 10 Days: How to Go from Thinking to Doing*, cleverly used Robert Louis Stevenson's novel to express how we can sharpen the skill of self-discipline to make changes in our own personal or professional lives. In this book, Bryant explains how one part of us wants to use self-discipline to manifest change and that part is Dr. Jekyll. Conversely, there is another part of us that fights change and that part is Mr. Hyde.²

Therefore, and on closer examination, change is something that we all experience at some point in our lives. However, with the right attitude and actions, you can find opportunities in change that lead to success. Here are some tips to consider:

- Be aware of your surroundings: Change is not a bad thing, and it can even be desirable. It's important to recognize that change can occur at any time or place, and stress can be reduced when we acknowledge that change can occur.
- Recognize the stages. Initially we may try to avoid the change or even pretend that nothing has changed. Sometimes we have to ask ourselves, "What am I going to lose if I don't change?" and "How can I make this work?" Once we are able to answer those questions we can start to move forward to the stage of acceptance.
- Communicate with others. Lack of communication from others can have a negative impact, while effective communications can have a positive one. Try talking to others who have experience similar changes.

- Do a self-assessment: Understanding your own strengths and areas for development and knowing as much as you can about a new situation and expectations will make it easier to cope with change.
- Be flexible: Change requires flexibility. The better able you are to adapt to change, the greater your chances of being successful.
- Be positive in actions and attitude: Keeping a positive attitude can help you deal with many of the uncertainties of change. Instead of worrying about changes, focus instead on how you can leverage your existing skills and experience.
- Maintain your network: Don't isolate. Your network of contacts can serve a valuable function. They can be a sounding board and may be able to offer insight about how they've handled similar changes.
- Be resilient: The people that are best able to deal with changes in their lives believe in their ability to change. They understand that change is inevitable and look for opportunities within the change. Navigating changes builds resilience, our natural ability to grow from challenge, which allows us to be prepared for the next challenge.³

Hopefully, using these tips on making change a positive experience allows you to look in the glass and realize that you are making progress to become the best person that you can see.

In this period of change, DE-LAP, with its army of volunteers from the Professional Guidance and Lawyers Assistance Committees, as well as a network of licensed health care professionals, understand that the legal culture is often resistant in asking for help. For that reason, DE-LAP, together with the Delaware Lawyers Assistance Fund (DELAFF) have developed a free, confidential call-in service for Delaware legal professionals. This service is way for Delaware judges, lawyers, and legal professionals to discuss their anxieties with DE-LAP's core team of licensed, health-care professionals during this pandemic and challenging time — even one year later!

If you, or someone you know, would like more information on this topic, or other quality of life/quality of professionalism issues/challenges: call DE-LAP (302) 777-0124 or email cwaldhauser@de-lap.org. DE-LAP is the no judgment zone. 🌍

Notes:

1. Tepper, Roberta. "Ethics in the Time of COVID." American Bar Association. Accessed May 20, 2021. https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2021/jf21/teppersupport/.
2. Bryant, Theodore. *Self-Discipline in 10 Days: How to Go from Thinking to Doing*. Seattle, WA: HUB Pub., 2011.
3. "Tip Sheet: Dealing with Change in the Workplace ." Indiana University. Healthy IU. Accessed May 20, 2021. <https://healthy.iu.edu/doc/worklife/Dealing-with-Change-in-the-Workplace.pdf>.

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Sitting. Billing. Anxiety.

BY SARAH FALGOWSKI, M.D.



This is a cycle of self-existence that I hear repeatedly in different theme and variation. Legal professionals sitting at their workstations, billing, and feeling anxious. The most common themes include being too busy, not being busy enough, and not having good work-life balance.

In 2016, a study conducted by the Hazelden Betty Ford Foundation and the American Bar Association Commission on Lawyer Assistance Programs monitored 13,000 working lawyers and revealed significant rates of problematic drinking, depression, and anxiety. Sixty-one percent of study participants self-reported anxiety concerns and 19 percent suffered from severe anxiety. This is about three times the rates reported in the general population. While professional attention might be appropriate for severe issues, all of us can utilize some simple skills while at work to improve health and reduce anxiety.

First and foremost, take standing breaks frequently. Sitting for prolonged periods of time has negative health consequences, even in otherwise healthy and active individuals. Prolonged sitting increases risk of cardiovascular disease, obesity, diabetes, back and leg pain, blood clots, and varicose veins. Get in the habit of standing and walking around; set an alarm on your phone or computer to remind you to get up every hour. Try standing while taking phone calls or consider a standing/adjustable desk. In addition to improving general health, routine standing breaks have been shown to improve mood, increase energy, and reduce anxiety.

If you are experiencing anxiety, there are other tools and coping skills that can help.

Breath

Our breath is a direct link to our nervous system and we can influence our breathing to create a sense of calm. By lengthening our exhale, we trigger our parasympathetic nervous system which influences our body to relax and calm down. A single breath can be effective.

Take a breath. It can be a deep breath or a normal breath and you can inhale through your mouth or your nose. Pause. Exhale slowly. Your goal is to exhale longer than you inhale. You can achieve this by exhaling slowly through your nose, by exhaling through pursed lips, or by exhaling with a sigh or hum. I think it is helpful to exhale from the back of my throat, as if I am trying to fog up a window; while doing this, I shut my mouth and exhale through my nose from the back of my throat.

One breath is often enough. Practice a long exhale breath anytime you notice anxiety or anytime you encounter an anxiety provoking situation, such as before reading discovery dispute emails or making phone calls to ornery opposing counsel. The more often you take a calming breath, the less likely your anxiety is to build.

Movement

Sometimes, the best strategy to distract ourselves from anxiety is to move our bodies. This can seem counter-intuitive when the source of anxiety is being overworked or “too busy”; however, a movement break can improve focus, increase productivity, and benefit general health. Any movement that you are motivated to do is helpful. If movement seems daunting, try one of these simple movements next to your desk:

Forward Fold

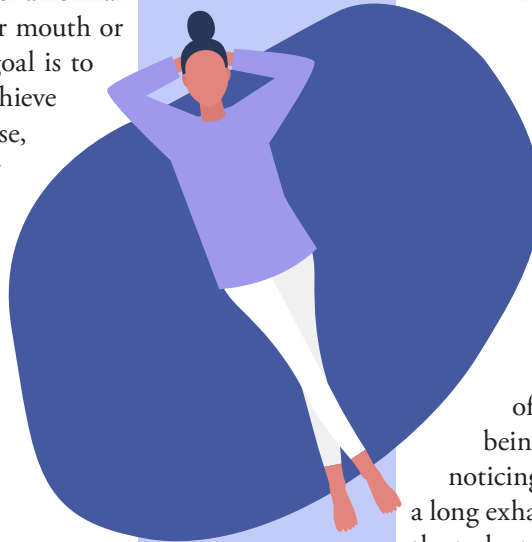
Stand up, fold forward (with the top of your head pointing to the floor), stay folded over for a handful of breaths, slowly roll up to standing. A forward fold lowers anxiety, stretches the back of your body from heels to neck, lowers your body temperature, and improves blood flow to your internal organs.

Balancing on One Foot

This will help you place your thoughts on something other than your work and your anxieties. Stand close to your desk or a wall (in case you need support). Focus on a spot straight ahead. While trying to stand straight and still, lift one leg up in front of you with your knee bent at a 90-degree angle. Hold the position, as best you’re able, for several breaths and then switch sides.

Strength Building Movement

High plank: Position your body like you are going to do a push up with hands under shoulders, arms straight, back straight, legs straight. Pull in your belly to engage your core and back muscles.




The legal profession is inherently stressful and can be anxiety provoking. When anxiety starts to interfere with your work, then it may be helpful to modify your work routine or incorporate new coping skills.

How long can you hold the position? Next time, can you hold it longer? Can you maintain calm and steady breaths? Focusing on each of these elements will allow you to shift your thoughts away from your anxieties.

Shifting Your Thoughts

Let’s revisit those reoccurring themes of being too busy and not busy enough. While each scenario is unique and complex, we can start by using some of the basic skills above. In the situation of being too busy and feeling anxious: start by noticing the anxiety, take a relaxing breath with a long exhalation, and place your thoughts back on the task-at-hand. “Oops, there I go thinking again, I am going to refocus on this email.” If this seems ineffective, it may be a great time for a movement break or to stand up and work from a standing position. Try replacing negative thoughts (like: “I’m never going to get this done”) with neutral thoughts (“I’ve always got it done in the past” or “I will do the best that I can”).

Thought replacement can also be effective in the scenario of not being busy enough and feeling anxious. Start with noticing the anxiety, take a breath with a long exhale, and replace a negative thought with a neutral thought such as, “I’ve been slow before and it always gets better.” Sometimes our anxious thoughts build into unlikely scenarios: Worry about a slow month snowballs into worry about losing one’s job and home and so forth. It can be helpful to ask yourself, “What evidence do I have to support that worry?” Most often, we find little evidence to support the belief. We can tell ourselves “Oops, there I go thinking again. It is unlikely that I am going to lose my job.” Take a breath with a long exhale and place our thoughts on something else or distract ourselves.

The legal profession is inherently stressful and can be anxiety provoking. When anxiety starts to interfere with your work, then it may be helpful to modify your work routine or incorporate new coping skills. Breath, movement, and shifting our thoughts are simple and effective coping skills that can effectively reduce anxiety and improve quality of life. 

Sarah Falgowski is a physician who is board certified in Psychiatry and in Addiction Medicine. She is the owner of Delaware Psychiatry and Wellness located in Wilmington. You can find out more about her practice at: www.delawarepsychiatry.com or contact her directly at delawarepsychiatry@gmail.com or (302) 588-2680.

Combating COVID With Spirituality: A LAWYER'S GUIDE

BY ALICE R. O'BRIEN, MS, NCC, LPCMH



An anxious recent law school graduate interviewing for her first job via Zoom. A solo practitioner trying to meet his clients' needs and oversee a myriad of administrative requirements remotely. A middle-aged government attorney and single mother trying to do her job from home while keeping her middle school-aged daughter on track with online learning. A seasoned senior partner retiring after decades of practicing law without the usual fanfare and acknowledgment his large firm provides. All are stressful scenarios from the lives of lawyers I have worked with as a psychotherapist during the COVID-19 pandemic. All have benefited from introducing spirituality into their lives.

