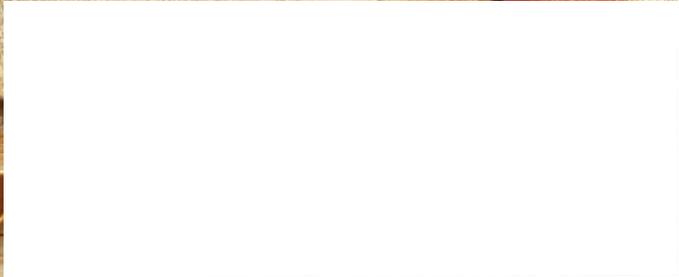




THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION



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GET INVOLVED IN DSBA LEADERSHIP!



The Delaware State Bar Association is looking for a number of talented members to join the 2023-2024 Executive Committee and lead the DSBA to continued success.

The following positions on the Executive Committee of the Association must be filled for the year 2023-2024:

Vice President-at-Large; Vice President, New Castle County; Secretary; Assistant Secretary; Treasurer; Assistant Treasurer; Six Members-at-Large

Note: The Vice President, Kent County and the Vice President, Sussex County will be those persons selected by, respectively, the Kent County Bar Association and the Sussex County Bar Association.

The following positions must be filled for the term as noted:

One (1) DSBA Representative to the Delaware Bar Foundation Board:
Four-year term

One (1) DSBA Young Lawyer Delegate to the ABA House of Delegates: Two-year term

The Nominating Committee wants to consider all interested candidates. If you are interested in serving on the Executive Committee or would like to recommend a candidate, please send your name or the candidate's name along with a CV and at least one letter of nomination to Mark S. Vavala, Executive Director, by email at: mvavala@dsba.org or by mail at: Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE 19801 by February 10, 2023.

WE NEED YOUR HELP TO FIND
STRONG LEADERS FOR THE FUTURE!

The Nominating Committee consists of:

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Delaware State Bar Association
405 N. King Street, Suite 100
Wilmington, Delaware 19801
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DSBA BAR JOURNAL

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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.

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or emailed to: rbaird@dsba.org

Letters to the Editor should pertain to recent articles, columns, or other letters. Unsigned letters are not published. All letters are subject to editing. Send letters to the address above, Attention: Editor, Bar Journal.

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THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

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Cover Image: © istockphoto.com/Maglara and Mark Vavala



Bar Examination: Evolution and Stability

Because the bar exam has always been administered in the summer, no one can claim to have walked 20 miles in the snow to pass.

Because the craft of lawyering can do much harm if carried on incompetently or unethically, we face regulation, on an ongoing basis and especially at the front door. Admission to the profession must be regulated — not to maintain a small guild, but to protect the public.

Uniquely among the regulated professions, lawyers' qualifications are governed by the Delaware Supreme Court, rather than by the legislature. The judiciary, which sees the highest level of practice and the worst of human nature, has ample reason to monitor carefully the process that examines the character, fitness and competence of would-be lawyers.

Character and fitness require scrutiny. Any applicant might find the questionnaire invasive, even though it is confidential. Almost everyone gets fired, arrested, disciplined, accused, dunned, sued, or reprovved at some early point in their lives. The Board of Bar Examiners wants to be certain that past problems won't resurface. Its guidelines require that applicants be persons whose "record of conduct justifies the trust of clients, adversaries, courts, and others [and] demonstrates the qualities of honesty, trustworthiness, diligence, responsibility, and reliability."

Because the craft of lawyering can do much harm if carried on incompetently or unethically, we face regulation, on an ongoing basis and especially at the front door. Admission to the profession must be regulated — not to maintain a small guild, but to protect the public.

Above all, applicants must be candid, particularly when recounting past blemishes. Yes, it is possible to become a lawyer even after a felony conviction — depending on subsequent behavior and other circumstances, especially truth-telling. Vetting for character and fitness will continue to be a necessary, often uncomfortable, part of the admission process.

Then there is the bar exam, a test to determine if applicants have the "minimum competence to practice law." 378 A.2d 614 (Del. 1977). Early in the twentieth century, each county's Bar conducted the examination separately. By 1970, the exam consisted of four days of essays. In 1973, Delaware became an early subscriber to the Multistate Bar Examination, but also retained two days of essays. For many decades, an applicant only got three tries, but now there is no limit.

The examination now has three components: the multiple-choice Multistate, two Multistate Performance Tests — designed to show an applicant's ability to apply concepts to practical situations — and the local portion, eight essay questions on topics that may range from Agency to Wills. Each question is drafted by two or more members of the Board, reviewed by others before it is used, graded by multiple sets of eyes, and evaluated for statistical validity.

The process is designed to protect the public. Should this applicant be trusted to advise a client to plead guilty? To examine a lease? To account for escrow funds?

Even with the onset of the objective multiple-choice testing, the bar examination has been criticized. In dictum, the Fourth Circuit questioned its validity under the Civil Rights Act of 1964. "If we were to determine that Title VII standards were applicable, it would be necessary to reverse and declare the South Carolina Bar

Examination constitutionally invalid,” for lack of proof that it is “predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the job or jobs for which the candidates are being evaluated.” *Richardson v. McFadden*, 544 F. 2d 744 (4th Cir. 1976), cert. den., 435 U.S. 968 (1978).

Some have suggested abolishing the bar exam. Critics say a timed test, based on memory of a broad array of principles, does not truly measure legal competence, that those who intend to practice in one area ought not be tested on areas of the law they’ll never directly encounter, that a single exam, after three years of course work, is a superficial measure. Some have argued for diploma privilege, whereby any graduate of any ABA-accredited law school can get a license.

May I suggest that the seven basic subjects tested on the Multistate — civil procedure, constitutional law, contracts, criminal law, evidence, property, and torts — must be understood by anyone seeking to be a lawyer, whether to prosecute patents or embezzlers?

An earlier generation’s critique of the bar exam caused a change in law schools’ curriculum. “The traditional bar examination does nothing to encourage law schools to teach and law students to acquire many of the fundamental lawyering skills,” said a 1992 report from a blue-ribbon task force headed by Bob MacCrate, former ABA President who spent much of 1956 in Delaware, litigating *Bata v. Hill*, 112 A. 2d 519 (Del. Ch. 1955). “If anything, the bar examination discourages the teaching and acquisition of many of those skills, such as problem solving, factual investigation, counseling and negotiation, which the traditional examination questions do not attempt to measure.”

The report gave impetus to the increased emphasis on clinical training in third year of law school — and led to adoption of the more holistic Multistate Performance Tests on the exam.

Like any test, the bar exam is imperfect. Like many questions on the Multistate, the bar exam is the least incorrect answer, in this case to the riddle of how to assure that someone can, without supervision, give legal advice to members of the public.

Yet, the Delaware bar examination is under scrutiny, not only from those who would abolish it, but from reformers who support its purpose, methodology and administration, but see artificial barriers that can be removed without impairing its essence.

First, Delaware is the only state that administers the exam just once a year.

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PRESIDENT'S CORNER

CONTINUED >

There are many reasons to be distinctive. This anachronism is not among them. The disappointment of failure should not be accompanied by a year's pause in the career, particularly when the average law school graduate owes \$130,000 in loans. Adding a second exam should be noncontroversial — but it will add cost, for which the Bar should be prepared.

Second, the passing grade, known as the “cut score,” warrants examination. For years, this combined scaled score has been 145. Forty percent of this figure derives from the multiple-choice portion. The written sections account for the other 60.

Delaware's cut score is the nation's highest. California is next at 140, recently reduced from 144. Most others are in the 130s.

“The combination of a relatively high cut score, more testing topics to study (even though only eight topics will be tested in any one year), the single, annual bar exam, and additional observation requirements may significantly limit the pool of attorneys interested in practicing law in Delaware,” wrote a working group in a 17-lawyer committee appointed by the Supreme Court, in a Strategic Plan issued to the Court in January.

Having a substantially higher cut score puts barbed wire on the welcome mat. It adds minimal value to the bar exam and costs Delaware. It's the sixth bedroom in a Westover Hills cottage. Designed to penalize marginal applicants, it actually hurts the Delaware Bar, repelling talented prospects, and making recruitment difficult for the public and private sectors.

Some of this State's greatest lawyers failed the exam. Those who succeeded in the next year usually had local ties and family support. Most who failed didn't return, becoming accomplished, often distinguished, elsewhere after their 144 or 143 kept them out of Delaware.

A proposal from the Delaware Section of the American College of Trial Lawyers, endorsed last month by the Executive Committee of the Delaware State Bar Association, has urged the Supreme Court to adopt a second annual examination, and to reduce the cut score to a less forbidding, still-robust level.

The proposal, joined by several current and retired jurists, also recommends reducing the scope of essay questions to the dozen “important subjects that make up the foundation of a legal education,” to focus a student's preparation and relieve the load on bar examiners.

Other advocates propose reducing the cost of Bar applications filed in April, and are studying how to create alternative paths to the Bar.

New admittees strengthen the Bar. Lawyers should welcome meaningful reexamination of the gauntlet they face, and take mentoring them seriously, whether they are colleagues or on the other side of the table. 

Some of this State's
greatest lawyers
failed the exam.

Chuck Durante, the President of the Delaware State Bar Association, is a partner at Connolly Gallagher LLP, fellow of the American College of Trust and Estate Counsel, chair of the Board of Editors of *Delaware Lawyer* magazine, president of the Delaware Sports Museum and Hall of Fame, trustee of the Delaware Historical Society and president of the Delaware Sportswriters and Broadcasters Association. He can be reached at cdurante@connollygallagher.com.



I Have a Great Idea for You

I have a great idea for you. It involves the following: 1) Getting involved in an important case that would be pending in the Court of Chancery; 2) A rewarding and important experience; and 3) Getting paid (nominally) to do so! Say no more, right?

In October, I had the great pleasure to participate in a program that was mainly educational, but partly a sales pitch —“Training for Attorney ad litem in Court of Chancery Guardianships.” Practicing attorneys, two Vice Chancellors, and both sitting Masters presented a day long overview of the guardianship process and the attorney ad litem’s role in it. An overriding theme of the presentation was geared towards those attendees looking to dip their toes in uncharted waters, and also hopefully to pique the interest of those attorneys in attendance. The key pitch was: You can do this!

