



# THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

IN MEMORIAM

**Victor F. Battaglia, Sr. Esquire**

1931 - 2025



# 4TH OF JULY

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# THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

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ON THE COVER: Victor F. Battaglia, Sr. Esquire



# What Are You Prepared to Do?

**O**n June 12, 2025, I had the privilege to take the gavel from my friend, Mary F. Dugan and commence my term as the 78th President of the Delaware State Bar Association ("DSBA"). Mary worked tirelessly for the DSBA during her term as President and we all owe her a debt of gratitude.

*As I begin my term, I thought it would be appropriate to share a few of my remarks from the Bench & Bar Conference, particularly my call to action to defend our judiciary. To be clear, our courts and our judges demand nothing less than our full-throated support for the demanding and often lonely work they do to sustain the Rule of Law. I look forward to serving you, our Bench and our Bar, as the next President of the DSBA.*

Chief Justice Seitz, and my friends at the Delaware Supreme Court, Court of Chancery, Superior Court, Family Court, the Court of Common Pleas, and you, my friends and fellow members of the DSBA from all three counties: thank you all for being here.

Preliminary disclaimer: None of my remarks today were generated with the assistance of Artificial Intelligence. I have only myself to blame.

Special thanks to my colleagues at Delaware ADR: Judge Andrea Rocanelli, Judge Mary Johnston, Vice Chancellor Sam Glasscock, and our dedicated staff for giving me the time to serve as the President of the DSBA for the next 12 months, and special thanks to my colleague, Chris Damon, for agreeing to serve as Assistant to the President. Special thanks also to DSBA Executive

Director, Karl Randall, and Karl's immediate predecessor, Mark Vavala, and the entire DSBA team who work tirelessly behind the scenes for all of us: LaTonya Tucker, Deirdre Sadler-Crew, Aqueelah Harris, Lauren Delle Donne, Danielle Bouchat-Friedman, Angela Rooney, and Alison McLaughlin. Thanks also to Jim Deel, the Executive Director of DE-LAP, and a very special thanks to my friend, outgoing DSBA President Mary Dugan, and my friends on the Executive Committee. We had quite a year!

I still don't quite understand how I became President of the DSBA. I'm pretty sure someone on the Nominating Committee stuffed the ballot box for me, and I'm calling on the Attorney General of the State of Delaware to investigate this apparent corruption and to prosecute the offenders to the fullest extent. Seriously, I am extremely proud to serve the Delaware Bar and the DSBA as its President. Several former DSBA Presidents are in attendance today, and I am putting you all on notice right now, that I will be calling you for advice and support, and regular doses of Tylenol during the next 12 months. Thank you.

As most of you know, I served proudly as your Chief Disciplinary Counsel for almost four years, and during that time, I spoke at lots of CLE seminars. I particularly enjoyed speaking to young Delaware lawyers about the six (6) best jobs I ever had. (By the way, it's now seven). As former DE Supreme Court Justice Bill Quillen used to say when reflecting on his distinguished and varied career: "I guess I just can't hold

down a job".

Here is the real secret, my friends. Being a father, being a grandfather, and being Kathy's husband really is the best job I've ever had.

I look forward to rolling up my sleeves for the DSBA over the next 12 months, and special thanks to President Judge Eric Davis, who accepted my invitation to serve as the Judicial Appointment to the Executive Committee. I have lots of ideas on how to strengthen the DSBA in all three counties, how to build a better future by learning from the past, and with the assistance of the Executive Committee, I will be rolling out my ideas in the very near future, including the implementation of a new (and automated) lawyer referral system and continuing the dialog with all stakeholders on how to optimize the process by which we make amendments to the DGCL, to help ensure the continued success and preeminence of Delaware's corporate law franchise.

Before I take my seat, I want to highlight Article I, § 1.2 of the DSBA by-laws, which states the "purposes and objectives" of the DSBA. Among them are to "speak on behalf of the courts and to preserve their honor, integrity, and high standards." With that purpose and objective in mind, I am compelled to lament an obvious fact: Judges, in Delaware and elsewhere, are under attack. And consistent with our obligations under our by-laws, when the judiciary is under attack, we, as a profession and as a Bar Association, must fight back, aggressively, with unyielding defense and



support of our courts and our bench. At this moment, judges have never had a more important job. As I see it, the law is a promise: a promise of fairness. Without it, there is no justice, no democracy, and no trust. Our judges are the people who ensure that promise lives and breathes.

I can't help but remark, proudly, that the Delaware Bench and Bar jealously guards and protects its reputation for professionalism, civility, collegiality, and candor. It's that well-deserved reputation that binds us as Delaware lawyers and judges. Our shared reputation is not a simple matter of parochial pride or pretentiousness. No, our reputation rests on a sincere belief that the end to which we, as Delaware lawyers and judges work, a truthful exposure of the facts, not alternative facts, in the pursuit of justice, is best served by our tradition of respect and civility, accompanied by vigorous advocacy. The public obeys judicial decisions because the public believes in the integrity of judicial decisions. That

is, the public consents to be governed by judges because they believe in the integrity of the process, and what the public expects, and what they have to believe in, is that the judiciary decides cases based on their merits without political or personal considerations and without any improper motive entering into the mind of the decision-maker. When folks, particularly those in power, plant in the minds of the public an insidious impression that judges make decisions for reasons unrelated to the merits of the case, decisions based on political calculations or personal considerations, or that judges should be impeached simply because a judge ruled against them, they undermine the soul of the very institution that we as lawyers and judges depend upon to make a living.