Spirituality, according to author, lawyer and Yale social science researcher James Kimmel, Jr., "refers to that unseen which is common to and unites the whole of humanity despite our separate physical bodies and circumstances." From his perspective, "spirituality is broader than and differs from religion, which seeks to understand and direct the experience of matters of spirit through a particular lens of organized human institutions and systems of creeds, rituals, beliefs and worship practices."

For Loyola University Psychology Professor Ralph Piedmont, spirituality or spiritual transcendence as he calls it, can be broken down into three aspects. "Prayer fulfillment/meditation is a feeling of contentment that results from personal encounters with the god of one's understanding and/or an increased sense of well-being. Universality is a belief that all of life is intimately tied together. Connectedness is a belief that one is part of a larger human reality that cuts across groups or generations," Piedmont stated. Each of the aforementioned lawyers approached spirituality differently. Each engaged in one or more of Dr. Piedmont's spiritual aspects.

Several pursued meditation at different levels. Meditation is freeing a stressed mind of thought, something the busy, analytical mind of a lawyer finds challenging. It could be taking 10 minutes to listen to calming music or a guided imagery reflection easily accessed via cell phone. Simple diaphragmatic breathing, another meditative technique, can bring immediate stress relief as well. When we are stressed, the most primitive part of the brain is running the show, producing the "fight, flight, or freeze" hormone, cortisol. If we breathe in to the count of four, hold the breath to the count of two, then exhale to the count of eight, we engage the frontal cortex or smart brain in counting. After a few

repetitions, the smart brain overtakes the reactive primitive brain and restores a sense of calm and reason to our psyche.

Another part of a meditation practice is mindfulness, intentionally detaching ourselves and our moods from our thoughts so the thoughts can be better mastered. “The whole notion of the power of positive thinking only works if we are controlling our minds, not the other way around,” notes lawyer and work environment consultant James Gray Robinson. “Lawyers train their minds to work a certain way, to anticipate problems. We have to detach from that unique ability long enough to stop anxiety from setting in. We can control our thinking, but we have to be aware that we are thinking. We can control our thoughts if we are aware of them. If we are afraid, we can be aware of the feeling of fear. If we are stressed, we can be aware of the feeling of stress. We can then turn our thoughts to a positive theme and let go of the negative feelings. It is easy to do with practice,” he advised. Mindfulness is also useful in halting negative self-talk which can trigger low self-esteem and a sense of impending doom. Being able to observe our thoughts by mentally stepping back from them allows us to more objectively evaluate their validity. Yoga, a practice both meditative and physical, is another stress-relieving activity that several of the lawyers pursued.

Universality was the spiritual aspect chosen by those who had an appreciation for themselves as part of the larger creative force of nature. Hiking in the woods, gardening in the backyard, and kayaking on the Brandywine with family members in their bubble were activities that brought these lawyers in touch with their more relaxed and emotionally attuned selves. Some engaged in the creative force of arts, both musical and visual. One resurrected his guitar from the attic and committed to practicing daily. Another rediscovered the pleasure of sketching and painting and created portraits of her children.

Others found spiritual satisfaction in engaging with a group to achieve something impossible to achieve by themselves. Their participation via Zoom with such organizations as Alcoholics Anonymous was rewarded with increased feelings of purpose, well-being, and connectedness. Others combated feelings of isolation and loneliness at the Delaware Lawyers’ Assistance Program’s weekly online Resilience Support Group.

Spirituality through the lens of organized religion helped those who sought a greater sense of belonging during the pandemic. Knowing others

Universality was the spiritual aspect chosen by those who had an appreciation for themselves as part of the larger creative force of nature.

in their congregation were tuning into services remotely reinforced the church-goers consciousness of the importance their faith community in times of concern and fear. Cyber services at a variety of churches also allowed others, dissatisfied with their experience of religion, an opportunity to sample online services in order to find a faith community that more closely reflected their current beliefs and value systems.

All have gained a better sense of personal, emotional, and professional balance during this troublesome time as a result of their openness and commitment to spiritual pursuits. If COVID-19 has thrown your life out of kilter, a manageable regimen of spiritual exercise could be a satisfying remedy. ☯

Alice O’Brien, a master’s level therapist licensed in Delaware, has been a Wilmington resident since 1977. In private practice since 2012, her areas of expertise include: chemical and process addictions; addictions and their impact on family members, trauma, loss and grief, chronic illness and life transitions such as divorce, job loss and relocation. She is also on the staff of Ashley Addiction Treatment, formerly Father Martin’s Ashley in Havre de Grace, Maryland. She can be reached at aliceob@comcast.net.

Adapting to the “New Normal”

BY RICH LOMBINO, ESQUIRE, LCSW



It's been more than a year since COVID-19 began to impact our lives. Whether you personally went through having the virus, know someone who has had it or is currently experiencing it, have tragically lost someone to it, or even if you are not in any of those categories, COVID-19 hangs over all of us like a dark cloud negatively influencing our lives every day.

Settling in with the “New Normal”

We have all heard the phrase the “new normal.” I don't feel as though this has become cliché. It's a reality that we are dealing with every day. Coping has remained difficult. Being more than a year into the pandemic has forced us all to learn how to adapt to our new environment. Adaptation is key and has throughout history enabled us to change with the times to move past new obstacles that are presented to us. We can now leverage these adaptation skills to push through the emotional challenges that COVID-19 bring us.

The most obvious adaptations for those intent on doing their part is to stay safe and keep others safe by following local executive orders, laws, regulations, and CDC recommendations. These can include continuing to wear a mask and social distance when in public. These have become automatic as compared to how they were a year ago. Also, take the vaccine when it's your turn.

An emotional downside of these practices is a constant reminder of the continuing threat of illness or worse. You can also be stressed when you see someone not wearing a mask or only partially wearing it when it's required. Do you or do you not say something? That can bring an unnecessary pressure to an already emotionally-elevated environment.

Burnout

Even with adaptation, burnout is still common. Our “baseline” or usual emotional level in all categories, whether anxiety, stress, mood, or others, is typically set at a constant level. With a chronic stressor, our baseline emotional level is elevated higher than before the emergence of the chronic stressor.

For example, let's look at anxiety. This factor has usually been elevated with most lawyers even prior to COVID-19. If prior to COVID-19 on a scale of 0 to 10 with 0 being no anxiety and 10 being unbearable anxiety, if someone is typically 2; that is the baseline. If a new stressor was experi-

enced, that person's anxiety might escalate to 4, last 15 minutes or so, then through coping skills return to 2. However, during COVID-19, that baseline is now increased to four. This means if that person experiences a new stressor, the increase in anxiety level will be quicker, higher, and more intense than previously. This could result in an escalation to a seven lasting an hour or more.

The short term goal is to get through the emotionally challenging moment as quickly as possible using healthy coping skills. After the crisis, the goal is to reduce the baseline level to pre-COVID-19 (or ideally better), thus causing the effects of future stressors to be reduced.

This can be helpful to keep in mind. You're not having more difficulty coping than you have had in the past because something is wrong with you. It's due to the overall strain of COVID-19.

Keep Up the Coping

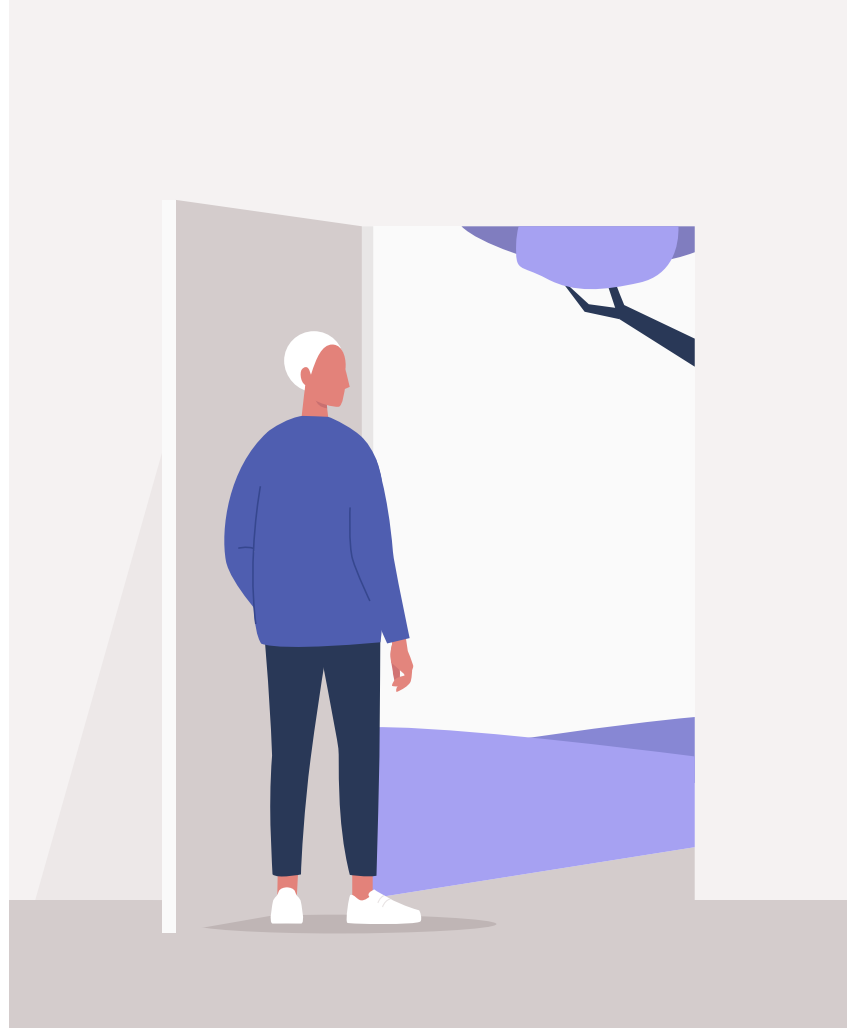
Prior to COVID-19, we all had our coping skills that are helpful in managing stress, anxiety, and other mental health challenges. Whether it's exercising, reading, playing guitar, going for a walk, watching our favorite show, meditating, deep breathing, seeking support through our network of family and friends and with mental health professionals (if necessary), and many others, they help us better manage our mental health to keep our functioning in our personal and professional lives healthy.

Let's all continue with our coping skills. Keep doing what works, improve what "kinda" works, don't do what doesn't work, and try out new ones. Share with others and see what they're doing. Develop and enhance your "tool box" of coping skills. It's crucial during COVID-19.

What Will the Future Hold?