1. In the Court of Chancery, generally, a guardian can be appointed for an adult’s person, or an adult’s property, or both. The process starts with a petitioner seeking such relief in connection with a person with an alleged disability. Upon filing of that petition, an attorney ad litem is appointed to advocate and report to the Court on what is in the person with an alleged disability’s best interest. That is where you come in by answering the call of the Court when the attorney ad litem is needed. Not your cup of tea? Not so fast.
2. “I don’t know anything about guardianships in Chancery Court.” Don’t worry about it. Presumably every attorney in Delaware who has ever acted as an attorney ad litem, at one point, knew little to nothing about the guardianship process in Chancery Court. For starters, to get on the panel of attorneys who would have to serve, you will be required to review video of the above referenced presentation. You will get an education and introduction into the role of the attorney ad litem. Resources and forms, the lifeline for embarking into something new, are included. And, you will see the presenters, and have their names and contact information, who willingly said they would speak to any attorney and guide them through the process if they were ever in need when they began serving as attorney ad litem. These professionals have to

call you back and help you — they said as much which is memorialized in the video! You can do this.

3. “I don’t do that type of legal work.” Don’t worry about it. You will be surprised how your legal skills in whatever area you practice may translate to serving as an attorney ad litem. At the end of the day, at least in the first instance, your involvement regards what is in the best interests of a person with an alleged disability. You are a person first, and a lawyer second. What you feel and believe is in another’s best interests, after you have investigated the background and gotten to know that person, will come to you, regardless of whether you do patent applications, personal injury, or commercial transactions. You have this.
4. “I am too busy; I need to make money.” While not exactly a volunteer opportunity, as was stated in the presentation, you will not retire on ad litem appointments. But, you do get paid. To the extent you are too busy, this is the overarching bane I presume of the lack of attorneys doing pro bono work in general. Pro bono work is not necessarily mandatory in Delaware at this point, but it is strongly encouraged, as it should be. There are incentives for additional CLE credits, recognition from the Courts and the Delaware State Bar Association and other pats on the back that exist. However, the true value comes from the actual service you provide. You are getting appointed to represent the best interests of arguably one of the most vulnerable and possibly scared Delawareans who are at the center of a legal process which seeks a guardian over their person and/or property. Your role in that process is invaluable and, in turn, rewarding. Your appointment will be one of the more memorable experiences in your legal career, one that you may boast about and would make you proud (or even prouder) to be an attorney. Isn’t that compensation well beyond the amounts that the Court may approve to pay you? Give it a try! 

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.

MEMBER BENEFIT OF THE MONTH

The Delaware Legal Directory



While the Online Legal Directory is available 24/7 and updated throughout the year, a new on-demand Printed Directory will be available in January 2023.

The Online Legal Directory has been a valuable tool for DSBA Members, especially for those who need flexible access to this important information. The Online Legal Directory allows the user to click an

email address and seamlessly create an email; allows copy and paste functionality; and you can even click the phone number and call the number if your computer supports that feature. The Online Legal Directory offers robust search options that allow more efficient queries than a print option could offer. In addition, DSBA Members can designate a non-attorney user so that their staff may also take advantage of the Online Legal Directory.

For those of you who just have to have a printed version, there is an option to purchase a print-on-demand copy of the Directory. We have an arrangement with DLS Discovery to provide a reasonably-priced hard copy and several options for shipping, pick-up, and delivery. Please remember, the printed version will not be accurate during the year once individuals start changing addresses and updating contact information. The Online Legal Directory and the Legal Directory App update everyday.

To access the Online Legal Directory or order a printed Legal Directory, a member need only to login and go to "Legal Directory" in the Members Area of the DSBA website at www.dsba.org.

DSBA HAPPENINGS

President Charles J. Durante, President-elect Kate Harmon, and seventeen of the past presidents of the DSBA came together for a luncheon on October 31, 2022 at the Columbus Inn in Wilmington. The luncheon is a tradition that dates back to 1978 and is hosted by the President who served seven years ago. This year, the host was Richard A. "Shark" Forsten, who was president from 2015-2016.



From Left to Right: Miranda D. Clifton, The Honorable Gregory B. Williams, Patricia C. Hannigan, The Honorable James G. McGiffin, Jr., William Patrick Brady, Kate Harmon, William D. Johnston, The Honorable Susan C. Del Pesco, Victor F. Battaglia Sr., Joshua W. Martin III, F. Michael Parkowski, Matthew M. Greenberg, Charles J. Durante, Yvonne Takvorian Saville, Allen M. Terrell, Jr., Dennis L. Schrader, David J. Ferry, Jr., Richard D. Kirk, and Richard A. Forsten.

JOIN THE CONVERSATION

Cooper Levenson Attorneys at Law · 
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 Nov 2 · 

Shout-out to Holly Whitney, Esq. of our Wilmington, Delaware office and all those involved for volunteering at the Delaware State Bar Association Wills for Seniors event on Saturday Oct. 29.



John Moore · 
 Oct 28 · 

Honored to present the annual Christopher J. Battaglia Awards on behalf of [United Way of Delaware](#) to some amazingly generous law firms at the 2022 Christopher W. White Distinguished Access to Justice Awards Breakfast sponsored by the Delaware State Bar Association.

Congratulations to all the award recipients 🎉



DE Bar Foundation · 
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In the ever-evolving world of technology, lawyers and firms must keep pace to safeguard data. Learn about the types of privacy concerns currently facing the practice of law. Learn what lawyers can do. And discover the trends in data privacy and security. Join us 11/17!

Find us on Facebook, Instagram, and Twitter @delstatebar

OF NOTE

Condolences to the family of **J. Calvin Williams Jr., Esquire**, who died on March 19, 2022.

Condolences to the family of **Vincent H. Vickers II, Esquire**, who died on October 27, 2022.

Condolences to **The Honorable Joelle Patricia Hitch** on the death of her husband, Mark E. Hitch, who died on October 31, 2022.

Condolences to **Jill Spevack Di Sciuolo, Esquire**, on the death of her mother, Linda Sue Spevack, who died on November 2, 2022.

Condolences to **Mary E. Sherlock, Esquire**, on the death of her mother, Joan Ann Valentine, who died on November 23, 2022.

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

Step up to the mic!



Organizing a program or a CLE Seminar is a great way to get exposure and engage with the DSBA! Email your ideas to Caroleena Goldman at cgoldman@dsba.org.

Quick-Look ETHICS

Q&A



A QUARTERLY CONTRIBUTION
BY LUKE W. METTE, ESQUIRE

“Unique Conflicts Rules and Issues for Government Lawyers”

Delaware lawyers sometimes transition between working for the government and working in the private sector. Whether you view such transitions as a good thing or not, you should be aware of the unique conflicts issues current and former government lawyers face under the Delaware Lawyers’ Rules of Professional Conduct (“Rules” or “DLRPC”).

The Rules generally recognize that the duties and authority for government lawyers may be different than for lawyers in private practice. See DLRPC, Preamble and Scope [18]; see, e.g., DLRPC 1.11, cmt. 5. Here’s a summary of some of the unique rules for government lawyers:

“Participated personally and substantially” has nothing to do with adversity or switching sides. Under DLRPC 1.11(a)(d), the operative conflicts test is whether a current or former government lawyer either represents a client, or is participating, “in a matter” in which that lawyer previously “participated personally and substantially.” See DLRPC 1.11 cmt. 10 (identifying factors for determining whether two “matters” are the same). This standard is different from the conflicts test under DLRPC 1.7(a)(1) (direct adversity) and DLRPC 1.9(a) (substantially related matter in which interests are material adverse). The purpose of DLRPC 1.11 centers on preventing a lawyer “from exploiting public office.” See DLRPC 1.11, cmt. 3.

“Matter” does not include drafting legislation, rulemaking or other general policy work. At the same time, DLRPC 1.11(e) defines “matter” in such a way as to implicitly exclude certain work government lawyers commonly perform, thereby giving certain government lawyers more flexibility under the conflicts rules.

There is no imputation of a lawyer’s conflict to the government law department. The general rule of imputation (DLRPC 1.10(a)) does not apply to government lawyers. DLRPC 1.10(e). And DLRPC 1.11(d) does not provide for imputation of a government lawyer’s conflict to the government law department, “[b]ecause of the special problems raised by imputation within a government agency.” DLRPC 1.11, cmt. 2.

Government lawyers may be subject to multiple “codes of conduct.” In addition to the Rules (or the ABA Model Rules for some), a government lawyer’s professional conduct may also be subject to statutory and non-statutory “codes of conduct” that apply to all government employees (whether they are lawyers or not). See DLRPC 1.11, cmt. 1. 

Luke W. Mette is a partner at Armstrong Teasdale LLP. He has been a Delaware lawyer for 34 years and was Chief Disciplinary Counsel in Delaware from 2019-2021. He can be reached at LMette@atlpl.com.

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

December 2022

Saturday, December 3, 2022 • 9:00 a.m. – 11:00 a.m.

Breakfast with Santa

Live Event at DSBA

Wednesday, December 7, 2022 • 12:00 p.m. – 2:00 p.m.

Awards Luncheon

Hyatt Place / Riverfront Events, Wilmington, DE

Friday, December 9, 2022 • 8:30 a.m. – 4:30 p.m.

Family Law Update 2022

6.5 hours CLE credit including 2.0 hours in Enhanced Ethics

Live Seminar at the Christiana Hilton

Tuesday, December 13, 2022 • 2:00 p.m. – 4:00 p.m.

DNA: Do Not Access or Don't Need Approval? 2022

2.0 hours CLE credit including 0.5 hour in Enhanced Ethics

Live Seminar at DSBA with Zoom Option

Wednesday, December 14, 2022 • 12:00 p.m. – 1:00 p.m.

A Higher Bar: How to Exceed Client Expectations in a Virtual World

1.0 hour CLE credit in Enhanced Ethics

Zoom Only

January 2023

Monday, January 16, 2023 • 8:00 a.m.