The judiciary, my friends, is the institution in which we, as Delaware lawyers and judges, must cultivate public trust, because without public faith in and our collective defense of the judiciary,

our shared concept of the Rule of Law crumbles.

We, as a profession, as a Bar Association, must defend our judges and the judicial system itself from unfair attack.

I know what I'm prepared to do. The existential question is this: what are you prepared to do? The answer, as Shakespearean as it may be, is simple: "The fault... is not in our stars but in ourselves."

Please join me, today and always, in helping to make the defense of our judiciary, our collective effort. ⚖️

---

**David A. White** is the 78th President of the DSBA. He is a former Superior Court Commissioner and former Managing Partner of McCarter & English, LLP. From March 2021 to November 2024 he served as Chief Disciplinary Counsel, an Arm of the Delaware Supreme Court. He is currently working as a Professional Neutral at Delaware ADR ([www.delawareadr.com/](http://www.delawareadr.com/)).

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## For the Birds

**N**ever in my life did I think I would be writing about birds, or even have an interest in them. Sure, the rare bald eagle sighting is exciting, and I always pull the car over (safely!) to show my groaning children. But beyond that, I always thought “birding” was, frankly, for the birds.

But middle age is throwing me some surprises. I recently saw a funny video that showed the new hobbies many of us take up upon turning fifty. It included a “Wheel of Fortune”-type wheel. But instead of cash prizes, the wheel showed various hobbies that 50-somethings pick up when they hit that milestone. The wedges on the wheel included disc golf, smoking meats, and yes, bird watching.

For the uninitiated: “Birding” is the term for people who watch birds in their natural habitat as a hobby. If the definition of a natural habitat includes a new “smart” bird feeder from the mall, then yes, I am now a birder. As part of my wife’s quest to turn our backyard into a garden oasis, she asked my son and me to install the bird feeder. This contraption looks more like a condo in South Beach. It has shiplap, solar panels, and a high definition camera and microphone system that links to an app on your phone.

Once a bird lands at the front door of your feeder, the app will, with a push of a button, identify your visitor, tell you the species, and provide other fun facts. It has become as addictive as social media. We as a family are now all birders. We can’t wait to see what visits next; we anxiously await the moment when a more exotic and obscure bird pays a visit, though we still ooh and aah when we spot the usual robins and crows. Squirrels often push their way up, of course, despite the two containers of red pepper flakes and cayenne pepper we sprinkled on the seed to keep them away. (As a birder, you learn something new every day. Look it up.) And last week a raccoon climbed his rather large physique up to the perch. So, if you’re approaching 50 and have never considered birding, keep an open mind (like I did not). Like most lessons, it also applies to other parts of life.

In some ways, you never know where the practice of law will take you. Initially, I wanted to be a criminal defense attorney. But other than representing a few friends over the years—cases where fortunately I was not also a witness—I never followed that path. When I started out, I got a job at the second largest law firm in the world. I never envisioned I’d feel a bit lost there. Fairly quickly I flew the coop to greener, but smaller, pastures. I never imagined I’d own and operate my own law firm but, again, that is where I landed.



**Your legal career can provide the wind under your wings through life, and allows for flexibility and change if you need to move from one practice area to another.**

A law degree opens many flight paths (I'm finding it hard to resist the bird puns), and the practice of law is so diverse. Transactional. Litigation. Private practice. Government and municipality work. In-house counsel. You can even parlay your legal background into non-legal occupations. It translates well and is respected on many levels. Your legal career can provide the wind under your wings through life, and allows for flexibility and change if you need to move from one practice area to another.

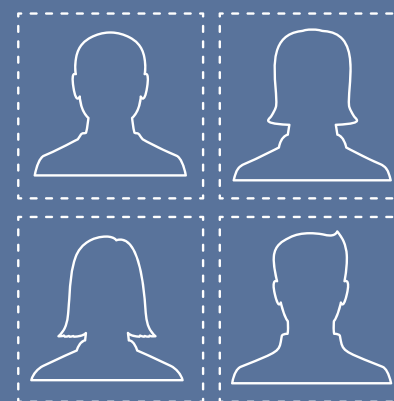
But you can't practice law 24/7, though many of us try. As we all can testify, it is stressful, as we move through most days at a frenetic and high-energy pace. There are times when I just need a break, a moment to take a deep breath and put everything in perspective. Is this email, this decision, this client communication really as important as I think it is? Or is it just a temporary setback? Oh look, it's a cardinal competing with a robin for that last bit of seed. Time to refill the birdhouse. How many squirrels actually live in my backyard? A quick moment of zen.

No, I don't have the time to leave the office to head to Bombay Hook with my field glasses and guide book. But I can pull up my birdhouse camera on my phone. I can see the activity in my backyard, in

real time as it happens. Sometimes the live feed shows a party, with multiple visitors all scrambling to land entry. Other times, the camera shows the peaceful and serene sounds of my backyard. Which, I realize, has become the oasis that my wife strived to create.