We all wish we knew. The vaccines bring hope for the future, but as of now, there is no end date for this pandemic. The lack of an end date can have a great impact on our outlook. For example, if we knew that as of January 1, 2022, COVID-19 would be gone, although this would be more many months into the future, we'd likely rest easier through these months. Unfortunately, this is not the case. Fear of the unknown is a significant and draining stressor.

I sometimes think of how our collective experience with COVID-19 will change our behavior in the future. Will we wear masks during flu season? Given the mild resistance and more intense protests of some, I don't think it's likely to be all the time, every day. But I hope at the very least if people have



Adaptation is key and has throughout history enabled us to change with the times to move past new obstacles that are presented to us.

the flu or another contagious illness, they'll wear them out in public. Statistics show for flu season this year, wearing masks, social distancing and higher rates of flu vaccines reduced the cases of the flu by tens of millions as compared to last year.

And Finally ...

The unfortunate reality is COVID-19 isn't going anywhere in the near future. It's up to us to remain vigilant and do what's working to limit and ideally stop the spread of the virus. We also need to remember to take care of ourselves and keep our baseline levels of any mental health concerns as low as possible and manage stressors in a healthy way. Reach out for support if you need it. It is possible to cope. It is possible to adapt. Let's all keep it going. 🌱

Rich Lombino is a therapist and a lawyer. He received his Masters in Social Work from Columbia University. He provides counseling to individuals, couples, and groups for stress management, anxiety, depression, alcohol/drug use, relationship concerns and other related issues, with a specialty of helping lawyers. Prior to becoming a therapist, he practiced law in New York City and also directed nonprofit programs assisting those experiencing homelessness and mental health issues. He can be reached at (302) 273-0700 and info@richlombino.com. Learn more about his practice at www.richlombino.com.

2021 Virtual Law Day Event

Monday, May 3, 2021



At this year's virtual DSBA Law Day event, the attendees were joined by keynote speaker, Patricia Lee Refo, the President of the American Bar Association. The event

was kicked off by President Michael F. McTaggart, Esquire, who pointed out that Law Day was started by legal counsel to President Dwight Eisenhower for the purpose of enhancing understanding of law and the legal profession. The Honorable William C. Carpenter, Jr., a Delaware delegate to the ABA House of Delegates, introduced President Refo who spoke on the role of the attorney in supporting those things that "bend the arc of the moral universe toward justice." President Refo asked attorneys to join her in recommitting themselves to support freedom and equality for all. She emphasized that without access to justice, there was no justice at all and urged attorneys to assist the poor. She also remarked on the past year as an "extraordinary year" where issues of race came to the forefront and asked attorneys "as stewards of the profession" to stand up "and take responsibility and ensure our profession is as diverse as it should be," pointing out that they needed to do whatever was necessary to examine and fix those things that held back lawyers of color in our community. She emphasized that what we do as lawyers was bigger than any one of us and that the mission we must take is to learn from the past year of upheaval to build a better justice system than we had before last year.

Law Day also includes the presentation of two awards. The Community Service Award, given for meaningful service to the community and a commitment to leadership, was given to Marsha Z. Borin, Esquire, who began



her career when there were far fewer women lawyers. Marsha's award was presented by her brother, Lawrence I. Zutz, Esquire, while her daughter Lisa Borin Ogden, Esquire, and her husband Dr. Howard Borin cheered her on. Ms. Borin was recognized for her significant role in furthering the arts in Delaware, particularly the Russian Ballet and for exposing this cultural phenomena to thousands of children. Marsha's acceptance speech discussed her Russian immigrant parents who fled to America to escape religious persecution. She credited her parents with providing her with her foundation of strong ethics, a drive for achievement, and a desire to give back.



The second award, the Liberty Bell Award, which is given to a non-lawyer who has rendered outstanding service to the community and promotes a better understanding of government, rule of law or individual responsibility, was given to Melody Phillips, the Chief of Operations for the Teen Warehouse in Wilmington. Charlotte Miller-Lacy, the founder of I Am My Sister's Keeper, presented the award to Ms. Phillips, and remarked that she was a caring and authentic person who refused to be shaped by her circumstances. Indeed, Ms. Phillips acknowledged growing up with a mother with an addiction, but shared how she learned from mentors like her grandmother, a teacher, and her mentor, Ms. Miller-Lacy, that she could channel her anger into a way to serve her community. Melody said she loves assisting the children at the Teen Warehouse, some of whom joined her for the Law Day award and remarked that she was surprised to get an award "for something I absolutely love."

President McTaggart concluded the event by expressing hope that we would all be back together for Law Day next year, but live and in person. 🕒

Member Appreciation Spring Event

Saturday, May 8, 2021 | Ramsey's Farm

All Work and All Play (at the DSBA)

Our Member Appreciation Event at Ramsey's Farm on May 8 gave members a chance to get outside, mingle with their colleagues, eat some good food, and win all sorts of prizes. The event was well-attended with about 75 members and their families taking a chance on the weather (which miraculously held off until the very last guest left) and included members of the judiciary, partners, government lawyers, and new attorneys. The Woodside Creamery Mobile handed out everyone's favorite treat and several members won gift cards to Door Dash or Amazon as well as nifty DSBA picnic kits. Children rode the hayride, played basketball, and dressed up in silly headgear, and everyone enjoyed the lunch catered by Sherm's. The event sponsored by DSBA and DE-LAP was meant to appreciate our members and to get them outside among friends again now that the pandemic seems to be waning. A similar fall event is planned. 🍷



The Gift

BY MEGAN E. KENNEY, ESQUIRE

The Delaware State Bar Association is pleased to present "The Gift," by Megan E. Kenney, Esquire, as the Third Place winner of the 2021 Fiction Writing Competition!

This year's submissions reflected a wide range of topics and styles. In accordance with the Competition rules, submissions were received and judged by a panel of three impartial lawyers who were unaware of the identity of the authors. The First Place story appeared in the April issue and the Second Place story appeared in the May issue of the *Bar Journal*. Congratulations to our winning authors!



"Look, hon, I'm just not sure I understand how we got here."

"Well if you look at the map —"

"No, not that. You know what I'm talking about, don't do that thing where you pick another thing that sounds like the thing that we both know I want to talk about."

He fell silent, aware that she was referencing the conversation that began with their Christmas gift. The one his mother had carefully placed inside the box, nestled in festive tissue, and then wrapped in the pale-green and snowflake-patterned paper. The gift his mother had not hesitated to place at his feet that very morning with a cheerful clap of her red-lacquered nails. The gift that, once unsheathed from its holiday cocoon, had caused his wife to purse her lips so tight that they shrunk nearly to the size of a Cheerio before she was able to plaster on a recovery smile.

"How, um. Environmentally conscious!" she managed to exclaim through the painted-on smile.

It was a bidet. But that was not the "here," the conversation in the car on I-70 East, hours later, that she wished to engage in. His left foot tapped in rhythm with the Rolling Stones' "Out of Time," emerging, cheerfully sinister, from the sedan's retrofitted Bose speakers.

The damn gift, he thought. It had sparked a fit of laughter, once they were safely ensconced in their familiar sedan. She had snorted as they turned out of the neighborhood of his parents' home, renewing their giggles for another mile. The car was still cold enough that their breath fogged in the late afternoon light. Sloppy snowflakes were swept from the windshield by wipers set to medium speed.

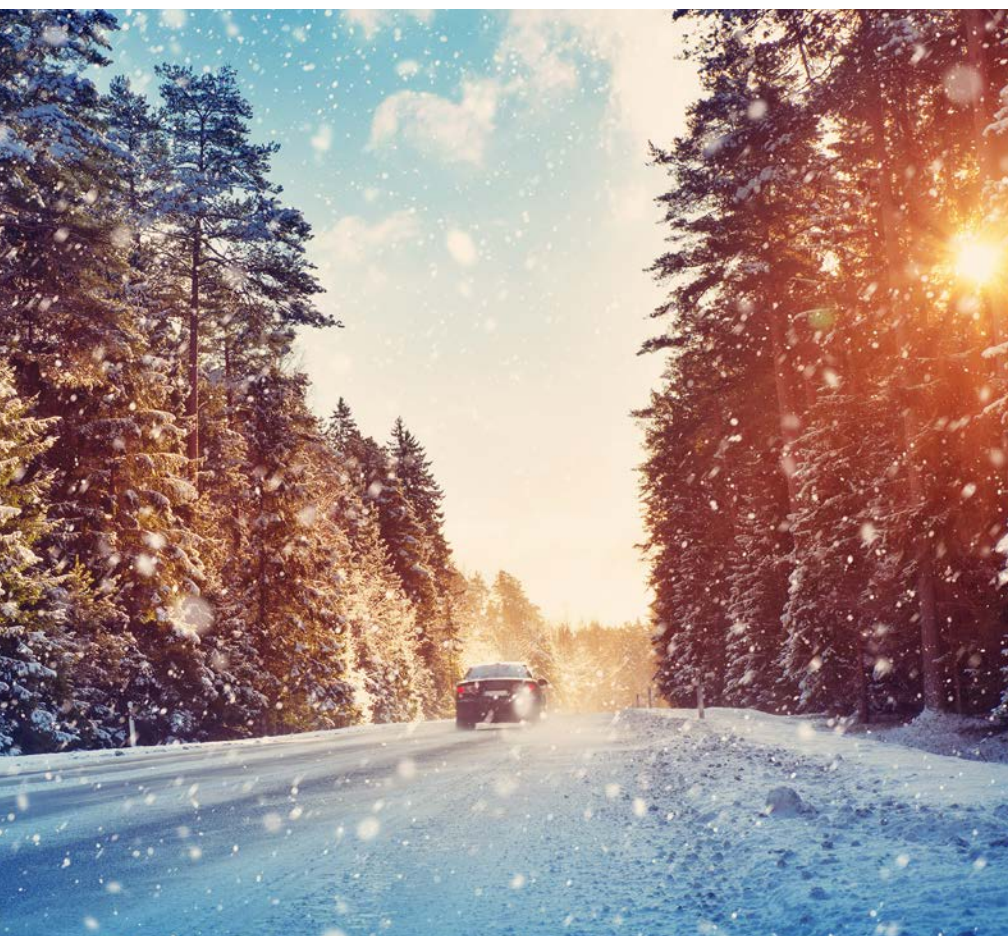
That laughter had faded, evolved into the dreaded conversation over the course of the past two hours. The slush had turned to pristine snowfall, whip-

ping across the windshield without the assistance of the wipers.