Dr. Martin Luther King, Jr. Breakfast and Statewide Day of Service

Chase Center on the Riverfront, Wilmington, DE

Tuesday, January 17, 2023 • 8:30 a.m. – 12:00 p.m.

Workers' Compensation Breakfast Seminar

3.25 hours CLE credit

Live Seminar at Riverfront Events

Wednesday, January 18, 2023 • 12:00 p.m. – 1:00 p.m.

Behind the Cool Imagine: Lawyering in the 21st Century: Workshop 3

3.25 hours CLE credit in Enhanced Ethics

Live Seminar at DSBA with Zoom Option

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.

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SECTION & COMMITTEE MEETINGS

December 2022

Tuesday, December 6, 2022 • 3:30 p.m.

Estates and Trusts Section Meeting

Zoom Meeting, see Section listserv message for link and password

Tuesday, December 13, 2022 • 12:00 p.m.

Litigation Section Meeting

Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE

Thursday, December 15, 2022 • 12:00 p.m.

Executive Committee Meeting

Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, December 15, 2022 • 4:00 p.m.

Elder Law Section Meeting

Estate and Elder Law Services of Delaware, P.A., 2961 Centerville Road, Suite 350, Wilmington, DE and Zoom Meeting, see Section listserv message for link and password

Friday, December 16, 2022 • 12:00 p.m.

Workers' Compensation Section Meeting

Zoom Meeting, see Section listserv message for link and password

Wednesday, December 21, 2022 • 9:00 a.m.

ADR Section Meeting

Zoom Meeting, see Section listserv message for link and password

Wednesday, December 21, 2022 • 12:30 p.m.

LGBTQ+ Section Meeting

Zoom Meeting, see Section listserv message for link and password

Thursday, December 22, 2022 • 4:00 p.m.

Family Law Section Meeting

Zoom Meeting, see Section listserv message for link and password

January 2023

Tuesday, January 3, 2023 • 3:30 p.m.

Estates and Trusts Section Meeting

Zoom Meeting, see Section listserv message for link and password

Tuesday, January 10, 2023 • 12:00 p.m.

Litigation Section Meeting

Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE

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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Managing Difficult People and Their Use of Technology

BY PATRICIA S. ROGOWSKI, ESQUIRE

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The Richard K. Herrmann Technology Inn of Court often discusses the best uses and the benefits of technology in the courtroom, in law firms and legal departments, and in other businesses. But we turned our lens around during the Herrmann Inn meeting held in November. With help from an experienced psychotherapist, we sought to better understand how technology sometimes may make interactions more difficult, or even escalate, and what psychological tools we can use to handle those difficult interactions.

Our guest speaker, Lani Nelson-Zlupko, PhD¹ of LNZ Consulting in Wilmington, Delaware shared her insights about how to best prepare and

respond when technology is misused or abused in our interactions with attorneys and non-attorneys, whether they be adversaries, colleagues, co-workers or clients. Given the broad applicability of this topic to members of the DSBA, the Herrmann Inn is pleased to share the significant takeaways from our program here.

Generally speaking, difficult people impose undue burden on others with unanticipated or unwelcome interactions, breaches of standard protocols, unreasonable expectations, or falsely urgent deadlines, flammable language, and/or personal attacks. It must be noted that any one of us can become a "difficult person" and lash out when we are overwhelmed, preoccupied, or distressed in our own lives.

Difficult people impact you when you allow them to decrease your professional confidence, cause you to lose focus on your work goals and priorities, increase your stress, anxiety and/or depression, or cause you to respond unprofessionally to them. When difficult people dominate a workplace, it is natural to feel burned out or want to flee from all of the stress you perceive.

Many of us project our good intentions and aspirations onto others who do not necessarily share the same outlook. We naively believe that we can turn around the offending difficult person. Alternatively, we absorb the beat down we receive from the difficult person, and then stew about it. But much better options exist.

The goal is to manage ourselves and how we react when confronted by a difficult person. It is easy to feel overwhelmed and resentful, or even to blame ourselves when we are drawn into a toxic interaction. But when there is a

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toxic interaction or trigger, we should step back and pause before responding to that trigger. We should drop the urgency or the feeling that we have that drives us to respond immediately. Take time to reflect. If we do that, we can de-escalate our own emotions in response to a toxic interaction or trigger, and thereby stay off the emotional roller coaster that the difficult person attempts to impose on us.

To give you the needed time and space to reflect, try using de-escalation phrases. Some helpful de-escalation phrases that you can use with the difficult person are: “I’ll consider this” or “I’ll get back to you when....”

In the time you take to reflect, you then should make a candid assessment of what is happening in the toxic interaction. What is the “it” that needs attention? Who is involved? What is your role? What needs to happen next, and what is the reasonable timeline?

Your goal is to shift from an adversarial or toxic interaction to rational problem solving. You want to use the facts presented to achieve the mutual objective(s), and eliminate the personal or *ad hominem* attacks from them and by you. The goal for attorneys is always to have civil, professional interactions with others.

Some helpful rational problem-solving phrases that you can use with the difficult person are: “I hear you, and ...” or “that is interesting, yet have you considered...” Challenging the difficult person directly usually escalates toxicity. Acknowledging them, but then moving forward toward a mutual objective is your primary aim. Above all, you want to stay calm. You want to stay curious, and not furious. Do not allow the difficult person to cause harm to you or your professional reputation.

Technology did not create difficult people, but it has multiplied their weapons arsenal. Examples we discussed at the Herrmann Inn traversed from mild infractions to downright criminal abuse using technology to harass others.

I remember being taught not to send email messages in all capital letters. Why? Because the recipient might interpret such an email as off-putting — equivalent to “yelling” or “screaming.” That’s a very mild example of how technology may be perceived to cause harm, whether or not harm was intended.

Sometimes messaging (email or texting) is used to bombard opponents or subordinates with so many messages the recipient cannot possibly keep up. Some of us are wired to try to respond immediately to all of the incoming messages, but when you are so bombarded, you

just cannot and should not do so. When this happened to one of my former colleagues who was on the receiving end of daily numerous email blitzes from an adversary, he defused this by responding to that adversary once a week by formal letter — which he had hand-carried by messenger to ensure it was received. His solution was classic rational problem solving. He took away the urgency of the email blitzes, yet still maintained a professional interaction.

In another example, a litigation adversary never answered his phone, and his voicemail was always full and would not accept new messages. He also never responded to emails or letters. In that case, technology was used to block communications needed to resolve a matter. Unfortunately, in this particular instance, after months of struggle, the issue had to be escalated to the court. I’ve also had a different litigation adversary block incoming calls to his phone from my firm’s phone. But he at least would respond to email communications.

Whether technology is helpful or being abused also may depend upon the culture within an organization. In many businesses, electronic calendars are shared so that meetings can be scheduled. It is incumbent on the employee to block off time slots if he or she does not want those slots filled. Otherwise, they lose control of their daily schedule — and last-minute meetings and calls may be added to their calendar by others. Law firm cultures may be different, and the calendaring and task functions often are not shared as openly. If tasking can be done through a firm’s network, associate attorneys and staff need access to a mechanism to resolve scheduling conflicts and work

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assignment priorities coming at them from multiple superiors.

Sometimes technology, such as social media, blurs the line between social life and work life. The internet creates an unwarranted illusion of anonymity and privacy. For example, attorneys may post about their own private issue or perhaps unwittingly a client's private issue, exposing them to embarrassment or worse when this information is weaponized by a difficult person. Hot-headed comments in emails or in online posts are prone to being found, copied, reposted, and forwarded to the person berated in a way that face-to-face comments between two people would not. Once an embarrassing or unethical communication has been made public, arguing that the access was obtained illegally or by mistake is not an effective response.

Most shocking are instances reported where attorneys have harmed others by using technology. Indeed, in October, a Manhattan federal jury found a fired K&L Gates LLP partner guilty of criminal cyberstalking in a digital harassment campaign targeting former colleagues at the law firm. The attorney sent thousands of threats by text and email that caused one person at the firm to move from New York to another state, and another to upgrade their home security system and switch parking locations out of fear for their own safety.

When interacting with a difficult person, whether or not the interaction is amplified by digital technology, we can rely on proven methods to shift from an adversarial or toxic interaction to rational problem solving. Importantly, stop and think before responding. We

can control our own emotions, stay calm and respond in an appropriate and professional manner. And, if it becomes necessary, we do not have to stay stuck in a toxic environment. We can seek assistance from others not embroiled in the toxicity; we can influence change; or, if truly necessary, we can withdraw or step away. ☺

Notes:

1. Dr. Nelson-Zlupko, a psychotherapist and an executive coach, specializes in change management. She is also Adjunct Associate Professor at the University of Pennsylvania where she has been on the faculty for over 20 years. She guides individuals, companies, teams and leaders to handle change, gain resilience, grow cohesion, manage crises, plan for and execute major transitions, and lead effectively. She may be reached at lani@lnzconsulting.com.

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Digest of Previous *Ethically Speaking* Columns

"Ethically Speaking" continues a tradition of providing a seasonal gift to readers — a digest of previous columns. As a reminder, copies of the full texts from the last five years are available on the Delaware State Bar Association website under "Publications" at www.dsba.org.

2022

Threatening to File a Disciplinary Complaint Against Another Lawyer (January 2022) The 1995 column "Dropping the Dime" and the 1992 "The Impertinence of Being Earnest" are updated to reflect subsequent state Bar advisory opinions.

Professional Responsibility and Limits on Judicial Power (February 2022) The role and limit of the trial court's revocation of *pro hac vice* admissions examined in a matter involving L. Lin Wood, Esquire.

ABA Ethics News (March 2022) ABA recommendations for cross-cultural law school curriculum and proposed changes to Rule 5.5 Multijurisdictional Practice.

Ethics Quiz (April 2022) CLE in a Q&A format.

Lead Generation and Other Types of (May 2022) A discussion of the use of lead generation in light of ABA Formal Opinion 501 (April 2022).

Fee Agreement Conundrum (June 2022) Engagement agreements and client/non-client counter agreements.