The only stress this new serenity causes can be blamed on the creatures with four legs. I admit the bushy tails and big eyes are cute, but they are not welcomed. It is a bird feeder, not a squirrel buffet. But even this problem can be solved. I hit the "squirrel eviction" alarm and it gently prompts the intruder to leave. Like most problems in the law and in life, it can be solved, surmounted, or at least dealt with. If you can give yourself that clear and serene moment to provide thought and reflection, you can open space to devise a path forward. It is there, you just need to find it. And for that, I can thank my fine-feathered friends. I hope your summer is filled with the sweet sounds of the American Robin, which is indeed a songbird. Have a great summer everyone! 🐦

Bar Journal Editor **Jason C. Powell** is the managing member of the Powell Firm, LLC. He can be reached at [jpowell@delawarefirm.com](mailto:jpowell@delawarefirm.com). All opinions expressed are solely his own.



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## **BECOME A DSBA SECTION MEMBER**



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## QUESTION OF THE MONTH



# WHAT'S ON YOUR PLAYLIST?

**David White, Esquire:** Due to his recent death, Brian Wilson from the Beach Boys has been on my mind and at the very top of my playlist. Here are a few of the songs:

- "In My Room"
- "God Only Knows"
- "Surf's Up"
- "Love and Mercy"
- "Dance, Dance, Dance"
- "You Still Believe in Me"


**Thomas Carney, Esquire:** Here is a list of the last five songs I listened to from my music catalog on my phone:

- "Cry" by Benson Boone
- "Still Bad" by Lizzo
- "First Time" by Teeks
- "Fashion" by Billy Porter
- "HandClap" by Fitz and the Tamtrums

**Daniel M. Cole, Esquire:** I am currently streaming the following podcasts:

- "Ben Franklin's World" *Conversations with professional historians who help shed light on important people and events in early American history. Produced by the Colonial Williamsburg Foundation.*
- "Hasan Minhaj Doesn't Know" *Two-time Peabody Award-winning comedian Hasan Minhaj sits down with the biggest names in politics, culture, and tech with questions that are as thought-provoking as they are absurd.*

**Next month's question will be: *What's your guilty pleasure?***

If you have an item you would like to submit for the Question of the Month section, please contact Danielle Bouchat-Friedman at [dbouchatfriedman@dsba.org](mailto:dbouchatfriedman@dsba.org). 

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## RICHARD A. DILIBERTO JR. RECEIVES ABA TIPS EDMUND S. MUSKIE PRO BONO SERVICE AWARD



**D**elaware lawyer Richard A. DiLiberto Jr. received the American Bar Association Tort Trial and Insurance Practice Section (TIPS) Edmund S. Muskie Pro Bono Service Award during the May TIPS Section Conference. The award recognizes TIPS members who have demonstrated commitment to justice for all citizens and dedication to pro bono service.


“The TIPS Law in Public Service Committee recommended a real star in the legal community in Rick,” says Chris Nolan, TIPS section chair. “We are proud to honor Rick for his unwavering commitment to justice and advocacy for the most vulnerable members of our community. His tireless efforts in representing families affected by negligence, and his familial story of achievement from humble immigrant roots, left an indelible mark on our conference attendees.”

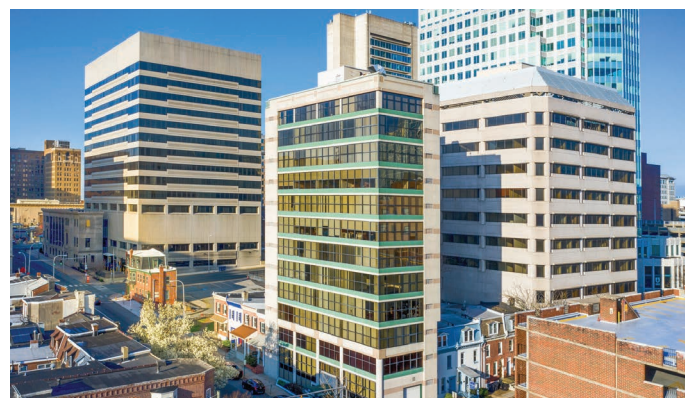
DiLiberto is a litigation partner at Young Conaway Stargatt & Taylor LLP. He has served as co-chairman of the firm’s Government Relations Committee, chairman of the Paralegal Committee and has held leadership roles in the Personal Injury Litigation Section and on the Continuing Legal Education Committee. Prior to joining the firm in 1987, he served as a law clerk for Judge Vincent Bifferato of the Delaware Superior Court. DiLiberto frequently represents families whose loved ones have suffered injuries or fatalities due to the negligence of others, with a significant focus on advocating for abused children.

To read the full article, visit [www.americanbar.org/news/abanews/aba-news-archives/2025/05/diliberto-aba-tips-muskie-award/](http://www.americanbar.org/news/abanews/aba-news-archives/2025/05/diliberto-aba-tips-muskie-award/). 

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## CALENDAR OF EVENTS / CLEs

### August 2025

Wednesday, August 20, 2025 • 9 a.m. - 11 a.m.

#### Understanding Delaware's Legislative System

DSBA Office

### September 2025

Wednesday, September 10, 2025 • Noon - 1:30 p.m.

#### The Small Firm and Solo Practice Blueprint

(Small Firms & Solo Practitioners Section Meeting scheduled for 11:15 a.m.)

DSBA Office

Tuesday, September 16, 2025 • 8 a.m. - 4 p.m.