She was, of course, the one to break the silence.

"Look, we don't have to talk about it, okay?"

But of course they did. This offer was an olive branch in disguise. If he let the topic slip again, she would let it fester — like the time she asked about his co-worker "with the bangs and bright blue eyes," and he hesitated for too long before looking up from his phone to declare her "just a co-worker." That time, he had taken up her offer, agreeing that there was no reason to talk about it. In truth, he had only hesitated because he had been deeply distracted by the latest social media post from a high-school buddy, quizzical at the fact that this former fan of inhaling nitrogen from a whipped-cream can had managed to purchase a four bedroom, two bathroom in their hometown. But two weeks later, she stood at the sink, curling her hair before their favorite weekly happy hour. He guff-



© istockphoto.com/ LeManna

fawed at the sight of her: She never curled her hair, and had in fact been to this very bar in active wear, hair pulled back, weeks before. She responded, that, well, the blue-eyed coworker curled her hair; and then they had the talk that really should have just occurred two weeks before. Except that time, it was easy. The blue-eyed woman in question really was just a coworker, and the conversation quickly turned to how the high school acquaintance could afford a full-fledged family home.

“No, no, you’re right, we should talk about it. And what better time than now. We’ve got like, four more hours?” He asked, rejecting her olive branch.

“Ugh. Yes. Okay. Let’s talk about it. I know I’m being crazy, but think about the environment!”

The damn bidet, she mused. It’s not that she didn’t want kids. It’s that having them, especially now, meant shelving the daydream of learning to drive stick in a vintage 911, at least while her husband still had hair.

She continued, “Like, is it going to be like that one movie with Jake Gyllenhaal? Snow everywhere, constant natural disasters, burning books in the New York Public Library to stay warm?”

Laughing, he turned to look at her. Her eyes were on the road. He was still glancing at her, trying to gauge her mood, when her eyes widened. Instinctively, he flung his right arm out to her and stomped the brake. The car shuddered to a stop.

The deer stepped delicately, albeit stupidly, across the left lane and into the median, oblivious of its near dismemberment. Two speckled miniatures followed. He kept his arm across her shoulders as they sat still in the car, in the snow, watching. All three deer made it across the otherwise empty slice of highway.

The sedan remained stationary as a semi lurched up the road behind them and offered a short burst of honks, like a threatening, oversized goose. The air was tinged with the smell of the sedan’s hot tires as he inched the car forward again.

“Well I guess she didn’t let Jake Gyllenhaal dictate her family planning decisions. Also wow, we would all”—he squeezed her hand with his still outstretched arm and tilted his head towards the median—“be toast right now if we were driving a Porsche.”

She was too alert to smile, but he had a point. Or two. She pushed the conversation forward, “Okay. Okay, environment aside. I know my parents are so far away, your parents are so...”

“Old? Crazy? Both? Yes, yeah, I know. Isn’t that all the more reason to just get on with it? You know, uh, have a baby?”

“Just get on with it? Did you forget that article I sent you? Did you even read it? What was the title? It was nuts, it was something like, like ‘having kids is worse than your spouse dying!’”¹

He rolled his eyes, saw her see him and narrow hers. He soldiered on, “Did you not just watch my mom’s unadulterated joy at presenting us with a bidet?” She snorted.

“Look, I just think it gets better. I did read that article. But think about it, we also grew up hearing that 50 percent of marriages end in divorce.” He reasoned, rolling his eyes.

She met this comment with a genuine half smile. She was quiet, not because she had nothing else to say to him.

“And babe, think about the new array of scatological gifts you’d be denying my mother if we put this off another year.” Again, she snorted, and he gathered steam. “Diapers. Diaper Genie. Wipes, we can ask her for re-usable ones, if you want to get all *FernGully*...”

Miles behind them, a slim trail of hoof prints, one set slightly larger than the others, carved through the forest snowfall. 🐾

Notes:

1. Cha, Ariana Eunjung. “It Turns out Parenthood Is Worse than Divorce, Unemployment - Even the Death of a Partner.” *The Washington Post*. WP Company, May 3, 2019. <https://www.washingtonpost.com/news/to-your-health/wp/2015/08/11/the-most-depressing-statistic-imaginable-about-being-a-new-parent/>.

Megan Kenney is an associate in the bankruptcy and corporate restructuring group at Richards, Layton & Finger, P.A. She can be reached at kenney@rlf.com.

Freedom
 Born from blood, sweat, tears
 Freedom
 Took so many years
 In a country that's called The Land of the Free
 For so long, no freedom if you looked like me
 Freedom
 A sacred human right
 Freedom
 For this so many still fight
 Freedom
 Rejoice, but do not forget
 That battle is over, but the war's not won yet
 For Freedom is but one of many Rights
 Equality, Justice and Truth—
 For these we still fight
 So Yes, Celebrate Freedom—Free at Last!
 And work for the good future, and remember
 The Past

By Renée Leverette

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the holiday. I started a small fundraiser on Facebook and raised \$295 for The Equal Justice Initiative, which works to end mass incarceration, excessive punishment and racial inequality.

The Equal Justice Initiative is committed to ending mass incarceration and excessive punishment in the United States, to challenging racial and economic injustice, and to protecting basic human rights for the most vulnerable people in American society.¹

I chose this organization because of the correlation between the mass incarceration of African Americans, and slavery, and the holiday's focus on freedom. Let us not forget that so many of us are behind bars, many wrongfully so. There is a reason the phrase, "preschool to prison pipeline" exists. There is still much work to be done, and good trouble to be made. The money raised was not a huge amount, but it still made me feel good as my friends and family donated what little they had to support the organization and its good work.

Intrigued and fascinated by Juneteenth, I researched it. Juneteenth.org, describes the holiday as follows:

Juneteenth is the oldest nationally celebrated commemoration of the ending of slavery in the United States. Dating back to 1865, it was on June 19th that the Union soldiers, led by Major General Gordon Granger, landed at Galveston, Texas with news that the war had ended and that the enslaved were now free. Note that this was two and a half years after President Lincoln's Emancipation Proclamation — which had become official January 1, 1863. One of General Granger's first orders of business was to read to the people of Texas, General Order Number 3 which began most significantly with:

The people of Texas are informed that in accordance with a Proclamation from the Executive of the United States, all slaves are free. This in-

JUNETEENTH

BY RENÉE J. LEVERETTE, ESQUIRE

Okay, brace yourself. I only recently heard about Juneteenth. I had no idea it was a thing. I know this will shock some people but considering I grew up in a predominately white school district this should come as no surprise. The partial history I learned concerning African Americans was a brief lesson taught in fifth grade. To summarize, we were taught that black people used to be slaves, but then President Abraham Lincoln freed them after the Civil War. I still remember the burning feeling of humiliation as every white student in the class turned to look at me when we began covering the subject; it has never left me.

It was only this past year, in the wake of what I will call the country's long overdue racial awakening following the horrific murder of George Floyd that I first heard about Juneteenth and participated in

volves an absolute equality of rights and rights of property between former masters and slaves, and the connection heretofore existing between them becomes that between employer and hired laborer.

The celebrations that followed the reading of the proclamation by General Gordon Granger began a tradition that has lasted for one hundred and fifty five years, and today is hosted in cities across America and beyond.²

The celebration of June 19th was coined “Juneteenth.”

On a personal level, learning about Juneteenth was like a reframing of the shameful history I learned so many years ago in fifth grade. Since then, I have been learning more and more about the beautiful and amazing history of Africans and African Americans. In college I had a professor, Dr. Christian Van Gorder, who was instrumental in helping me to gain a better, wider knowledge of the rich, fascinating, beautiful, and often tragic history of African Americans in this country. He took the class on a field trip to the Blacks in Wax Museum in Baltimore, Maryland. It was my first time there; like Juneteenth a short while ago, I had not even known it existed. Professor Van Gorder gave me books from his personal library about African and African American history and I began to understand that the legacy of slavery in this country is not about a people’s shame, but a people’s triumph over incredibly torturous and horrific experiences. Slavery did not break the spirit of those who were a victim of it; it showed the true strength of the African people.

Juneteenth is a way of focusing on the positive. It is a celebration of the country’s inevitable recognition of the equality of *all*. For all of those who suffered through the kidnappings, the rapes,

RENEE’S FUNDRAISER FOR EQUAL JUSTICE INITIATIVE³



\$295 RAISED OF \$250



EJI works to end mass incarceration, excessive punishment, and racial inequality.

**Learning
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reframing of
the shameful
history I
learned so
many years
ago in fifth
grade.**

the Middle Passage, the brutality, and slavery; Juneteenth says, “Thank You. It was not in vain. Our humanity has finally been recognized. We honor you for your strength. We shall celebrate you and carry your memories proudly with us into the new age of FREEDOM!” Juneteenth.com provides several ideas on how to celebrate the holiday which include parades, rodeos, races, Miss Juneteenth contests, barbecues, school essay and poster contests.

Juneteenth should be a recognized National Holiday. According to history.com, 47 states recognize Juneteenth as a state holiday, and there are efforts underway to get Congress to declare it a national holiday.⁴ The idea would have seemed inconceivable to me not too long ago; but it feels like the time has finally come for the nation to recognize and honor the sacrifice and the strength of its African American ancestors and current citizens. This nation was literally built on the backs of our ancestors. Juneteenth is a way of recognizing this history and the day the yoke was removed from those backs. Every Juneteenth is a celebration of the nation’s ability to recognize a great wrong and to take steps to rectify that wrong. We must keep marching on to the day when this nation can finally proudly proclaim, without any hypocrisy, that this is a country that stands for Liberty and Justice for *all*. 🏛️

Notes:

1. “About the Equal Justice Initiative,” February 1, 2021. <https://eji.org/about/>.
2. “Juneteenth World Wide Celebration.” Accessed May 13, 2021. <http://juneteenth.com/>.
3. “Renee’s Fundraiser for Equal Justice Initiative,” June 18, 2020. https://m.facebook.com/nt/screen/?params=%7B%22fundraiser_campaign_id%22%3A695470747944271%2C%22source%22%3A%22feed%22%7D&path=%2Ffundraiser%2F&refsrc=https%3A%2F%2Fm.facebook.com%2Fdonate%2F695470747944271%2F&_rdr.
4. Nix, Elizabeth. “What Is Juneteenth?,” June 19, 2015. <https://www.history.com/news/what-is-juneteenth>.