Ten Things I Wish I had Learned Earlier in My Legal Career (July/August 2022) Learn from your mistakes. Get an advanced degree from mine.

Fee Troubles (September 2022) Best fee and agreement practices.

Avoiding Disciplinary (and Malpractice) Complaints (October 2022) Steps to avoid being a statistic. 1. Choose your clients carefully. 2. Screen your clients carefully. 3. Selectively terminate clients. 4. Don't sue to collect fees. 5. Avoid non-practice misconduct.

Be Scam Aware (November 2022) The very real threat to escrow and firm funds discussed after a wave of cyber scams targeting Delaware attorneys.

2021

Bona Fide Offices, the Unauthorized Practice of Law, and Covid-19 (January 2021) An exploration of the issues of working remotely during the pandemic.

Pre-Certification of Compliance (February 2021) An analysis of the Managing Partner's role in the annual certification of the firm's compliance with the books and records keeping requirements and the potential disciplinary liability for non-compliance and false certifications.

ABA Ethics Opinions Update (March 2021) A discussion of ABA Opinion 496, "Responding to Online Criticism," and the arcane definition of "materially

adverse" as used in ABA Opinion 497, "Conflicts Involving Materially Adverse Interests."

How I Spent My Covid "Vacation" (April 2021) A look at the disciplinary pitfalls of working remotely.

Departure Dos and Don'ts (May 2021) Potential civil and disciplinary liability for improper conduct while leaving a firm.

Wellness and the Challenges of Change (June 2021) Reminiscences about practicing law in a more genteel and slower-paced time.

Be Best (July/August 2021) The propriety of advertising purchased accolades not based in merit.

Delaware Lawyers Working Remotely Outside of Delaware (September 2021) The Committee on Professional Ethics issued its first opinion since 2011, but it was timely nonetheless. The Committee adopted the reasoning of ABA Formal Opinion 495 reading Rule 5.5 as permitting Delaware lawyers to practice Delaware law outside of Delaware.

Attorney Investment in Law Firms with Non-Attorney Partners (October 2021) A small but growing number of jurisdictions (Arizona & Utah) have joined the District of Columbia in permitting non-lawyer members of law firms. ABA Opinion 499 facilitates such arrangements of condoning attorney investment in such firms.

Babel: ABA Formal Opinion 500 (November 2021) An exploration and critique of ABA Formal Opinion 500, which calls for the use of trained, qualified and culturally sensitive interpreters.

2020

More Clients to Avoid (January 2020)

The best way to avoid a disciplinary complaint or malpractice claim is still the careful selection of clients and cases. Learn the warning signs of clients who may be a problem.

Top Ten Certificate of Compliance Tips (February 2020) It's almost that time of year again. If you're the Managing Attorney of your firm responsible for certification, make sure you know these tips.

Warning Signs That Your Practice Has Been Weaponized (March 2020) How to recognize that you didn't avoid a case or client that should have been screened.

ABA Update (April 2020) A review of the ABA Ethics Opinions of 2020.

Ten Things You Can Do in Quarantine to Improve Your Practice (May 2020) Making the best of a bad (and seemingly interminable) situation.

Exit Strategy (June 2020) Life after law. Winding down tips and traps.

Summer Reading: ABA Formal Opinions (July/August 2020) More ABA Opinions digested. I read them so you do not have to!

Discrimination and the Professional Conduct Rules (September 2020) Will Delaware adopt the ABA Model Rule which makes discrimination related to the practice of law disciplinary?

Pro Bono Publico Service and the Professional Conduct Rules (October 2020) More reasons to do the right thing.

The Slow Tide of Change and the Possible Move Toward Non-Lawyer Partners and Practitioners (November 2020) Will Delaware join the glacial advance nationally to allow non-lawyer partner-owners?

2019

New Year's Resolutions (January 2019) A list of the best, better, and improved practices for me and everyone else.

Tales of the Delaware Bar: The United Cigar Store (February 2019) When the history of the Delaware Bar was written, it was written by early notables of the Bar in a small corner store in Wilmington.

The Year in Review: Ethics Opinions 2018-2019 (Part I) (March 2019) Recent American Bar Association Formal Opinions dealing with confidentiality, obligations, and lawyer blogging; lawyer duty to inform client of error; and lawyer obligations during disasters were digested.

The Year in Review: Ethics Opinions (Part II) (April 2019) More American Bar Association Formal Opinions, including lawyer obligations after an electronic data breach or cyber attack; lawyer obligations when clients use litigation lenders; and judge obligations when performing same-sex marriages.

Cyber Risks (May 2019) A follow-up to *Are You Too Smart to be Scammed?* (November 2008) and *Are You Still Too Smart to be Scammed?* (June 2011) providing updates on the disciplinary and civil liability related to social engineering, ransomware, malware, and phishing.

Progress Report on Attorney Wellness (June 2019) The history and future of the Delaware Lawyers' Assistance Program.

Obligations of Successor Counsel (July/August 2019) An outline of the duty to acknowledge, safeguard, and disburse prior counsel's interest in an earned fee in light of ABA Formal Opinion 487 (June 18, 2019).

Surviving the Practice of Law (September 2019) Focusing on attorney mental health and wellbeing.

The Continuing Tale of the Tape (October 2019) A revisit of one of the inaugural columns of "Ethically Speaking" from March 1994 including a discussion of the issues arising when an attorney surreptitiously records clients and others.

The Year in Review: 2019 (November 2019) ABA Formal Opinions dealing with obligations of prosecutors in misdemeanor plea bargains; fee division with prior counsel; and judges' social relationships with lawyers as a basis for disqualification.

2018

The Ethics of Marijuana (January 2018) The professional responsibility pitfalls of providing legal services to this emerging industry is explored, including the conflict between federal prohibitions and state legalization.

The Year in Review 2017: Part I (February 2018) The disciplinary decisions of 2017 are digested and discussed with commentary as to significance.

The Year in Review 2017: Part II (March 2018) The ethics advisory opinions of the year 2017 from the American Bar Association Ethics Opinion Committee are digested and discussed.

Hypothetically Speaking: If I Did It, Then These are the Professional Conduct Rules I Hypothetically Violated While Serving as an Attorney Fixer (April 2018) Torn from the headlines, a discussion of the professional conduct rules implicated by a fact pattern eerily similar to one you have probably read about involving an attorney with an unorthodox and unsavory practice.

A Message to the Medium? Are Changes Coming to the Advertising Rules? (May 2018) Proposed changes to the ABA Model advertising rules are discussed.

Did the ABA Just Take a Step Toward Requiring Self-Reporting? (June 2018) The American Bar Association Formal Opinion 481 is discussed in detail. That Opinion is titled "A Lawyer's Duty to Inform a Current or Former Client of the Lawyer's Material Error." The Opinion suggests that attorneys have an obligation to report material errors only to current clients with a discussion as to how the term "current" should be interpreted.

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NOMINATIONS SOUGHT FOR LAW DAY AWARDS

The Delaware State Bar Association and the Awards Committee are seeking nominations for the Liberty Bell Award, the Community Service Award, and the Myrna L. Rubenstein Professional Support Recognition Award to be presented at the 2023 Law Day Luncheon on May 2, 2023. Below are the criteria for these awards.

LIBERTY BELL AWARD

The Liberty Bell Award is given annually to an individual, who is not a judge or lawyer, who has rendered outstanding service to his or her community. The award is designed to promote a better understanding of government, a greater respect for the rule of law or a deeper sense of individual responsibility which contribute to the effective functioning of our governmental institutions.

COMMUNITY SERVICE AWARD

The Community Service Award recognizes annually a member of the judiciary or the Delaware Bar who has rendered meaningful service to the community and who has contributed significant time and effort to the greater Delaware community. Nominees should have demonstrated a commitment to leadership and service in activities that enrich and strengthen our community over a substantial period of time.

MYRNA L. RUBENSTEIN PROFESSIONAL SUPPORT RECOGNITION AWARD

This Award recognizes long and dedicated service to the Bench and Bar of the State of Delaware, to the Bar Association, and to the Members thereof, which has contributed in a significant way to them and to the high ideals of the legal profession.

Nominations should be submitted to Mark S. Vavala, Executive Director, DSBA at mvavala@dsba.org. The deadline for nominations is February 3, 2023. 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.

ETHICALLY SPEAKING

CONTINUED >

Frequently Asked Questions (July/August 2018) “Ethically Speaking” explores a new format of sharing the questions I receive most frequently in my practice, along with answers including discussions of the *bona fide* office requirement, duty to self-report, referral fees, and accounting issues. Look for a return to this same format in 2019.

Is Discrimination Disciplinary? (September 2018) Changes to American Bar Association Model Rule 8.4 are discussed. The ABA added subsection (g) which makes it a disciplinary violation to discriminate on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in connection with the practice of law. The controversy of this amendment is also explored.

Pro Bono Legal Services and the Professional Conduct Rules: The Drafted Volunteer (October 2018) How states, including Delaware, meet the aspirational goals of providing *pro bono* legal services and the objections attorneys (including Delaware attorneys) have raised to being pressed to fill that need.

Tales of the Delaware Bar: John B. Kennedy (November 2018) The strange story of John B. Kennedy is explored. Again, this is likely to be a recurring format as the colorful side of the Delaware Bar is revealed.

“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. 

Charles Slanina is a partner in the firm of Finger & Slanina, LLC. His practice areas include disciplinary defense and consultations on professional responsibility issues. Additional information about the author is available at www.delawgroup.com.



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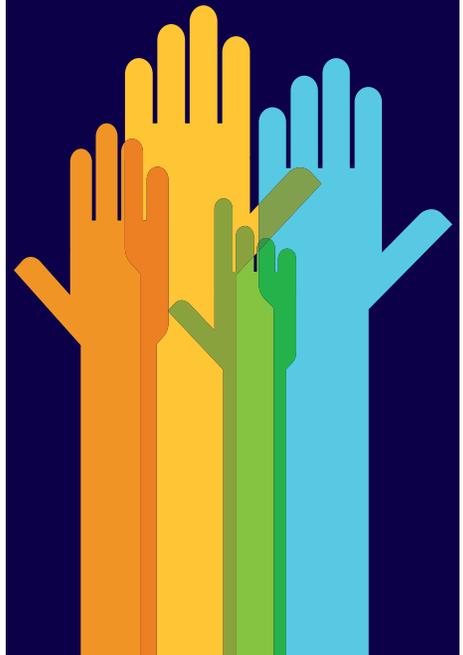
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Ready Or Not – The Holiday Season Is Here!