#### Fundamentals of Family Law

DSBA Office

### October 2025

Friday, October 17, 2025 • 11:15 a.m. - 7 p.m.

#### Why Delaware? Expedited Dispute Resolution for Complex Commercial Disputes

Riverfront Events, with reception hosted by Delaware ADR from 5:45 p.m. - 7 p.m.

Dates, times, and locations of events and CLEs may occasionally change. Please consult the DSBA website for the most up-to-date information at [dsba.org](http://dsba.org).


## OF NOTE

Condolences to the family of Charles Richards, Esquire, whose wife, **Pamela Millikin Richards**, passed away on June 9, 2025.

Condolences to the family of **John Martin Willard, Esquire**, who passed away on June 17, 2025.

Condolences to the family of Karen Pascale, Esquire, whose mother-in-law, **Mary Lou Yemc**, passed away on June 18, 2025.

Condolences to the family of Richard Facciolo, Esquire, whose mother, **Alma (Facciolo) Goldman**, passed away on June 21, 2025.

If you have an item you would like to submit for the Of Note section, please contact Danielle Bouchat-Friedman at [dbouchatfriedman@dsba.org](mailto:dbouchatfriedman@dsba.org). 



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## **Multicultural Judges and Lawyers Section of Delaware State Bar Announces New Board**

**July 15, 2025** – The Multicultural Judges and Lawyers Section (MJL Section) of the Delaware State Bar Association (DSBA) is pleased to announce its Board members for the 2025-2026 term.

The new Board is as follows:

- Joshua B. Brooks, Chair (Landis Rath & Cobb LLP)
- Juan E. Martinez, Executive Vice-Chair (Benesch, Friedlander, Coplan & Aronoff LLP)
- Chamyra L. Upshur, Vice-Chair of Public Relations (Potter Anderson & Corroon LLP)
- Quamaine Montgomery, Vice-Chair of Law School Outreach (Richards, Layton & Finger, P.A.)
- Mikell Washington, Vice-Chair of Law School Outreach (Obermayer Rebmann Maxwell & Hippel LLP)
- Samantha M. Jonjo, Vice-Chair of Special Events (Richards, Layton & Finger, P.A.)
- Stephanie Emmanuel-De Luna, Secretary (Marks, O'Neill, O'Brien, Doherty & Kelly, P.C. Law)
- Charmi A. Patel, Financial Secretary (Berger McDermott LLP)

Elected in June and commencing his or her term in early July, each Board member will serve for one year until June 2026.

The MJL Section is committed to advancing the interests of attorneys, judges, and community members from diverse ethnic backgrounds. It fosters dialogue, understanding, and collaboration within the legal profession and the broader community. The MJL Section offers a platform for networking, professional development, mentorship, and community service. It also advocates for diversity and inclusion within the legal system and frequently partners with other groups and organizations to host events, workshops, and initiatives that emphasize the importance of multiculturalism in the legal field.

The MJL Section sincerely thanks the new Board members for their commitment and service. Their leadership plays a crucial role in furthering the Section's mission and strengthening its influence within the legal community and beyond.

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Judge Haile L. Alford

# Memorial Breakfast

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MULTICULTURAL JUDGES & LAWYERS SECTION



## Thank You

to our keynote speaker,  
Judge Vivian Medinilla (Ret.),  
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# BALANCING THE REWARD AND RISK OF AI: NAVIGATING INNOVATION WHILE PRESERVING PROFESSIONAL INTEGRITY

BY TAYLER D. BOLTON, ESQUIRE & CHRISTINE N. CHAPPELEAR, ESQUIRE

**A**rtificial intelligence (“AI”) stands poised to revolutionize the legal profession. As Chief Justice Roberts noted, “AI obviously has great potential to dramatically increase access to key information for lawyers and non-lawyers alike.”<sup>1</sup> With unprecedented efficiency, AI can analyze vast databases of statutes, case law, and regulations within seconds, review thousands of litigation documents in hours rather than weeks, and perform sophisticated contract analysis at remarkable speed. By reducing the time required for recurring legal tasks, AI can make legal representation and justice more accessible.

However, this evolving technology brings significant challenges. AI systems can perpetuate existing biases present in training data, consume enormous amounts of energy through intensive computing requirements, and operate with a lack of transparency that obscures needed understanding of decision-making processes. Most troubling for the legal profession as of late has been the emergence of AI “hallucinations”—the generation of convincing but entirely fabricated content, including fake case citations and non-existent legal precedents. When lawyers and unrepresented parties use AI tools without proper disclosure or verification, these hallucinations can cause strain on legal proceedings and undermine the integrity of the justice system.