Renée Leverette is the managing partner of The Igwe Firm’s Delaware office. Renée graduated from Temple University Beasley School of Law and has been practicing law in Delaware since 2014. She can be reached at renee.leverette.jd@gmail.com.

Delaware Takes a Different Path as Anti-Transgender Bills Sweep the Nation

BY EMILY A. BRYANT-ÁLVAREZ, ESQUIRE
AND JAMES G. GRIFFIN-STANCO, ESQUIRE

This June marks the 52nd anniversary of the Stonewall Uprising — six days of protests led by transgender women of color following a police raid of the Stonewall Inn, a gay bar located in New York City. Each year, Pride Month honors the gay rights movement inspired by the strength and courage demonstrated at Stonewall. While this movement has led to many rights for LGBTQ+ persons such as marriage equality, many — in particular, transgender persons — continue to face discrimination in their daily lives.

As we celebrate Pride Month, it is not only important to celebrate advances in LGBTQ+ rights, but to also reflect on continued inequalities, notably for transgender people. Violent crime rates remain high against transgender people — especially Black transgender women. Many are victims of fatal violence and even more live well below the poverty line. Meanwhile, according to the Trevor Project (a leading provider of crisis intervention and suicide prevention services for LGBTQ+ youth), LGBTQ+ youth who reported higher levels of family rejection during adolescence were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression and 3.4 times more likely to use illegal drugs compared to peers from families that reported no levels of family rejection. Faced with discrimination, family rejection and other factors, LGBTQ+ youth represent as much as 40 percent of the homeless youth population and studies have indicated that as many as 60 percent of that population are likely to attempt suicide.

First, a note on terminology. According to the Human Rights Campaign (the largest LGBTQ+ advocacy group in the United States), “transgender” is an umbrella term for people whose “gen-

der identity” (how individuals perceive themselves, which can be the same or different from their sex assigned at birth) and/or “gender expression” (how individuals express themselves through appearance and behavior that may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine) differ from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation.

During the first half of 2021, over 100 bills intending to limit the rights of transgender people have been introduced (or reintroduced) in state legislatures spanning 34 states across the country. The proposed legislation focuses predominantly on transgender youth access to athletic programs and gender-affirming medical care for children under the age of 18, as well as prohibiting access to public restrooms and making it more difficult to update an individual’s name and gender on state-issued identification.¹

Bills have been introduced in over 30 states that would effectively prohibit transgender participation in youth and collegiate sports. Proponents claim that trans women and girls have a “biological advantage” that would lead to an unfair competitive advantage. Some bills erroneously refer to transgender girls as “biological boys.” More insidious examples would go as far as requiring transgender athletes to prove their gender through intrusive tests or examinations. Supporters cite the need to protect the integrity of women’s sports, but Governor Doug Burgum of North Dakota, who vetoed a bill that would ban transgender girls from competing on girls’ teams in public school sports, noted that “there has not been a single recorded incident of a transgender girl attempting to play on a North Dakota girls’ team.”

Healthcare-focused anti-transgender bills have appeared in several forms. Some bills would prevent minors from receiving

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transition-related healthcare, such as hormone treatment, puberty blockers, or surgery. For example, HB 1570, passed by the Arkansas state legislature over the veto of Governor Asa Hutchinson in April, blocks state funds from being used for transition-related care for minors and imposes penalties on healthcare professionals for providing transition-related care to children. Although he backs sports-related, anti-transgender legislation, Governor Hutchinson vetoed HB 1570 because he felt it directly involved the state in decisions made between parents and healthcare professionals.

The American Medical Association has voiced concern over healthcare treatment bans proposed in over 20 states, criticizing the legislation as “dangerous governmental intrusion into the practice of medicine” while noting that transgender and nonbinary gender identities “are normal variations of human identity and expression.” Eight state legislatures have introduced bills that would impose criminal penalties on doctors who treat trans youth, and some would classify gender-affirming care as “child abuse.”

Opponents view these bills as the latest form of discrimination against transgender people. Delaware State Senator Sarah McBride, the nation’s first openly transgender state senator, describes the impetus behind these bills as a “last-ditch effort to codify discrimination” and observed that these bills are part of legislative direct through-line of anti-transgender bills from the past — including bills that have attempted to ban transgender persons from restroom facilities — through the present.

Delaware has stood firmly against this wave of anti-transgender legislation. In 2013, the First State became the seventeenth state to ban gender identity discrimination when it passed the Gender Identity Non-Discrimination Act.

The Delaware state legislature is also currently taking steps to strengthen its anti-discrimination laws by updating the definitions of “sexual orientation” and “gender identity,” to make them more inclusive of all LGBTQ+ identities. House Bill 155, which passed the Delaware House and at the time this article was written awaits a vote in the Senate, would broaden the definition of sexual orientation, which currently “exclusively” refers to “heterosexuality, homosexuality, or bisexuality.” The legislation would also eliminate the requirement that gender identity be evidenced by “consistent and uniform assertion” or “sincerely held as part of a person’s core identity.”

At present, no member of the General Assembly has introduced any form of anti-transgender bill as described above. Senator McBride credits the “close knit neighborly community shared among Delawareans,” noting that it is “hard to hate up close.” Along with McBride, two other LGBTQ+ politicians have joined the General Assembly: Representative Eric Morrison, a gay man who represents the 27th District, and Senator Marie Pinkney, a queer woman and the state’s first LGBTQ+ lawmaker of color, who represents the 13th District. Morrison and Pinkney both co-sponsored HB 155.

Beyond the state legislature, Delawareans are taking steps to help LGBTQ+ youth, including transgender persons. PTK (Parents of Trans Kids) Delaware and PFLAG Wilmington/Northern Delaware have

partnered with West End Neighborhood House (which provides housing, career counseling, and other services to homeless, low-income, and other disadvantaged residents of Wilmington and the surrounding area) to construct a three-bedroom townhome that will prioritize housing LGBTQ+ youth. With financial support provided by individuals and organizations within and outside of Delaware, including the LGBTQ+ Section of the DSBA, the townhome is set to open in June. Organizers are also working to provide a safe space for homeless youth ages 18-27 where they can receive access to counseling and other services.

“Delaware is fortunate to have leaders at all levels of government, in our schools, and in our communities who are willing to fight for equality and improve the lives of all Delawareans, including our LGBTQ+ youth,” said Sally McBride, Senator McBride’s

mother and co-founder of PTK Delaware. Delaware stands in contrast to many other states with respect to laws (and proposed legislation) that discriminate against transgender people. This June, let’s champion equality and inclusion while recognizing the work that needs to be done to further support all LGBTQ+ persons. 🏳️‍🌈

Notes:

1. For a regularly updated catalogue of proposed legislation affecting LGBTQ rights across the country, see <https://www.aclu.org/legislation-affecting-lgbt-rights-across-country>.

Emily Bryant-Álvarez is Secretary of the LGBTQ+ Section of the DSBA. She is the law clerk to the Honorable Meghan A. Adams of the Superior Court of Delaware. Prior to clerking, Emily was a corporate and commercial litigator at a Wilmington-based law firm. She can be reached at emily.bryant-alvarez@delaware.gov.

James Griffin-Stanco is Chair of the LGBTQ+ Section of the DSBA. He is Of Counsel in the Wilmington office of Wilsson Sonsini Goodrich & Rosati where his practice focuses on corporate governance and transactions. He can be reached at jstanco@wsgr.com.

Delaware has stood firmly against this wave of anti-transgender legislation. In 2013, the First State became the seventeenth state to ban gender identity discrimination when it passed the Gender Identity Non-Discrimination Act.

The Honorable Pierre Samuel

"Pete" du Pont IV

1935 - 2021

BY WILLIAM E. MANNING, ESQUIRE

On Saturday evening, May 8, Pete du Pont peacefully slipped away, leaving a huge circle of friends, each of whom will tell their favorite "Pete du Pont story" at the whisper of an invitation. That is the paradox about Pete¹ — while referred to by the press as a "wealthy scion," Pete was regarded by Delawareans with a very intimate affection. I would wager that everyone on staff will remember meetings in the Governor's office (the old one, at the top of the stairs in Legislative Hall, where it belongs) that were interrupted because a local fire company chief or a small town official had dropped in, often with family in tow, just to say "hello." Delawareans feel that way about their Governors and Pete loved it.

And, speaking of things "paradoxical," here was a man who, on the one hand, led State government, served in Congress, and ran for President but who, on the other hand, neither trusted nor particularly cared for government. Beyond the things that only government can do efficiently (a very short list in Pete's mind), Pete believed that government's highest calling was to grow the private sector and create more jobs — which, by the way, he did stunningly well. One might notice that his other initiatives



Photo: Hagley Digital Archives

— Constitutional amendments limiting tax increases; carving out a "Rainy Day Fund" from each year's revenues so that they won't be spent; establishment of a bipartisan body charged with estimating, in the light of day, future revenues — act as a limitation or check on government excess. If asked which piece of State government he most admired, Pete would, with tongue in cheek, call out the Division of Boiler Safety, explaining that he never once needed to meet with its Director.

Our Constitution gives our Governor an unusual tool with which to shrink government — the "line item veto." While Pete had once vetoed an entire budget (something of a political train wreck, but it worked out in the end), he had not used his authority to excise a single budget item, leaving the remainder intact. Late in his second term, and feeling a bit

ornery, he asked staff to suggest candidates for extinction by veto. His Chief of Staff — yours truly — wondered out loud whether the Delaware Heritage Commission, while a fine organization, was one of those core governmental functions that justified taxpayer funding. And so it was that, after ripping the appropriation for the Commission out of the budget, the Governor's phone lit up with angry calls, many from cousins who

served on the Commission. The damage was repaired, probably at a cost higher than the excised appropriation. Lesson learned — if one decides to engage in warfare, make sure the stakes justify the ensuing carnage.

Notwithstanding his inclination to shrink government where he could, Pete did add one new governmental element of particular interest to our profession. He was uncomfortable with his predecessors' practice of relying on a Bar Association committee to present candidates for judicial appointment, thinking it a bit opaque. One of his first acts as Governor was the creation of the Judicial Nominating Commission, populated with both lawyers and lay men and women. The Bar Association Committee did not give up easily, though and I recall sitting in when the Committee would come to present its thoughts about a particular

judicial vacancy. Pete would offer coffee, nod politely, and inform his guests that he would give absolutely no consideration to their suggestions. To tell you the truth, Pete took hidden pleasure in these periodic dances, and it is not surprising that he appointed the first African American to serve on the Superior Court and the first woman to serve on the Court of Chancery.