Are you ready for the holiday season? Or is your life starting to feel like a holiday circus? Simply put, the holiday season may bring about feelings of joy and great expectations; while for others, the holidays may bring about feelings of being overwhelmed, unmet expectations, and sadness. DE-LAP is offering tips to everyone who wants to enjoy a less stressful holiday season. Hopefully, the collection of tips below will help you meet your holiday expectations while re-charging your operating system with simple suggestions for taming that circus around you.

The Holiday Party

Stress Less, Don't Panic, and Stay Mindful

The holiday party can be a complex situation during the best of times. As an attendee, we are supposed to hang out with our coworkers, have fun, and let loose. On the other hand, we should not drink too much in the way of spirits, nor act too loose. Why? Because unlike Vegas, what happens at the office holiday party may not stay at the party. More specifically, we need to keep balance so we do not become the next day's gossip. There are ways that we can plan, prepare, and implement strategies that will keep us safe and can even help us shine — rather than crash — at the holiday office party in this festive environment.

Wellness for a Healthy & Happy Holiday Season

Let's face it, many of us fantasize that our holiday celebrations will be a photocopy of a Norman Rockwell print. While some individuals succeed in this vision, many do not. For many, the holidays are an emotional trap for family issues such as: relationships (many love their brothers, sisters, and extended family, but do not necessarily like spending the day with them); weight gain (from Thanksgiving to New Year's Day, the average American gains six pounds); and contemplating for hours about that perfect gift.

In the real world, you cannot totally relieve yourself of all the stress in your preparations for the holiday season, but you can keep your stress under control.

TEN TIPS

FOR THE HOLIDAY OFFICE PARTY

10. **Be mindful and sensitive** to different religious affiliations.
9. **Do encourage attendance.** Use the party as an opportunity to meet people you don't already know. Pay people compliments, ask about holiday plans, brush up on faces and names, and arm yourself with conversation starters.
8. **Don't go over budget.** While generosity is a virtue of the holiday season, do your best to stick to your budget.
7. **Ask about the dress code ahead of time** and dress for the occasion.
6. **Remember to say "thank you."** Be sure to thank your boss and the organization before you leave. The next day send separate notes or emails thanking them again.
5. **Be aware that bad behavior can be documented and shared in real time on social media.** It can and will damage your reputation. Be vigilant.
4. **Don't miss work due to partying the night before.** Show up to work the next day. Drinking too much at a workplace party is one of the quickest ways to derail your career. Party organizers should try to strike a balance between treating workers as adults and curbing potentially bad behavior.
3. **Prepare in advance.** Have an exit strategy, if necessary.
2. **Skip some events if you need to.** Learn to set boundaries in the name of mental health. Accept imperfection.
1. **Know your drinking limit.** If you are not driving, you need to prepare yourself ahead of time by setting guidelines, whether that is a one or two drink maximum. Have a designated driver or Uber and/or Lyft apps ready. If you are driving, just say no. Do not drink and drive.

To recharge your operating system remember to have compassion for yourself during the holidays. This holiday season, remember self-accountability and self-love. Recognize that you are responsible for your health and wellbeing. Take charge of your own life and health. Take hold of your holiday stress and the emotional traps before it takes hold of you. Think and reset with some Happiness Rules:

1. **Get Real About Happiness:** Happiness isn't about being upbeat all the time. Rather, it is a trait that helps you to recognize even the tiniest moments of joy, to fully embrace the good stuff in life, and to know that even when things aren't going well, this hard time too shall pass.
2. **Find Purpose:** Getting involved in something outside of your day-to-day routine has the power to infuse daily life with grater meaning.
3. **Be generous:** It's contagious.

If you're not in a celebratory mood — you're not the only one. Some causes of holiday depression are loneliness; recent loss of a loved one; financial strain or money worries; social anxiety; stress; unrealistic expectations; and being around those who engage in, or have engaged in, physical, mental, and emotional abuse. In addition, the past couple of years have been a period of monumental change, uncertainties, and isolation. DE-LAP understands that it is often difficult to ask for help. At DE-LAP, we focus, confidentially, on both the professional, as well as the human being.

DE-LAP, together with The Delaware Lawyers Assistance Fund (DELAF), has developed a free, confidential call-in service for Delaware's legal professionals to discuss your own anxieties with DE-LAP'S core team of licensed, healthcare professionals.

Especially during this holiday season, if you, or someone you know, need to talk, please take advantage of our team of licensed health-care professionals. DE-LAP is staying online during this holiday season. DE-LAP hosts an online Resilience Group and 12 Step Support Group every week. For more information, call DE-LAP at (302) 777-0124, visit our website at www.de-lap.org, or email me at cwaldhauser@de-lap.org.

From the DE-LAP family: Wishing you a happy, healthy, and stress-free holiday season! 🎁

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

DE-LAP'S HOLIDAY SURVIVAL GUIDE

Here are a collection of do's and don'ts for your holiday survival:

- **Don't cling to visions of a Norman Rockwell family moment.** That happens only in paintings. (In other words – ditch the perfectionism.) Don't set unrealistic expectations on yourself (or others).
- **Do be flexible with your partner.** Some traditions are definitely worth fighting for while others you may be able to let go.
- **Do consider family problems when planning celebratory gatherings.** If your brother drinks too much, avoid a dinner party and throw a dry holiday brunch instead.
- **Don't travel out of guilt.** Have an honest conversation with your family about how difficult it is for you to make a trip during the holidays. Suggest visiting say, in February, when you'll have more time to really see one another.
- **Don't isolate yourself.** Seek out kindred souls and spend time with them. If you're newly divorced, join a support group, volunteer at a homeless shelter, or shop for elderly neighbors so you have some human contact.
- **Don't spend randomly.** Set a limit for gifts and stick to it.
- **Do talk with your children.** Have a conversation before the season begins about realistic expectations.
- **Don't hesitate to buy the same gift for several people on your list.** As long as they don't know one another, who cares?
- **Do take one vacation day early in the holiday season to get all your shopping finished.** You can avoid the crowds and 11th hour pressure.
- **Don't play the comparison game.** Try not to compare this holiday to those in the past or to the holidays of people you know.
- **Do remind yourself that the holidays may have been so wonderful in childhood because you had no responsibility for making the magic.** If you have grown-up expectations, you won't be so disappointed.
- **Don't feel sorry for yourself if you have no parties to go to.** Throw your own, and feel good inviting others who may not have invitations themselves.
- **Do try returning to your old church, synagogue, or mosque if you are feeling spiritually disconnected.** If that does not work, go with friends to their place of worship.
- **Don't feel pressured to make a spiritual connection during this holiday.** Set it as a goal to work on next year. Knowing you have a plan will help you feel better immediately.

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2022 Christopher W. White Distinguished Access to Justice Awards Breakfast

Monday, October 27, 2022 | Riverfront Events / Hyatt Place

At the annual Christopher White Awards, held on October 27, 2022 at Riverfront Events, attorneys and judges came together to honor those attorneys being recognized for their outstanding service to indigent and under-represented people. President of DSBA Charles J. Durante, Esquire, began the ceremony by calling for people to recognize the good works done by the three main agencies who work tirelessly for the poor and elderly, Delaware Volunteer Legal Services (DVLS), Legal Services Corporation of Delaware (LSCD), and Community Legal Aid Society, Inc. (CLASI).

The first award of the day was presented to Daniel S. Atlas, Esquire, from Skadden, Arps, Slate, Meagher & Flom LLP, who received the Achievement Award. This award is presented to an attorney who has shown exemplary recent contributions to pro bono services. William L. Chapman, Jr., Esquire, from Potter Anderson & Corroon LLP, received the Commitment Award. This award is presented to an attorney committed to pro bono work throughout his career. Former Judge Chapman accepted

this award by saying “Every time I come to this breakfast, I am rejuvenated to do more for those in need of representation.” The Leadership Award is annually presented to a legal organization or firm which shows dedication to promoting pro bono support amongst its attorneys. This year, that award was presented to Blank Rome LLP and accepted by Adam V. Orlacchio, Esquire, on behalf of the firm. The last DSBA award, the Service to Children Award, was presented to The Office of the Child Advocate (OCA), helmed by Tania Marie Culley, Esquire. The nomination by Family Court Chief Judge Michael K. Newell emphasized Ms. Culley and the OCA’s 23 years of “vigorous representation” of children in child welfare and other Family Court proceedings. Judge Newell emphasized that Ms. Culley was present at the inception of the Office of the Child Advocate and that the organization and its leader were a “constant force” making sure children did not linger in foster care, even during the pandemic.

The final awards of the event were the The United Way of Delaware Christopher J. Battaglia Memorial Awards and were presented by John G. Moore, Sr. 🕒



1. DSBA President Charles J. Durante, Esquire, welcoming guests to the 2022 Distinguished Access to Justice Awards Breakfast.

2. Delaware State Senator Kyle Evans Gay, Esquire, presented the Access to Justice Tribute to DSBA President Charles J. Durante, Esquire, who accepted it on behalf of the Delaware State Bar Association.

3. Delaware Representative Krista M. Z. Griffith, Esquire, presented the Pro Bono Celebration Week Tribute to Janine Howard O'Rangers, Esquire, who accepted the award on behalf of Delaware Volunteer Legal Services.

4. Achievement Award: Daniel S. Atlas, Esquire, of Skadden, Arps, Slate, Meagher & Flom LLP.

5. Commitment Award: William L. Chapman, Jr., Esquire, of Potter Anderson & Corroon LLP.

6. Leadership Award: Accepted by Adam V. Orlacchio, Esquire, on behalf of Blank Rome LLP.

7. Service to Children Award: The Office of the Child Advocate, accepted by Tania Marie Culley, Esquire; Kelly C. Ensslin, Esquire, and Melissa Palokas.