Delaware courts have recently confronted the challenge of AI hallucinations. In March, the Superior Court required parties to certify their use of AI and attest to human review of AI-generated content after discovering “a number of mis-cited and incorrect cases” in a party’s papers.<sup>2</sup> The following month, the Court of Chancery denied a self-represented litigant’s motion to compel which contained purported quotes and propositions attributed to legitimate court cases that did not exist within those decisions.<sup>3</sup> While the Court of Chancery acknowledged that “the use of GenAI in legal work is not inherently problematic” and recognized its potential to “benefit litigants and courts alike,” the court emphasized that “GenAI carries significant risks to the legal system if it is used carelessly” and noted that the “submission of a filing with fictitious citations is sanctionable.”<sup>4</sup> The court mandated that the offending litigant certify any AI use and attest to human review of



all AI-generated content.<sup>5</sup>

AI hallucinations have created similar problems in other jurisdictions. In February, a federal district court in Wyoming imposed sanctions under Federal Rule of Civil Procedure 11 against attorneys who cited eight non-existent cases in a motion in limine.<sup>6</sup> The court revoked the pro hac vice status of the attorney who drafted the motion and imposed fines on the drafter, another attorney at the drafter's firm, and local counsel—all three of whom had electronically signed the filing.<sup>7</sup> The two non-drafting attorneys did not review the motion prior to approving their electronic signatures.<sup>8</sup>

While recognizing that AI “can be incredibly beneficial for attorneys and the public” when properly used, the district court emphasized that “the current state of AI has its shortcomings.”<sup>9</sup> The court delivered a fundamental reminder that transcends technological advancement: “While technology continues to evolve, one thing remains the same—checking and verifying the source.”<sup>10</sup>

The proliferation of AI in legal practice has prompted a corresponding increase in formal professional guidance. Formal Opinion 512 of the American Bar Association (“Opinion 512”) identifies key ethical considerations and offers practical guidance for navigating this emerging landscape.<sup>11</sup> Opinion 512 cautions that “[b]ecause GAI tools are subject to mistakes, lawyers’ uncritical reliance on content created by a GAI tool can result in inaccurate legal advice to clients or misleading representations to courts and third parties. Therefore, a lawyer’s reliance on, or submission of, a GAI tool’s output—without an appropriate degree of independent verification or review of its output—could violate the duty to provide competent representation as required by [Rule 1.1 of the ABA Model Rules of Professional Conduct].”<sup>12</sup>

Delaware has also begun addressing AI-related ethical challenges. In November 2023, the Delaware Supreme Court issued an order expanding the mission of the Delaware Commission on Law and Technology (the “DCLT”) in part to address the use of AI.<sup>13</sup> More recently, in October 2024, the court adopted an interim policy developed by the DCLT to govern AI use by judicial officers

and court personnel.<sup>14</sup> Under the interim policy, court personnel “are responsible to ensure the accuracy of all work product and must use caution when relying on the output of GenAI.”<sup>15</sup>

While Delaware has not yet implemented formal guidelines on lawyers’ responsibilities with respect to AI, the DCLT continues to monitor judicial developments and ethics advisory opinions issued in other jurisdictions, as well as assess whether current rules and policies need to be revised or reinforced to comport with AI use. In the meantime, case law in Delaware and other jurisdictions offer important guidance for practitioners seeking to use AI ethically and effectively.

First and foremost, lawyers must independently verify all AI-generated content, particularly legal citations and quoted material. The fundamental duty remains unchanged: attorneys must conduct reasonable inquiry into the accuracy of all content in their filings, regardless of how that content was generated.


Second, law firms should establish clear, written policies governing AI use that specify which AI tools are permitted, define the permissible scope of use, and require human oversight for all AI-assisted work. Firms with proactive AI policies that restrict unauthorized use may avoid institutional sanctions when individual attorneys violate those policies.<sup>16</sup>

Third, when AI errors surface, honesty is the best policy. The Wyoming federal district court treated an attorney’s candor about AI use as a mitigating factor in determining appropriate sanctions.<sup>17</sup> Conversely, attempts to conceal or mischaracterize AI-generated errors invite harsher penalties, as shown in *Archblock* where the Delaware Court of Chancery denied the motion to compel with prejudice after the petitioner “doubled down” rather than coming clean.<sup>18</sup>

Finally, practitioners should stay informed about evolving AI capabilities and limitations through continuing legal education and should consider implementing verification protocols, such as confirming case citations through traditional legal databases before including them in filings. By following these practices, lawyers can harness AI’s benefits while fulfilling their

professional obligations to clients and courts.

#### Notes:

1. John G. Roberts Jr., 2023 Year-End Report on the Federal Judiciary, at 5 (Dec. 31, 2023), [www.supremecourt.gov/publicinfo/year-end/2023year-endreport.pdf](https://www.supremecourt.gov/publicinfo/year-end/2023year-endreport.pdf).
2. *Lillard v. Offit Kurman, P.A.*, 2025 WL 800833, at \*1 (Del. Super. Mar. 12, 2025) (ORDER).
3. *An v. Archblock, Inc.*, 2025 WL 1024661, at \*1 (Del. Ch. Apr. 4, 2025).
4. *Id.* at \*2.
5. See *An v. Archblock, Inc.*, 2025 WL 1024137 (Del. Ch. Apr. 4, 2024) (ORDER).
6. *Wadsworth v. Walmart Inc.*, 348 F.R.D. 489, 495-99 (D. Wyo. 2025) (ORDER) (“Thus, using a fake opinion to support an argument is a violation of Rule 11(b)(2).”)
7. *Id.* at 498-99.
8. *Id.* at 495.
9. *Id.* at 493.
10. *Id.*
11. *Generative Artificial Intelligence Tools*, ABA COMM. ON ETHICS & PRO. RESP., Formal Op. 512, (2024).
12. *Id.* at 3-4.
13. *In re The Commission on Law and Technology* (ORDER) (Del. Nov. 27, 2023), <https://courts.delaware.gov/dclt/>.
14. *In re Interim Policy on the Use of Generative AI by Judicial Officers and Court Personnel* (ORDER) (Del. Oct. 21, 2024).
15. *Id.* at Ex. A.
16. See *Walmart Inc.*, 348 F.R.D. at 499 (declining to impose separate sanctions on the law firm of the sanctioned attorneys where the firm “trained its employees not to use the AI software in the way [the author of the motion containing hallucinations] used it.”)
17. *Id.* at 498 (“A mitigating fact warranting a less severe punishment is [the attorney’s] honesty and candor.”)
18. *Archblock, Inc.*, 2025 WL 1024661, at \*2 (The court “would have been inclined to deny the Motion without prejudice if the petitioner had been forthright. In his reply, however, the petitioner doubled down . . . [t]he Motion is therefore denied with prejudice.”) 