We should not let Pete du Pont's passing go without appreciating one particular part of his persona — perhaps the most important part. Call it what you will — manners, cordiality, being a gentleman — Pete never (nope, not ever) resorted to the nasty coarseness that has become normal in today's political discourse. He was unfailingly polite to his political foes, many of whom genuinely became his friends (well, okay, after the aforementioned budget veto, overridden by a gleeful, and hardly loyal, opposition). I was once chatting with a Democratic legislative leader who conceded that he did not mind standing next to Pete, politically speaking, because, as he put it, it

was “always safe there.” The “opposition” became, indeed, “loyal,” because they trusted Pete not to personally embarrass them or take cheap political advantage. With that sort of culture in its government, Delaware was, indeed, the “small wonder” it took as its slogan.

We will all miss Pete du Pont — Delaware never had a better friend. ⚖️

Notes:

1. In preparing this piece, I paused over the use of “Pete” when referring to the Governor, wondering whether it is too familiar. I apologize to readers who believe it so, but that's the point — or one of them, anyway — about this man. He was regarded as a personal friend by an entire State in which “Pierre” just didn't fit. As Delawareans, we all winced when, during one of the televised Presidential debates, an opponent made a point of calling him “Pierre” and some of us never forgave George H. W. Bush for that.

Step up to the mic!



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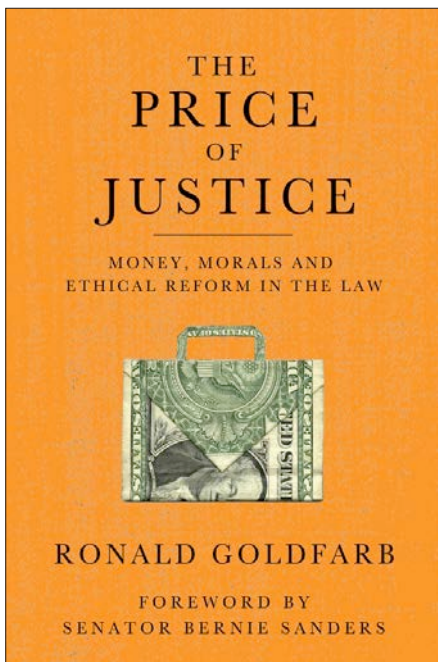


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A Small Price To Pay



The Price of Justice: Money, Morals and Ethical Reform in the Law

By Ronald Goldfarb

Foreword by

Senator Bernie Sanders

Turner Pub. Co., 2020

No system is perfect, and the legal system is no exception. In *The Price of Justice: Money, Morals and Ethical Reform in the Law*, attorney Ronald Goldfarb takes the legal profession to task for many of its shortcomings, and calls for reform and a stronger commitment to justice for the profession. While not all of his arguments are necessarily persuasive, he nevertheless makes many excellent points, and does a nice job of bringing together many disparate threads and issues affecting the legal profession and the price of justice.

In four succinct, readable chapters, Goldfarb highlights the problems and issues affecting the criminal justice system and civil litigation, as well as questioning aspects of the adversarial system and reminding lawyers that they face choices every day — choice of clients, choice of tactics, choice of area of the law in which to practice — and the choices they make often define who they are.

Many of the problems affecting criminal justice are well known and oft discussed. Cash bail leaves those without the ability to raise even modest bail amounts in jail awaiting trial, meaning that they often lose their jobs, are unable to meaningfully assist in their own defense, and, ultimately plead to charges for “time served.” Defendants with more resources fare better, and Goldfarb begins his book with a quote from Robert F. Kennedy: “The rich man and the poor man do not receive equal justice in this country.”

Beyond the disparity between rich and poor, Goldfarb also decries prosecutorial and police misconduct. He recounts horrific stories regarding the withholding of exculpatory evidence, botched (or sometimes faked) scientific tests, bad science, and bad police, all the while arguing for greater scrutiny, more transparency, and, especially, more consequences for those who break the rules.

On the civil side, Goldfarb is particularly critical of confidentiality and non-disclosure agreements, arguing they do more harm than good (although also conceding that without non-disclosure provisions, many more matters would not settle). He is also critical of legislative lobbying. But, his biggest complaint about civil litigation is the lack of resources directed to assisting the poor and those of moderate means.

Throughout all of this, Goldfarb questions whether our slavish devotion and belief in the adversarial system is always appropriate. He notes that there are times, and places, where the adversarial system may not perform well.

The most compelling part of Goldfarb’s book, though, is his appeal to conscience. Lawyers, like all individuals, have choices and make choices every day — and those choices often define us. Goldfarb reminds us that we do not have to take every case and represent every client who seeks representation. As a lawyer who has devoted much of his career to helping the poor, he calls upon all of us to join him in that task.

Ultimately, Goldfarb’s book is one about poverty and how the law leaves those in poverty behind. He never tells the reader what “the price of justice” is, but he begins his conclusion with the following:

Those of us fortunate enough to work as lawyers ought to remember that we have the skill and the training to do more than just work a job.

Where do we go from here? The next generation, I suspect, is not entering law school to help make a better world. New law students are looking for respectable jobs to make a good living. There is nothing wrong with that, except when it becomes the germ of what else might follow. Once the goal of work is to make a good living, the need to make money can overcome all else and lead to choices of clients, fields of practice, and lifestyles. These priorities compound the initial perspective that being a lawyer is the same as other work where the riches go to the most driven and the rest is charity.

I like to think that Goldfarb is giving the next generation short shrift; but, regardless, his point is ultimately well taken. Those of us fortunate enough

to work as lawyers ought to remember that we have the skill and the training to do more than just work a job. We all have the power, each in our own way, to make a contribution to our community. Benjamin Franklin was once asked how he would like to be remembered and responded that "I would rather have it said, 'He lived usefully,' than, 'He died rich.'" We should all so aspire. The price of justice is not something we pay; rather, it is the commitment we make to leave the legal system and our community a better place than we found it. 🏛️

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



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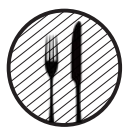
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Ben T. Castle (1938-2019)

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A Search for Wellness



I WRITE THIS JUNE COLUMN with several aspects of wellness in mind. First, the word search, containing some of my favorite healthy foods, should promote brain health. Second, a short, simple, summer soup recipe incorporates two vegetables showcased in the puzzle. It will take less time to prepare the soup than to complete the search. The first reader to email me with the solution will receive an essential element of healthy cooking — a bottle of extra virgin olive oil. Wishing you happy and healthy hunting. 🍷

Artichoke Pea Soup

In a food processor, purée 7 stem-on artichoke hearts with 1 cup of chicken stock. Then, add 16 ounces thawed, frozen peas with another cup or so of chicken stock. Once sufficiently blended, add to a large pot with another cup of chicken stock. Stir and bring to a simmer. Season with salt and pepper to taste.



I like to serve warm, but you can serve chilled. In either case, garnish with fresh cilantro or oregano sprigs and top with Aleppo pepper.

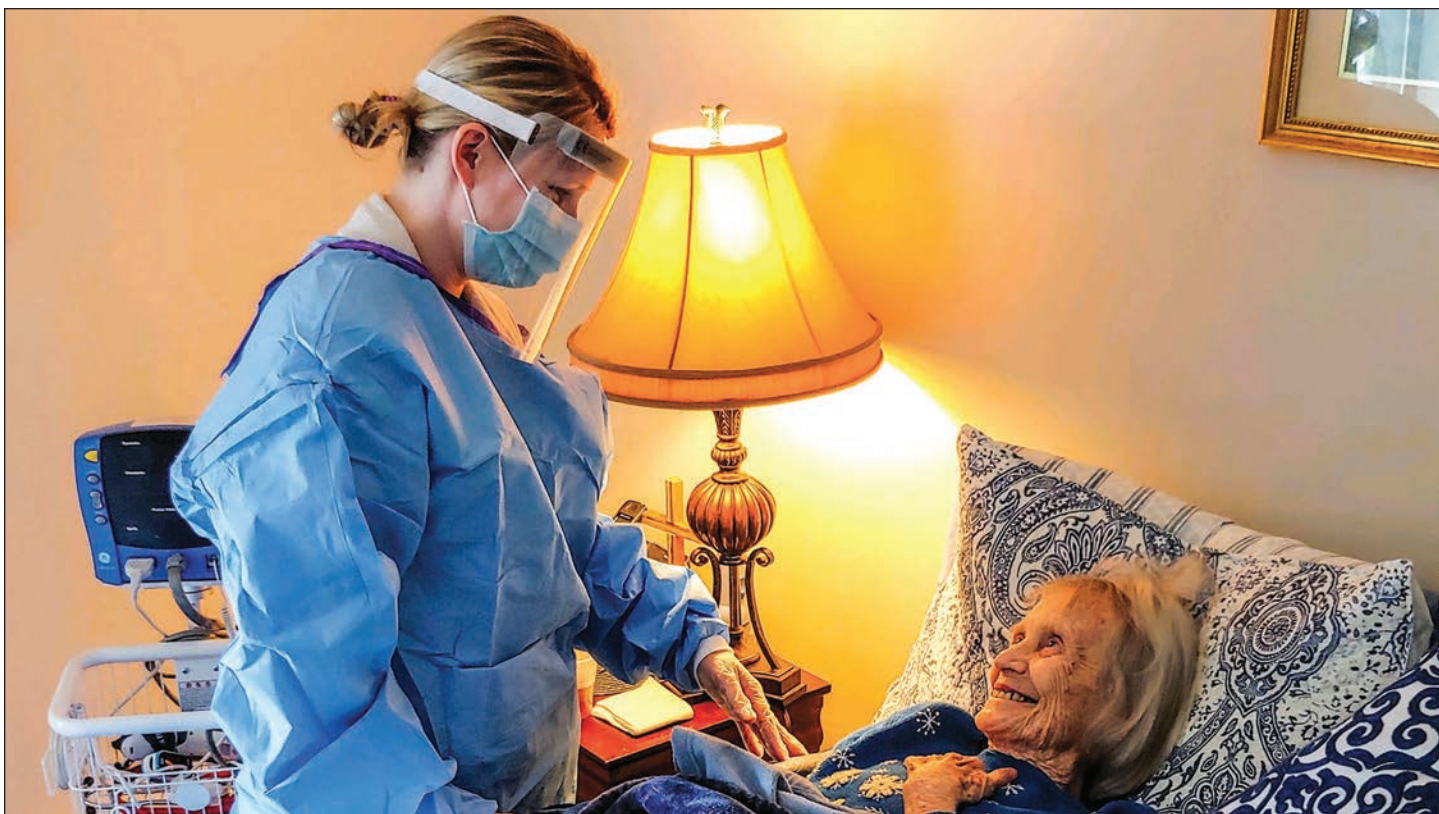


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Almond	Blueberry	Egg	Oyster	Strawberry
Amaranth	Bulgur	Eggplant	Pea	Tahini
Artichoke	Coconut	Halibut	Peppermint	Tomato
Beef liver	Cucumber	Lentil	Pork	Turmeric
Bison	Edamame	Olive	Sardine	Yogurt



Susan E. Poppiti is an adjunct faculty member in Mathematics at Immaculata University and an AP Calculus instructor at Johns Hopkins Center for Talented Youth. To further her commitment to mathematics education, she also serves as a math content expert for UPchieve, an ed-tech nonprofit providing free, online STEM tutoring to high school students. Susan can be reached at spoppiti@hotmail.com.