The United Way of Delaware Presented the Christopher J. Battaglia Memorial Awards:

8. The Small Firm Participation Award was presented to Morgan Lewis & Bockius LLP and accepted by Jody C. Barillare, Esquire.

9. The Large Firm Participation Award was presented to Potter Anderson & Corroon, LLP and accepted by William L. Chapman Jr., Esquire and Kathleen Furey McDonough, Esquire.

10. The Emerald Award for Most Tocqueville Society members was presented to Morris, Nichols, Arsht & Tunnell and accepted by William M. Lafferty, Esquire.



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DSBA's Top 5 of 2022 On-Demand CLEs

Top 5

- 1 Technology, Oil, and Sharia Law: The Saga of the *Exxon-Mobil vs. SABIC* Case
- 2 Was That Wrong 2022
- 3 How to be Perfect: Screenwriter and Author Michael Schur Teaches us Ethics 2022
- 4 The Basics of Trial: Litigation Nuts & Bolts 2022
- 5 Things that Hold Lawyers Back: Impostor Syndrome, Fear of Failure, Fear of Success 2021

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And, the Miracle Continues

BY THE HONORABLE JAMES G. MCGIFFIN, JR.

During the second full week of December 2022, Kris Kringle will participate in a series of competency hearings in the Superior Court throughout the State. For 19 years, the Miracle Team has been recreating the courtroom scene from Miracle on 34th Street for thousands of school children. This year in-person performances will resume at the courthouses after two years where they were held by Zoom. Superior Court President Judge Jan R. Jurden, Family Court Chief Judge Michael K. Newell, Sussex County Resident Judge Craig A. Karsnitz and retired Judge William L. Witham, Jr. will share in the role of the Judge, keeping order for the rest of the Miracle Team. This is a rare opportunity for third, fourth, and fifth graders throughout the State to experience the real courtroom in a very positive way. More than 20,000 children have participated in the hearings. We thought we would share with you a few of their comments from years past. 

When I went to the Courthouse to see Miracle on 34th Street I learned some very important rules to follow in the courtroom you cannot lie to the Judge, you can't even talk or take pictures for certain reasons. I also learned about a trial and how trials are handled and what to do + how to do it. I also met a very special attorney and I was in the special thing called the Jury Box and that was amazing I loved the Courthouse

What I learn at the courthouse was that the judge was a real judge and the some of the other actresses & actors were lawyers. I also learned how the one lawyer defended one person and another lawyer defended the other person. I learned how a lawyer defends a person and what a lawyer does to defend a person. I learned what a judge does.

When I went to miracle on 34th street I learn that you really have to listen to the case. I also learn that most of the time if your representative well you might win the case. Also, I did learn how you need to have great evidence to win a case.

During the case I was observing the place and the people. Every time when a person went to the stand the lawyers would ask them few questions and rest their case. The judge was wearing a long gown passing his shoes. Not far away from the judge was the "Bailiff" he always gave papers to the judge. These papers had evidence the lawyers used to prove their part of the case. Besides the way the judge rectify the problem I had an experience like to be at a real court and watching a real judge it was like a miracle. The best part of being at the court house was I got to sit in the jury seat. It felt like the best day of my life, I loved it.

I learned alot at the courthouse I have never been to a courthouse before so it was really interesting and cool. I learned about the prosecutor, the defendant, the lawyers and the witness. Kris Kringle's lawyer helped me learn the most about the court. I also learned about the judge. The show especially helped me learn about the court. Kris Kringle's lawyer was fun. He made us part of the show. I was also aware that one of our over 4th graders and her grandfather were in the show. I loved the show. What did you learn at the court?

I learned that Kris Kringle was Santa Claus and not crazy old man. I also learned that a lawyer is a person that defends the person they are defending. In addition I liked how we had to scream Kris Kringle or Santa Claus.

THE DELAWARE STATE BAR ASSOCIATION PRESENTS
DR. MARTIN LUTHER KING, JR.
**2023 Annual Breakfast
& Statewide Day of Service**

DATE/TIME

Monday, January 16, 2023
Breakfast: 8:00 a.m.

LOCATION

Chase Center on the Riverfront
815 Justison Street
Wilmington, DE 19801

TICKETS

\$45.00/person

Registration available online
at www.dsba.org

If anyone or an organization has service opportunities for MLK Day 2023 and are in need of volunteers, please contact Nicole Mozee at Nmmozee@gmail.com by December 16, 2022.



KEYNOTE SPEAKER

CORNELL WILLIAM BROOKS

Former President & CEO, NAACP &
Professor, Harvard Kennedy School

Please visit the DSBA Website at www.dsba.org to purchase tickets or to volunteer for a service project.
Please direct all questions to the Delaware State Bar Association at (302) 658-5279 or to the event co-chairs, Nicole M. Mozee, Esquire, at nmmozee@gmail.com and Kendeil A. Dorvilier, Esquire, at kdorvilier@mccarter.com.

DR. MARTIN LUTHER KING, JR.

Annual Breakfast & Statewide Day of Service

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Call DSBA at (302) 658-5279 for more information. Please make a copy of the sponsorship form for your records!

COMPLETED SPONSORSHIP FORMS AND PAYMENT ARE DUE BY DECEMBER 19, 2022.

Return to: Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, Delaware 19801
or by email to Rebecca Baird at rbaird@dsba.org.

Individual tickets are available for purchase for \$45 per person. Visit www.dsba.org for online registration.

BOOK REVIEW

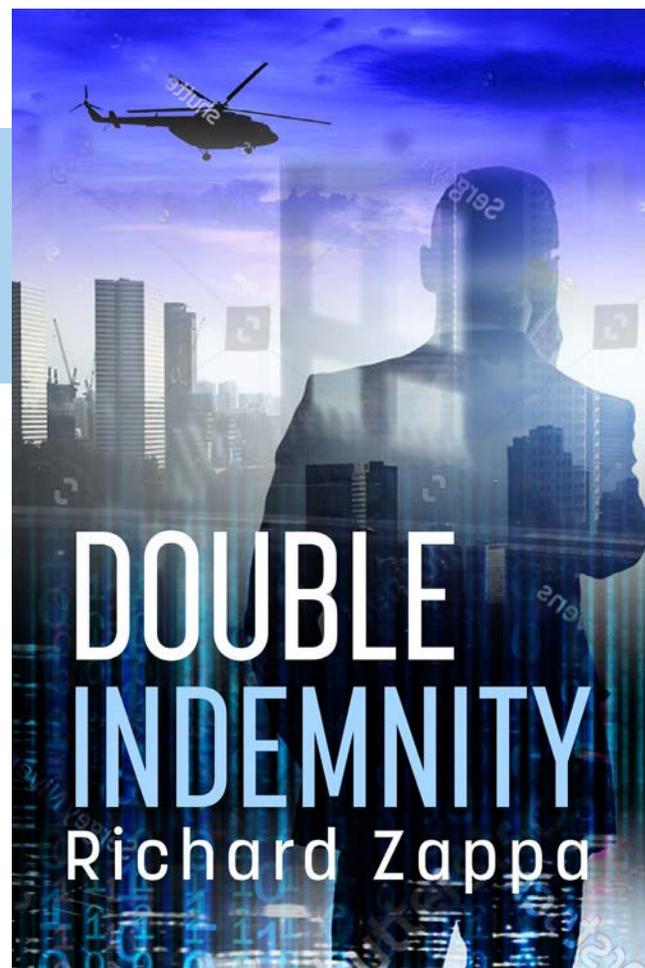
REVIEWED BY EDWARD T. CICONTE, ESQUIRE

Double Indemnity

By Richard Zappa

AIA Publishing, 2022

Evil takes on many forms. When it poisons the business practices of a company, the capacity to harm others cuts deep. A corporation is a person in the eyes of the law. Like people — some do good things, some do very bad things.



Rick Zappa's latest novel, the third in his *Jo Crowder* series, is a masterfully told story. *Double Indemnity* (AIA Publishing, July 22, 2022) is an action-packed, suspenseful crime drama thriller that presses all the right buttons for readers who relish an intricate, twisty plot with complex characters.

New Orleans homicide detective Jo Crowder was first introduced to us in Zappa's debut novel, *Identical Misfortune*, which deep dives into the mind and actions of a sociopathic identical twin who assumes the identity of her wealthy sister and murders her way in and out of families with devastating consequences.

One can easily liken Jo Crowder to Lee Child's unconventional, crime-busting, ex-military cop, Jack Reacher — only dimensionally smaller. The petite 36-year-old woman with the short raven black hair is long on investigative and forensics skills and short on patience when it comes to hunting down the vilest of criminals. Like Reacher, she habitually stretches

the rules that govern her conduct to their outer limits — and occasionally beyond, and she is not at all restrained in using her martial arts training — and her gun — when the circumstances require. Yet she has angst over the perpetrators whose confrontations with her proved fatal (for them), and she laments the reality that for every violent offender and murderer she apprehends, others will surely follow.

In *Double Indemnity*, Crowder once again shows us her mettle. She suspects that a rash of seemingly unrelated accidental deaths, suicides, and murders are neither random nor coincidental. She partners up with FBI special agent Alex Hill to find out why so many people who are linked to Heartland Insurance, a company that buys elderly people's life insurance policies and collects the proceeds when they die, and its CEO, Jared Finch, are dying. They suspect there is a malevolent connection between the company and a research facility that is doing experiments on animals. The operations of the facility and Finch's company are shrouded in secrecy. And for good reason — Heartland Insurance is a

corrupt enterprise run by an inner circle of Finch's hand-picked associates who are evil at their core.

The antagonists Crowder and Hill confront include Finch, a multimillionaire, narcissistic opportunist with a genius IQ who'd do anything to improve his company's bottom line, his ex-military chief of security whose moral compass went south years ago doing black ops for the CIA, and cold-blooded assassins recruited and trained to be their on-call executioners.