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# Grit and the Practice of Law: Why Passion and Perseverance Matter More Than Talent

**W**hy do some attorneys stay the course—through impossible workloads, emotional toll, and professional setbacks—while others quietly step away?

It may not be intelligence, talent, or even experience that makes the difference. According to psychologist Angela Duckworth, the real key is grit: a blend of passion and perseverance for long-term goals.

In her book, *Grit: The Power of Passion and Perseverance*, Duckworth explains that high achievers across professions—from military cadets to teachers and business leaders—share one common trait: they care deeply about their work, and they don't give up when it gets hard. Grit is not about pushing through blindly; it's about staying loyal to a meaningful pursuit, even when progress is slow or invisible.

*"Enthusiasm is common. Endurance is rare."* —Angela Duckworth

## Why People Enter the Legal Field

For many, the decision to pursue a legal career is rooted in a sense of purpose. Whether it's a desire to advocate for others, create meaningful change, or contribute to something bigger than themselves, there's often a strong internal drive that brings people into the profession.

It's not uncommon to see new law-



yers enter the field with a deep sense of commitment—hopeful, energized, and clear about why they chose this path. That early optimism can be a powerful force. It reflects a belief in fairness, the value of advocacy, and the idea that one person can make a difference.

Over time, however, the realities of legal practice can test that sense of clarity. The work is demanding—emotionally, mentally, and sometimes spiritually. Long hours, complex cases, and the weight of responsibility can leave even the most dedicated professionals feeling stretched thin.

This is where grit becomes so important. It's not just about endurance, but about staying connected to your values even when the work feels heavy. Grit allows you to adapt, to grow through challenge, and to recommit to the reasons you began—especially when they feel farther away than they used to.



## Grit Isn't Just Endurance—It's Commitment With Meaning

Grit, Duckworth says, isn't just working hard. It's working hard for something that matters to you. It's the ability to get back up after losing a case, facing a setback, or questioning whether you're still making a difference.

Developing grit means staying connected to your personal purpose. It means cultivating habits and mindsets that help you push forward—even when motivation fades.

Psychologist Carol Dweck, known for her work on the growth mindset, adds another important layer. A growth mindset is the belief that abilities and intelligence can be developed through effort and learning. When paired with grit, a growth mindset helps professionals view mistakes not as failures, but as feedback. It turns struggle into fuel.

*"The passion for stretching yourself and sticking to it, even when it's not going well, is the hallmark of the growth mindset."* —Carol Dweck

Leadership author Andy Stanley speaks to this same theme in *Visioneering*, writing, "Vision gives significance to the otherwise meaningless details of our lives." Vision, like grit, doesn't eliminate difficulty—but it reframes it. Stanley emphasizes that challenges are not signs to abandon purpose, but reminders of its importance.

Later in the same book, he writes:

*"Your vision will constantly be tested by discouragement, distractions, and opposition. But if it's a vision worth pursuing, it's worth enduring for."*

That kind of endurance—the willingness to stay the course when things feel uncertain or overwhelming—is the heartbeat of grit. Whether it's working late to meet a deadline, navigating a difficult hearing, or carrying the emotional weight of a client's story, vision transforms those challenges into meaningful steps toward something greater.

## Why Grit Matters in the Legal Profession—and the Judiciary

The legal world is filled with high expectations and frequent challenges. No matter how skilled or dedicated someone is, there will be days when the work feels overwhelming. Grit helps legal professionals stay grounded. It keeps purpose at the center. And it allows people to grow—not in spite of difficulty, but because of it.

The same holds true for judges, who carry not only legal responsibility but the emotional and ethical weight of their decisions. Judicial roles require deep focus, composure, and the stamina to remain fair and consistent, often in isolation and under scrutiny. For judges, grit shows up not just in endurance—but in the quiet, steady commitment to integrity, balance, and the rule of law.

Duckworth reminds us that grit is not an inborn trait—it's something we can build. Through reflection, discipline, and recommitment to our core values, we can foster a mindset that not only sustains us—but strengthens us.