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Candace E. Holmes, Esquire
Deputy Attorney General
Department of Justice,
Family Division

Candace currently serves as the Secretary for the Kent County Bar Association, the Membership Chair for Terry-Carey Inn of Court, a member of the DSBA Judicial Appointments Committee, an Editorial Board Member for Delaware Lawyer Magazine, a volunteer on DE-LAP's Professional Guidance Committee, serving as the Co-Chair for Kent/Sussex County, and is a member of the ABA.

What are three of your personal goals for 2021?

My three personal goals for this year are to 1) resume travel for a family vacation; 2) to be more intentional about having conversations with my peers about race and racism and its impact in our community; and 3) to eat healthier!

What's the best advice you've ever received?

One of the best pieces of advice I have ever received was to establish a personal board of directors made up of trusted friends, family, and/or mentors. My "board of directors" has been instrumental in providing career advice and support over the years. If you don't have one, you should!

If there is one thing the DSBA loves, it is recognizing our members for not only being great attorneys, but more importantly, being good people. "Member Spotlight" hopes to shine a light on folks outside of the four corners of their office and recognize them for their dedication to the profession, as well as being outstanding members of their family and communities.



Candace with her husband Terrell and her children, Tiana and Terrell, II.

What's on your desk right now? (e.g. notepad, good luck charm, photo of kids)

Case files, computer, telephone, stapler, lotion, a picture of my husband and me, and a tape dispenser that has a group picture of my former boss and paralegals attached (a parting gift).

What do you do when you're not at work?

When I am not working, I enjoy spending time with my husband and two children, whether it's taking a walk, watching movies, going shopping, or attending church together.

What are you listening to right now? (e.g., music, news, tv, podcast)

I have an Amazon music playlist that consists of various gospel and con-

Family law is the area of law that resonates with me the most, recognizing the fragility of family units and the impact on children when parents separate."

temporary worship songs. Some of my favorite television shows right now include "This is Us," "All Rise," and "Chopped." "WBOC" and "CBS This Morning" are my daily sources for news.

If you weren't a family law attorney, you would be...

A hair stylist. When I was younger, I initially desired to attend beauty school to become a hair stylist. After practicing on my younger siblings and burning a few people with the curling iron, it was "suggested" that maybe I consider a different full-time career...

Why do you enjoy practicing family law?

I've had the desire to practice family law since law school, after taking a family law course and participating in clinic where my first case was a family law matter where I was successful in obtaining a favorable outcome for my client. Family law is the area of law that resonates with me the most, recognizing the fragility of family units and the impact on children when parents separate. In addition, there is enough overlap with criminal law to keep the cases interesting.

What is one thing you've done in your career that you're really proud of?

I am proud to have accomplished a career as an attorney here in Delaware. When I started law school, my husband was also enrolled in a doctoral program and we had two children, ages four and five at the time. I attended school in the evenings, but had to commute to Washington, D.C.,

from Magnolia, for class 3 times a week, driving 1 ½ hours to the metro station and then riding the metro for an additional 45 minutes. (I was able to use that time to finish reading for class.) We would not have been able to get through that journey without the support of an incredible network of family and friends. I was honored to speak at the Admissions Ceremony for newly admitted members of the Bar, in December 2018, and to share my "journey to the Delaware Bar."

Why are you involved in DE-LAP?

As co-chair of the Professional Guidance Committee in Kent/Sussex Counties, I appreciate the opportunity to be a resource for those navigating the Delaware Bar application requirements and to provide assis-

tance to current attorneys in a way that resembles the civic engagement I have outside of my law career. ⚖️

Victoria Sweeney is a Deputy Attorney General at the Delaware Department of Justice and can be reached at Victoria.Sweeney@delaware.gov.



Canace singing with the Praise and Worship Team at her church.

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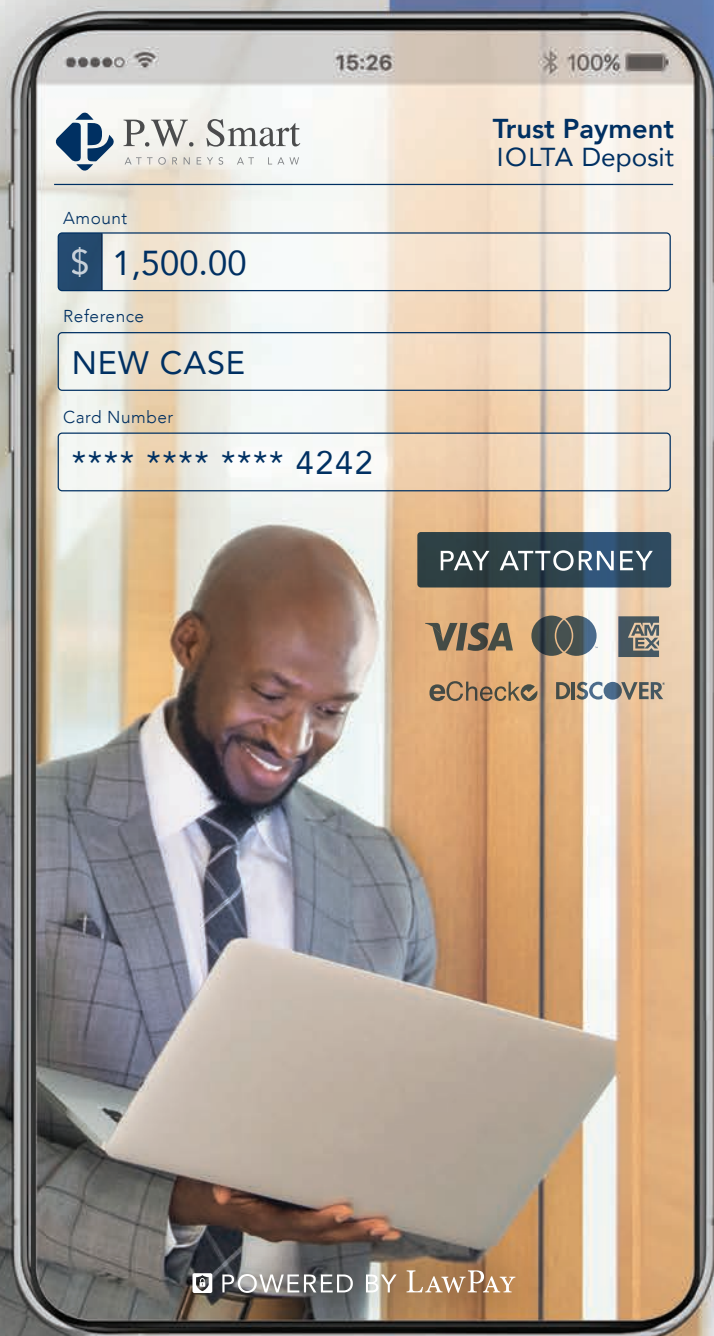
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Casarino Christman Shalk Ransom & Doss, P.A.

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to the firm.

Steve is an experienced litigator and a welcome addition to the firm.

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THE NEW CASTLE COUNTY OFFICE OF LAW seeks candidates for the position of Assistant County Attorney. Additional information is available at <https://www.governmentjobs.com/careers/nccde>. Please submit your resume by June 30, 2021 to Law Administrator, April C. Turner at april.turner@newcastlede.gov.

BUSY REAL ESTATE LAW AND TITLE OFFICE with primary office in Middletown seeks full time Delaware licensed attorney. Some experience in residential real estate settlements preferred. Attorney would be required to conduct real estate settlements in all three counties at our several satellite offices. In addition, Attorney would gradually undertake law office management responsibilities with the goal of becoming the managing attorney of the Delaware office for this regional law firm and affiliated title company. Candidates must be extremely well organized, be willing to take initiative, and possess strong follow up skills. Send resume to brian.glancy@ridgewaylg.com.

DELAWARE CREDITORS' RIGHTS LAW FIRM with offices in multiple states seeks a full or part time attorney admitted to practice in Delaware. The position affords an opportunity to gain invaluable in court experience in a variety of Delaware courts and handle all phases of litigation and review documents, pleadings, motions and correspondence for accuracy and compliance with applicable statutes, rules and regulations. The associate must be detail oriented with effective time management and communication skills and possess the exemplary professional judgment necessary to independently evaluate cases upon placement with the practice and throughout all stages of litigation, including motions and trials. Interested individuals should forward resume and salary requirements to SteveD@Ldvlaw.com.

PERSONAL INJURY/WORKERS' COMPENSATION LAW FIRM outside of Wilmington seeks attorney with 0-5 years experience admitted to practice in Delaware. Must be detail oriented with effective time management and communication skills. Free parking. Salary commensurate with experience. Please send resume and cover letter including relevant experience and availability to newattorneyhire@yahoo.com.

LICENSED DELAWARE BAR ATTORNEY: Full Service Real Estate Title Agency requires Delaware Bar Attorney to perform Bar mandated services, related to purchase sale and refinance of Residential and Commercial transactions. Email reply in confidence to ResortTitleServices@gmail.com.

SMALL NEWARK LAW OFFICE is looking for a Delaware licensed attorney to help grow the practice. Must have interest and/or experience in estate planning and/or residential real estate. Part-time position with the possibility to transition to full-time in the future. Great opportunity for the right candidate to have control over their own client base. Portable business a plus. Maryland or Pennsylvania bar a plus. Send resume to vcarr@carrlawde.com.