There are many subplots that Zappa deftly weaves into the story that keep readers on the edge of their seats, including Crowder's daring rescue of children held hostage by an escaped murderer; Crowder and Hill's harrowing, near-death experience going undercover in search of the research facility's true purpose; the kidnapping of Finch's wife whose survival is dependent on the payment of a \$10 million ransom; and a thrilling climax when both sides clash with calamitous consequences that will leave you breathless.

Double Indemnity is a runaway train of greed, intrigue, deceit, and betrayal that roars along at breakneck speed. Along for the ride are Crowder and Hill who face one moral dilemma after another and who come to realize that only by risking their lives and breaking the law will the sinister plot be revealed.

Zappa's crime drama thrillers are all standalone novels and can be read in any order, but I encourage you to read them in order to appreciate how he has adeptly developed a very likable protagonist. ⚖️



Edward T. Ciconte is a senior partner in the law firm of Ciconte Wasserman and Scerba LLC. He is a trial lawyer who practices primarily in the areas of creditors rights and personal injury. He can be reached at eciconte@cskdellaw.com.

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-Max Agresti '23*



All I Want for Christmas Is... Books

BY RICHARD A. FORSTEN, ESQUIRE



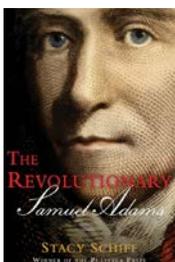
One can never have enough books, one can only never have enough time to read them all. Before offering a suggested list of books from 2022, I thought I might offer some quotes about books:

“A room without books is like a body without a soul.” – Marcus Tullius Cicero

“It is what you read when you don’t have to that determines what you will be when you can’t help it.” – Oscar Wilde

“... a mind needs books as a sword needs a whetstone, if it is to keep its edge.” – George R.R. Martin, *A Game of Thrones*

So, without further ado, the following books from this past year all look interesting.

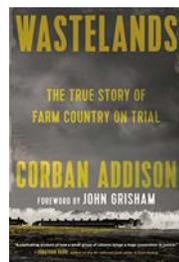


The Revolutionary: Samuel Adams, by Stacy Schiff. Sam Adams was revered by many of the Founders, but today is perhaps the most forgotten Founder of them all. This book

should help to restore his legacy and importance.

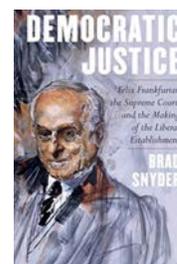


Social Media, Freedom of Speech, and the Future of our Democracy, edited by Lee C. Bollinger and Geoffrey R. Stone. Historically, First Amendment protections have been very broad, and speech, even “offensive” speech, lightly regulated (e.g., fighting words, incitement to violence, threats, libel and defamation); but with the explosion of social media, should more be done? What can be done? In eighteen essays, leading scholars look at this question and others from various angles.

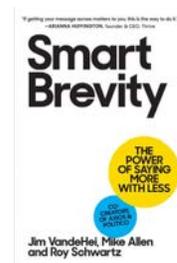


Wastelands: The True Story of Farm Country on Trial, by Corban Addison. In a classic David versus Goliath legal battle, residents of rural Duplin County took on the large-scale hog farms of “big pork” over the pollution and environmental destruction they were causing — and won. In his introduction, the author writes: “Although I wrote this book in the style of a novel, everything you are about to read is true. Some sto-

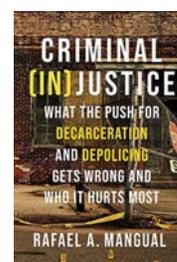
ries really are wilder than the fancies of imagination. This is one of them.”



Democratic Justice: Felix Frankfurter, the Supreme Court, and the Making of the Liberal Establishment, by Brad Snyder. Supreme Court historians generally don’t treat Justice Frankfurter all that well. This book provides a long overdue re-evaluation, as well as an amazing life story.

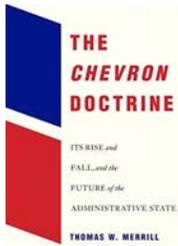


Smart Brevity, The Power Of Saying More With Less, by Jim Van deHei, Mike Allen, and Ray Schwartz. If you only read one book to improve your writing (or your speaking or your running of meetings), read this book.



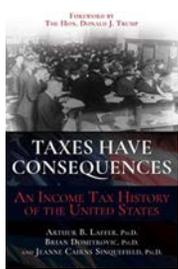
Criminal (In)Justice: What the Push for Decarceration and Depolicing Gets Wrong and Who It Hurts Most, by Rafael A. Mangual. Because of the old media saying that “if it

bleeds, it leads,” society’s perceptions can easily be skewed or just plain wrong about so many things. Mangual provides needed research, data, and context for all interested in the modern criminal justice system and its potential reforms.



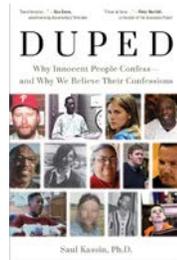
The Chevron Doctrine: Its Rise and Fall, and the Future of the Administrative State, by Thomas W. Merrill. The “Chevron Doctrine” has been the subject of much recent

attention when it comes to potential future Supreme Court actions. This book thoroughly reviews the doctrine and discusses its significance. Whether the Supreme Court ultimately acts or not remains to be seen.



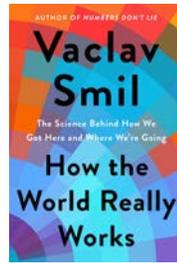
Taxes Have Consequences: An Income Tax History of the United States, by Arthur B. Laffer, Brian Domitrovic, and Jeanne Cairns Sinquefield. Both John

F. Kennedy and Ronald Reagan understood the power of tax cuts, and both pushed tax cuts through Congress. All economists and historians agree that taxes have consequences; here, the authors trace the history of the income tax (and some other taxes) from 1913 (when the Sixteenth Amendment was ratified to permit a federal income tax) through 2020.



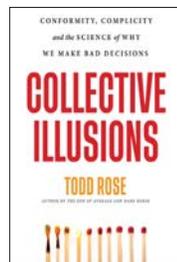
Duped: Why Innocent People Confess — and Why We Believe Their Confessions, by Saul Kassin. We know that innocent people sometimes confess, but why? And what we can do

about this problem? Psychologist Saul Kassin give the answers and proposes steps and techniques to rein in this phenomenon.



How the World Really Works: The Science Behind How We Got Here and Where We're Going, by Vaclav Smil. This isn’t a book about law; rather, it is a book about practically

everything else. Energy production, food production, the environment, globalization, the future. If we’re going to make or influence law, it’s not enough to just know the law. We need to know so much more.

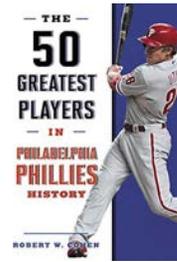


Collective Illusions, by Todd Rose. We all want to fit in, and, generally speaking, we are sometimes not the best communicators. Our brains often misinterpret or misunderstand what

others think, and, in our desire to fit in, we make collective assumptions that turn out to be wrong. Dr. Todd Rose explores this collective action problem.



The Missing Crypto Queen, by Jamie Bartlett. In 2014, Dr. Ruja Ignatova created OneCoin, one of the fastest companies ever to gross \$1 billion in revenue. But things are not always what they seem. In 2017, Dr. Ignatova disappeared, and *Fortune* magazine was left asking “Is OneCoin the biggest financial fraud in history?” This past summer, the FBI added Ignatova to its Ten Most Wanted list.



The 50 Greatest Players in Philadelphia Phillies History, by Robert W. Cohen. Someday soon Bryce Harper will no doubt join this list; but, regardless of how one views the Phillies’ improbable run to the World Series in 2022, this book provides a great trip down memory lane for all Phillies’ fans and is filled with information you didn’t know — even about your favorite players. 🏆

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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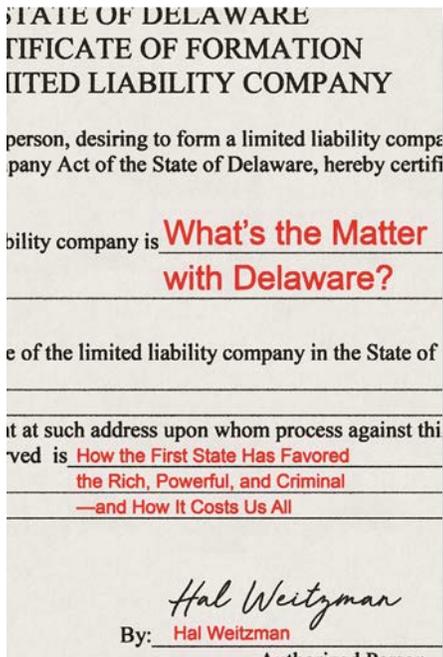
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Haters Gonna Hate



What's the Matter with Delaware?: How the First State Has Favored the Rich, Powerful, and Criminal — and How It Costs Us All

By Hal Weitzman
Princeton Univ. Press, 2022

Hal Weitzman doesn't like Delaware. He thinks Delaware doesn't do enough to combat the use of corporations, limited liability companies, and other entities for money-laundering, fraud, and other illicit purposes. He doesn't think it fair that Delaware collects so much in franchise fees at the supposed expense of other states. He doesn't like our escheat laws. He doesn't like the fact that so much IP litigation occurs in Delaware, and so many bankruptcy filings. He doesn't like the "Delaware Way" (although he grossly mischaracterizes it). In sum, Weitzman doesn't like Delaware — and to prove it, he's written a book that doesn't just question the corporate franchise, but attacks just about everyone and everything in Delaware. If there is a way to negatively spin something about Delaware, or to blow something entirely out of proportion, Weitzman does it. At times it is so over-the-top as to be almost laughable — if it also weren't so frustrating and sad.

Why, you might reasonably ask, bother with such a book? Who cares what a hater thinks? Because the old adage about keeping your friends close, but your enemies closer, has much wisdom to it. For Delaware to thrive, we need to know not only what our boosters are saying, but our detractors as well.