### Final Thought

In law, success is not just about talent or intelligence. It's about staying in the work with heart and resilience. For the attorney facing another long week, the judge navigating weighty decisions, or the professional questioning their path, grit offers this quiet reminder:

*"Enthusiasm is common. Endurance is rare."* —Angela Duckworth

And it's endurance, fueled by purpose, that often makes the difference. ⚖️

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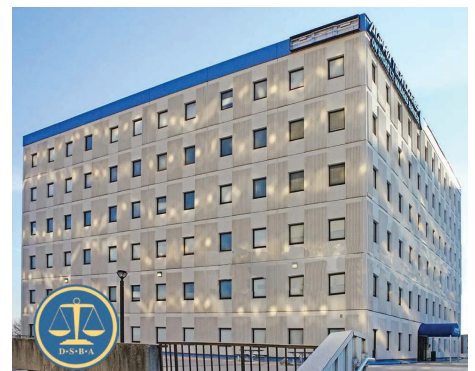
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# Sage Advice



CURATED BY RICHARD HERRMANN, ESQUIRE

**D**uring the academic part of my career, the most valuable aspects of my classes were the visits from members of the Bench and Bar, who would look back on their careers and share the more important advancements and moments with our students.

I plan to continue this approach, of facilitating these discussions through a column called “Sage Advice.” Our next sage is David C. McBride, Esquire.



**Q** If you wanted to offer one nugget of Sage Advice to those developing their legal careers in Delaware, what would it be?

**A** One of the key skills is identifying opportunities. That means identifying how you may aid others or meet an unmet need. Once you have done that exercise, you can ask whether you can fill or meet the need or provide the aid, consistent with your own goals. What has worked best in my life is when I can identify and meet those needs, whether of a senior partner, a client or the larger community.

**Q** When you attended law school, did you have a thought as to what you would like to do with your career? And if you did, what was it?

**A** I literally had no career goals and that did not change after I graduated. I never planned on or aspired to a career in corporate law. It was an opportunity that arose for me by first writing an article for *The Business Lawyer* that gained some national attention, and I wrote the article because it was a subject that interested me, but not part of any plan. Unexpected job offers followed.

**Q** What was your first position after you were admitted to the Delaware bar?

**A** Associate attorney at Bayard, Brill and Handelman.

**Q** When you started your career, was it your plan to stay in that field until you retired or was this a stepping-stone to something else?

**A** I really had no plan. My desire was simply to do the best job I could on whatever matters that came my way.



As the youngest attorney at Bayard, my first tasks were to handle cases that no one else in the office wanted to do but that needed to be completed. That led to unexpected trial successes in areas wholly unrelated to corporate law, typically family law, personal injury claims and small business commercial disputes.

**Q** If you were to choose one person who had the most impact in the advancement of your career as a member of the bar in Delaware, who would that be and why?

**A** Bruce Stargatt was my chief mentor at Young Conaway Stargatt & Taylor, although there were others including H. Albert Young and Art Inden. Bruce once told me not to worry about the money, do the best job you can, and the money will take care of itself. For me that was true.

**Q** What was the most interesting matter in which you were involved in your career?

**A** There were a number of cases in the corporate takeover battles of the 1980s and 1990s, including *Revlon*, *QVC*, *RJR Nabisco*, *Time Warner* and the *Disney* trial concerning the compensation of Michael Ovitz, who was our client.

**Q** What was your most challenging problem that you faced in your career as a member of the Delaware bar?

**A** Representing an unethical client, who ultimately was indicted for criminal conduct in connection with the very matter on which we represented him and that was the subject of expedited, injunctive litigation in the Court of Chancery. While we did not know (or even suspect) that allegedly criminal conduct was occurring, we were forced to repeatedly refuse his directions (and those of corresponding counsel) to make unethical arguments or take unethical positions in the case. We could and did withdraw once the expedited stage of the litigation was done and we could withdraw without prejudicing the client.

**Q** If you had to start your career again, would it be as a lawyer in Delaware?

**A** Yes, I have loved practicing law in this State. I only wish that I could do it forever (and you say, *really?*).

**Q** What does work life balance mean to you and did you have it?

**A** During the takeover battles of the 1980s and 1990s, you could not do that work unless you were willing and able to make the necessary work commitments (weekends, overnights and sometimes during the holidays). But I was able to do that and still meet the needs of my family and children thanks to an extraordinary spouse and wonderful children.

**Q** You started with a nugget that you wanted to leave those developing their practice or careers in Delaware. Is there another nugget you would like to offer?

**A** A character in one of James Michener's novels advises a young man to treat every job he has as the most important job in the world and someday he will have the most important job in the world. While that statement is not literally true (each of us will not achieve the most important job in the world), the importance of treating each job—no matter how minor or menial—as the most important one certainly does help obtain more responsibility, recognition and compensation in the next job. I always kept that advice in mind when I was working on minor legal matters or loading trucks or paving roads in summer jobs.

**Q** If there were a question that I failed to ask, but should have, what would it have been?

**A** How do we preserve what is best about the Delaware legal practice? If each of us tries to do the right thing (as best we can determine it) and has a little courage, none of us will need to be a hero and we can preserve what is best about Delaware. My family has been the beneficiary of many friends, our church, our community and the people of this State exhibiting that courage and the determination to do right. Thanks to all of you. 🙏



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# The ADA at 35: The DSBA Looks Forward to an Accessible Future



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BY SANTINO CECCOTTI, ESQUIRE AND MARISSA L. BAND, ESQUIRE

**T**his July marks the 35th anniversary of the Americans with Disabilities Act (ADA) and in recognition of this, July is also Disability Pride Month (see <https://adaanniversary.org/>). Disability Pride Month is a time to acknowledge and celebrate the diversity of the disability community, promote inclusion, and raise awareness for ableism.