BRANDYWINE TRUST COMPANY, LLC currently has an excellent full-time employment opportunity for a Vice President – Client Fiduciary and Planning Officer based in our Hockessin, DE office. Under the guidance and supervision of the Chief Client Officer, the officer will work closely with the clients, investment professionals, Trust Officers and Trust Administrators in all aspects of the company's discharge of its fiduciary responsibility over client matters, including trust administration, legal analysis, document review, and estate and income tax planning. A Juris Doctor degree, together with 3-5 years' experience as a practicing attorney in the trust & estates area, or through a private banking or trust department engagement with a focus on high net worth clients, is required. Other advanced degrees or certifications (e.g., MBA, LL.M., CFA) would be a plus. Interested candidates can obtain a more detailed job description by emailing careers@brandytrust.com. Brandywine Trust Company, LLC is an Equal Opportunity Employer.

MANNING GROSS + MASSENBURG LLP (MG+M) is recruiting an Associate with 0-5 years of experience for our Wilmington, Delaware office. This associate will be working primarily on Delaware litigation. Delaware bar license is required. This is an excellent opportunity to join a nationally recognized and growing defense firm with opportunities to perform challenging legal work on day one. Candidates should have strong work ethic, writing ability, and organizational skills. MG+M offers an excellent benefits package. Please email resume to wlarson@mgmlaw.com.

OFFICE SPACE


WALKER SQUARE DOVER, DE:

Shared office space available, one or two offices. Amenities include onsite parking, a conference room, waiting area, high speed Wi-Fi, and the utilities are included. Pricing is affordable at \$450 for one office, or \$900 for two offices and our flexible rental terms are on a month-to-month basis. Space is available April 1st, 2021. Call (302) 573-4800 for more details.

PLEXIGLASS SHIELDED OFFICE AND CONFERENCE ROOM; 16'X9'

Office, 11'X7' Window, Telephone, Wi-Fi; Reception Area, Kitchen, Fax, 168 SF Conference Room; Lawyers' Row; \$500; (302) 888-1275.

2,000 SQ. FT GENERAL OR MEDICAL OFFICE FOR LEASE:

First floor in stand-alone building that consists of front reception/waiting area, private offices, 18 x 37 space that has a multitude of possible uses and may be configured for workstations or offices, large conference room, copy room and kitchen/lunch room. Conveniently located in Wilmington, but in a suburban setting, with close access to I-95 and Route 202. Large parking lot to accommodate employees and visitors. Handicapped accessible. Gate, fencing, and cameras for security. If interested, please call (302) 540-2831. 

2021 CHRISTOPHER W. WHITE DISTINGUISHED ACCESS TO JUSTICE AWARDS BREAKFAST

NOMINATIONS ARE NOW BEING ACCEPTED

The DSBA and the Awards Committee are seeking nominations for the 2021 Distinguished Access to Justice Awards formerly known as the Distinguished *Pro Bono* Service Awards.

THERE ARE FIVE CATEGORIES FOR WHICH INDIVIDUALS, FIRMS, OR ORGANIZATIONS CAN BE NOMINATED.

The Leadership Award

This award is presented to a legal organization (legal department or law office) that has demonstrated outstanding leadership in the field of *pro bono* service to Delaware's indigent population based on the following criterion including, but not limited to:

- The number of *pro bono* hours the organization contributes to the direct representation of indigent clients.
- The number of cases the organization accepts for *pro bono* representation.
- Flexibility and accessibility in accepting cases.
- The organization's commitment and service on committees dedicated to promoting and supporting the provision of legal services to those in need.
- Financial support to agencies providing legal services to Delaware's indigent population.
- The percentage of attorneys in the organization who accept *pro bono* cases.
- Fostering a culture, which recognizes the value of *pro bono* service.

The Commitment Award

This award is presented to a member of the Bar who has demonstrated a sterling commitment to *pro bono* work throughout his or her career by dedicating time and energy to the support and provision of legal services. The criterion includes, but is not limited to:

- The number of *pro bono* hours devoted to legal representation of indigent clients over the lawyer's career.
- The number of cases accepted for *pro bono* representation over the lawyer's career.
- The lawyer's commitment and service on committees dedicated to promoting and supporting the provision of legal services to those in need over the lawyer's career.

The Achievement Award

This award is presented to a member of the Bar who has shown an exemplary recent contribution to *pro bono* services (generally in the past one to three years) and stands as a role model to other attorneys. The criterion includes, but is not limited to:

- The number of *pro bono* hours recently devoted to legal representation of indigent clients.
- The number of cases accepted for *pro bono* representation.
- Consistency, flexibility, and accessibility in accepting cases.
- The lawyer's commitment and service on committees dedicated to promoting and supporting the provision of legal services to those in need.

Service to Children Award

Awarded to an individual lawyer, legal professional, or organization principally including lawyers, which demonstrates outstanding commitment to, and work for, children in the provision of legal or community services. It may be given to volunteers or those employed in the provision of legal services for children. This award is given as warranted, not necessarily annually.

Legal Professional Pro Bono Service Award

Awarded to a person, qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity, who performs *pro bono* legal work in the pursuit of Access to Justice. This is a newly-created award that is given as warranted, not necessarily annually.

Nominations should be submitted to Caroleena Goldman at cgoldman@dsba.org. The deadline for nominations is August 9, 2021. Please include: The name, firm, and title/occupation of the Candidate; name and contact information (firm, address, email, phone, and fax) of the individual nominating the Candidate; and a brief statement of the reasons the Candidate is deserving of the Award.



10 TIPS

to Reduce Stress and Feel Calmer

BY CAROL P. WALDHAUSER
EXECUTIVE DIRECTOR
DELAWARE LAWYERS ASSISTANCE PROGRAM

1 Breathe: We need to breathe deeply enough to get oxygen to our brains. Shallow breathing can induce panic. When we breathe deeply and regularly, we can stay rational and calm. Exhale slowly as you relax your body. Repeat five times.

2 Meditate: Take brief 30 second breaks, closing your eyes and counting backwards from 10 to 1. Imagine your worries shrinking in importance as you count down.

3 Focus on the Positive: Just as it is important to focus on positive aspects of your life, it is also important to minimize how much negative information you absorb. The stress caused by reading or watching bad news compromises our immune system just as much as any other stress. Don't watch the news more than you have to. Designate times for positive thinking — before sleep and upon waking are perfect times!

4 Stop Demanding So Much of Yourself: No one can do everything, all the time, perfectly. Our minds can only think one thought at a time, so we need to focus on our accomplishments from time to time. And, if you need help, ask for it

5 Follow a schedule: Make sure you follow a to-do list and stick to a fixed schedule. Take baby steps. Divide big tasks into smaller ones.

6 Eat a Well-Balanced Diet: High stress levels can affect your food choices and metabolism. You could be stress eating or not eating at all. Maintaining a healthy diet is key to keep your body and overall mood stable.

7 Get Plenty of Sleep: It is easy to form an irregular sleep-wake cycle when you have flexible work hours. However, this is not ideal for functioning at your full potential and to manage stress. It is important to get a minimum of seven to nine hours of sleep per night to function at your best.

8 Take Breaks: Create boundaries by making time for relaxation, hobbies, or time with friends and family.

9 Admit When You Are Wrong: Mistakes happen. Admitting your fault puts you one step closer to dealing with it, and can often be the first step toward turning the mistake around.

10 It is Okay to Have Negative Emotions: Everyone has negative emotions like anger, frustration, sadness, and fear. The key is managing them. It is okay to cry and if you are feeling anxious, DE-LAP can help.

If you, or someone you know, want more information on healthy ways to cope with stress, call DE-LAP at (302) 777-0124 or email cwaldhauser@de-lap.org.

Notes:

1. Robinson, Gray. "Stress-Free Practice: 12 Tips to Help You Get There." Family Lawyer Magazine, November 11, 2020. <https://familylawyermagazine.com/12-tips-to-help-create-stress-free-practice/>.
2. Iyer, Kavitha. "Stress Management for Lawyers - Tips And Tricks." Legodesk, February 8, 2021. <https://legodesk.com/blog/legal-practice/stress-management-for-lawyers-tips-and-tricks/>.
3. Wax, Dustin. "How to Admit Your Mistakes." Lifehack. Lifehack, January 7, 2020. <https://www.lifehack.org/articles/work/how-to-admit-your-mistakes.html>.

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



Nominations Sought for 2021 Awards



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

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

AWARDS DESCRIPTION

Daniel L. Herrmann Professional Conduct Award

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

Outstanding Service to the Courts and Bar Award

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

Distinguished Mentoring Award

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

Government Service Award

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

These are not necessarily annual awards. All or some of these awards will be presented only upon the recommendation of the Awards Committee and approval by the Executive Committee of the DSBA. Please note that previous nominations must be renewed to be considered. These awards will be presented in a special Awards Luncheon in December 2021.

Delaware State Bar Association Awards Nomination Form

Name of Candidate: _____

Title/Occupation of Candidate: _____

Award: _____

Date: _____

Nominator: _____

Phone: _____ Fax: _____ E-Mail: _____

Firm: _____

Address: _____

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

Nominations should be submitted by **September 3, 2021** to Mark S. Vavala, Executive Director at mvavala@dsba.org.



The Delaware State Bar Association Insurance Program

Advised and Administered by USI Affinity



The Delaware State Bar Association Insurance Program, advised and administered by USI Affinity, offers a proprietary, comprehensive Lawyers' Professional Liability program. Along with other business insurances to attorneys and law firms in Delaware.

As a leading insurance broker for Lawyers' Professional Liability, USI Affinity has been protecting Lawyers for over 50 years. We understand the business and the risks that attorneys and law firms face every day.



Lawyers Professional Liability

The DSBA Insurance Program Lawyers Professional Policy offers proprietary savings and coverages specifically designed to mitigate risk and close gaps in coverage.



Directors and Officers Liability

Directors & Officers Liability insurance protects the past, present, and future directors and officers of a law firm from losses arising from "wrongful acts".



Employment Practices Liability

EPLI coverage can be specifically designed to help protect the personal assets of a privately owned firm's directors and officers, as well as the financial well being of the firm itself.

Contact USI Affinity Today:

1.855.USI.0100

LPLCoverage@usi.com



AFFINITY