Start with "the franchise." Delaware's corporate law is a great source of revenue and pride, but, contrary to Weitzman's claims and insinuations, Delaware does much to earn its pre-eminent reputation. The Delaware Secretary of State offers unparalleled customer service. The Court of Chancery is unmatched in its knowledge and expertise of corporate law in a way that no other court can claim. The General Assembly pays close attention to the "GCL" (General Corporation Law), and, working with the Delaware State Bar Association and the Association's Corporation Law Council, regularly monitors the GCL to keep it current and up-to-date. All of this is to the good. But Weitzman doesn't like any of it (or, at least, most of it).

Weitzman thinks Delaware is too "clubby." Changes to the GCL are, he argues, only made with the Bar's approval, and not enough outside interests are consulted or involved. He tells the story of one State Representative who wanted to pursue some legislative changes to the GCL, but because the changes hadn't been vetted by the Corporation Law Council, the legislation died in committee. Several years later, though, similar legislation was adopted, but only after a more thorough review. Is it really wrong for members of the General Assembly to want review and comment from expert practitioners in the field? Don't legislative bodies want to hear from those learned in the area where they are considering legislation? Nothing requires the General Assembly to act the way it does, but prudence suggests it a good thing.

The Court of Chancery is certainly a treasure. Its huge body of corporate case-law provides guidance and certainty, and is unmatched anywhere in the world.

In sum, Weitzman doesn't like Delaware — and to prove it, he's written a book that doesn't just question the corporate franchise, but attacks just about everyone and everything in Delaware. If there is a way to negatively spin something about Delaware, or to blow something entirely out of proportion, Weitzman does it.

Its specialized Chancellor and Vice-Chancellors are experts in the field. And all of this would seem to be ideal and preferable from a jurisprudential point of view. But, of course, Weitzman finds grounds to complain. He attacks the Business Judgment Rule as less than clear, and suggests that the Court has a vested interest in not making its rulings too predictable (else the number of cases might dry up and Delaware lawyers left with less to do — very unconvincing, but I'm not the hater). Even Weitzman, though, concedes that his criticism may go too far, noting that general standards, rather than strict rules, are sometimes preferable, as clever lawyers might otherwise find ways to surmount strict rules. Weitzman also criticizes Chancery's lack of juries, and, while he's at it, attacks Delaware's political balance requirements regarding the appointment of judges. Finally, he dredges up (and attacks) Delaware's failed efforts to create a confidential arbitration process using members of the Chancery Court as arbitrators, although inasmuch as the arbitration plan was rejected by the federal courts, the attacks are entirely gratuitous.

Ironically, the major reason for Weitzman's attack on Delaware — the lack of ownership information and transparency — has been addressed on the federal level with the 2021 Corporate Transparency Act, which will apply to all states equally. This Act does not go far enough for Weitzman, but it would seem to eliminate the basis for most of his criticism. In the end, he only calls for three reforms specific to Delaware. First,

he would make the Corporation Law Council's proceedings public. Second, he would require a broader membership (experts, professors, other stakeholders) on that Council. And, in passing, he would "update" the Business Judgment Rule "with clear criteria relating to the wider impact of corporate decisions." None of his "reforms" are particularly well-argued, and it seems as though, with the passage of the 2021 Corporate Transparency Act, and his biggest criticism of Delaware (and most other states) gone, he nevertheless wanted to use the research he had put together and write a book attacking Delaware anyway, even if the book ends with more of a whimper than a bang.

To be sure, there are things we can do to make Delaware a better place. I would argue that much more can be done in the area of economic development and creating jobs. Too many of our best and brightest young people graduate high school, go to college, get cutting-edge degrees, and go on to careers in other parts of the country. Too many of our young people, having grown up in Delaware, leave our state in search of better employment. Weitzman asks "what's the matter with Delaware?" but he never really answers the question, nor does he provide any useful or helpful solutions. 🍷

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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★ DECEMBER 2022 Superlatives



This month I look back on 2022 and share some of my food-related favorites. You may note that there are seven categories. Why not a nice multiple of 5, like 10, you may wonder...

To celebrate 12/22, I decided on 1 + 2 + 2 + 2 = 7. I could have multiplied, but I prefer odds.

BEST LUNCH OUT IN THE TRI-STATE AREA

Odette's

Odette's Restaurant, located in New Hope's River House hotel, is the perfect leisurely lunch spot for a day trip of antiquing in New Hope and Lambertville. We visited on a mild fall day and dined on the balcony overlooking the Delaware River. I recommend the escargots ("an Odette's classic") served with garlic butter and grilled baguette and the yellowfin tuna wonton taco. The taco was truly a wonder — it was crispy yet never cracked. That never happens on Taco Tuesdays.

Odette's Restaurant



MOST ENJOYABLE WINE

Albariño

This white grape variety grows in the Rias Baixas region of northwest Spain. Dry with high acidity, Albariño has flavors of

citrus (lemon and grapefruit) and stone fruit (peach and apricot). These characteristics, combined with its light body, make it an ideal pairing for seafood dishes. If you go to Odette's, consider trying one from their wine list.

MOST FUN SQUASH

Delicata

My go-to squashes in the fall tend to be acorn for roasting and butternut for soups. Yet after seeing a ruffled round of Delicata garnishing a Culinary Institute of America dish, I sought it out at the market. The name implies its delicate rind, and its green or orange stripes make for a colorful side dish. Toss quarter-inch slices in olive oil, salt, and Aleppo pepper, and roast on a cookie sheet at 425 degrees until nicely browned and slightly crisp.

MOST VERSATILE CONDIMENT

Les Moulins Mahjoub Traditional Harissa

This family-owned company in Teboulba, Tunisia, grows the fruits and vegetables featured in its fine products. The Organic



Les Moulins Mahjoub Traditional Harissa

Tunisian Traditional Harissa is made from sun-dried tomatoes,

sundried Baklouti red chilies, and spices like caraway seeds and coriander. A dollop provides a very pleasant smoky heat to all sorts of dishes. Some of my favorite uses are with fried eggs, couscous, and poached fish.

BEST BAGUETTE

La Baguette Magique

In my opinion, La Baguette Magique on West Chester's Market Street bakes some of the best baguettes outside of France. Crusty, golden, and chewy, their baguette satisfies all of my requirements. The bakery offers a multitude of other delicious breads and pastries — like the olive boule and ham and cheese croissant.

Try to visit in the morning so you can savor a Morning Bun or Bacon Brioche alongside a hot cup of coffee.



Slotted Metal Spatula

MOST USEFUL KITCHEN UTENSIL

Slotted Metal Spatula

Unlike a rubber spatula for baking or scrambling eggs, this spatula is designed for flipping. The angled side and metal composition make sliding under food, turning, and serving a cinch. I wouldn't sauté fish without it.

BEST COOKBOOK TO GIVE AS A STOCKING STUFFER

Frankie Avalon's Italian Family Cookbook

Philadelphia is synonymous with the sounds of American Bandstand and the flavors of Little Italy. These forces come together in *Frankie Avalon's Italian Family Cookbook*, published in 2015. The over 80 recipes are uncomplicated and sure to be appreciated by family members and friends who know their way around South Philly. Braciola, Italian wedding soup, and Struffoli are just a few of the classics in this great read.

I hope you find enjoyment in some of my superlatives, and I wish you a happy and healthy season of special holidays. 🍷



Susan E. Poppiti is a mathematics educator and is pursuing qualifications in wine. Susan can be reached at spoppiti@hotmail.com.

2023 DELAWARE LEGAL DIRECTORY

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10 QUOTES

from 2022 at DSBA

BY MARK S. VAVALA, ESQUIRE
EXECUTIVE DIRECTOR
DELAWARE STATE BAR ASSOCIATION

As we wrap up yet another year, let's look at some quotes that sum up the type of year it was....

1 **"Because a bar association is supposed to be an organization that seeks to improve the legal profession, joining that bar association can be considered an ethical action."** TV writer and producer (*The Office*, *The Good Place*, *Parks & Rec*) and author on ethics, Michael Schur at the DSBA Seminar "How to Be Perfect(t) 2022" on May 10.

2 **"On this day, I suggest that we remember to encourage two things – individualism and collective commitment."** Chuck Durante, new President of the DSBA at the 2022 Bench and Bar, outlining his vision for the Delaware Bar.

3 **"[Y]ou really cannot separate the places people have access to from the opportunities people have access to."** ACLU President Professor Deborah Archer, speaking on the systemic racism which kept black persons from owning homes near white persons, at the virtual MLK Breakfast on January 17.

4 **"Every time I come to this breakfast, I am rejuvenated to do more for those in need of representation."** William L. Chapman, Jr., recipient of the Commitment Award at the Christopher White Pro Bono Awards on October 27.

5 **"It is so nice to be together again, in person."** Justice Gary F. Traynor, moderating the first all-live seminar since COVID struck in 2020, at Supreme Court Review 2022 on November 4.

6 **"Those who supported the Constitution actually lost the Civil War."** University of Pennsylvania Professor and great-grandson of Theodore Roosevelt, Kermit Roosevelt III, speaking at Law Day in May 2022, on how the original constitution did not truly envision rights for enslaved people while the new "constitution" became the 14th Amendment.

7 **"We are all stronger when we welcome people of other backgrounds, with distinct languages, skills, talents, and world views."** 2022 Delaware Women's Hall of Fame inductee and former Family Court Judge Aida Wasserstein, accepting this honor on October 12.

8 **"We have something special here in the legal community, and it's known as the Delaware Way."** Justice Randy J. Holland, known for coining the phrase which recognizes the collegiality and professionalism of attorneys in Delaware despite adversarial hearings. Justice Holland died on March 15.

9 **"I need to embrace what I tell others all the time – know when it is time to make a change and close your practice."** Carol P. Waldhauser, Executive Director of DE-LAP, who announced her retirement in 2022, effective January 2023.

10 **"The strategic plan is a practical and progressive model in pursuit of addressing the diversity challenges in the Delaware legal community. It's long overdue, but right on time."** Dr. Christopher Alan Bullock, Pastor of Canaan Baptist Church and Supreme Court diversity steering committee member, discussing the Delaware Supreme Court's Report and Recommendations on Improving Diversity in the Delaware Bench and Bar, which was published on January 31. 

Mark S. Vavala is the Executive Director of the Delaware State Bar Association. He can be reached at mavala@dsba.org.

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