We, members of the DSBA's ad hoc Committee for Supporting Lawyers with Disabilities (the CSLD), were asked to reflect upon what this means for the Delaware Bar. Battling against the stereotype of attorneys in the United States has been a struggle several of our committee members have experienced personally. The image projected to us every day via the media is that of an able-bodied, able-minded, neuro-typical professional, and while that representation is certainly true for some, for others, getting past discrimination and professional bias can be a persistent challenge.

Santino Ceccotti was born in 1981 with a little-known neurological condition called spinal muscular atrophy type 2, which renders him to a motorized wheelchair full-time. This was nine years before the enactment of the Americans with Disabilities Act ("ADA"), which was signed into law on July 26th 1990. This historic civil rights law was designed to protect the rights of people with an array of disabilities. Pre-ADA, Santino's parents navigated the state's attempts to segregate him as assumptions were made about his intellect and learning capabilities. The state saw him in a wheelchair and, without any testing, wanted to put him in a school for children with an

array of learning disabilities. This was probably commonplace across the country, as the ADA was yet to be introduced. Santino shares, “this is the first time I have publicly discussed my physical condition, I feel it so important to do so, to shed light on why I was asked in 2012 by then-President of the DSBA, Hon. James G. McGiffin to start the Committee for Supporting Lawyers with Disabilities.”

Many lawyers with disabilities hide it in fear of it creating a barrier to their career progression, through either conscious or unconscious prejudice, which is pretty ironic given our chosen career path. Santino shares having experienced this personally: “I remember receiving interviews after law school to prestigious law firms due to my impressive credentials. I became acutely aware, however, of the shift in atmosphere when I came to the interview, at their sight of my physical disability. Those opportunities never came to fruition. Thankfully others did and my career as an appellate lawyer has flourished ever since.”

At its creation, this ad hoc CSLD was comprised of a working group with members of the Delaware bench and bar, whose goals were to make our profession more inclusive by increasing awareness and sensitivity towards Delaware attorneys with disabilities. Judge McGiffin, one of the founding members, personally knows the importance of this work, particularly around self-care, after experiencing incidences of dissociation, disconnecting from his sense of self, and seeking care by a clinician. In addition to members personal stories serving as a guiding light, one of the CSLD’s greatest achievements was collaborating with the University of Delaware Centre for Community Research and Service on a study aimed at understanding the extent to which Delaware attorneys face barriers, impediments or disabilities that hinder their practice of law, or who are hindered by inaccessible, exclusionary practices in the legal professions. As part of the research project, a survey was fielded to the entire DSBA to establish a quantifiable baseline report. Perhaps more importantly the survey was also designed to generate recommendations as to how the DSBA could help reduce or eliminate obstacles and facilitate a greater

**Many lawyers with disabilities hide it in fear of it creating a barrier to their career progression, through either conscious or unconscious prejudice, which is pretty ironic given our chosen career path.**

degree of participation in professional practice among attorneys with disabilities. As a result, various CLEs and a symposium in collaboration with Delaware Law School followed. As the world went dark during Covid, so did the committee. It was dormant until August 2024, when our committee was reconstituted by the DSBA, to address the same issues of bias and inaccessibility that still remain.

Despite the efforts of the ADA and this DSBA ad hoc committee, disability bias continues to persist. Marissa Band, a new member of the reconstituted committee, who was diagnosed as a young child with an auto-immune disability that causes chronic pain, mobility limitations, fatigue, and frequent illness, notes that “having a disability that impacts energy is a real challenge in this profession,” says Marissa. “If I have to work beyond my body’s limits, I have very real health repercussions. I have had others give me a hard time for needing to assert limits, or asking to sit, because I do not ‘look disabled.’” Other CSLD members have also reported experiences of bias and encountering accessibility barriers in the profession.

This is reflected in national data as well. Since the DSBA and the University of Delaware’s 2013 survey of DSBA members to assess the presence of conditions that hinder their practice of law, several notable studies have published findings demonstrating that disability bias is uniquely entrenched. In 2020, the ABA, in partnership with the Burton Blatt Institute at Syracuse University, found that lawyers who identify either

as having disabilities or being LGBTQ+ reported experiences of discrimination at their workplaces in significant numbers.<sup>1</sup> Of the 3,590 respondents, 38.5 % reported perceptions or experiences of subtle but unintentional biases, 21.7 % reported subtle and intentional biases, 16% reported experiences of discrimination, 11.9% reported harassment, and 11.9% reported that they had experienced bullying behavior.<sup>2</sup> Another study, which compared the movement of bias based on disability, race, and sexuality, found that over a 14-year period (2007-2016), implicit disability bias only shifted by 2-3%, compared to 17% for race and 33% for sexuality.<sup>3</sup>

Experts in disability rights have made it clear that until lawyers with disabilities are in leadership roles, true inclusion will not happen. We will not see meaningful change in the profession until representation is realized at the highest levels including the bench, where currently Delaware is severely underrepresented. This would also increase confidence and legitimacy of our courts, to have full representation of the community it serves.

What the reformed CSLD takes away from this data is that not only do lawyers with disabilities continue to experience disability bias, but we as a community must do work focused specifically on disability bias, to move the needle on this seemingly intractable form of discrimination.

To that end, the CSLD will be examining:


- the current prevalence and impact of disability on Delaware lawyers,
- pain points where the profession is neither universally accessible nor appropriately accommodating disabilities, by looking at:
  - firm/agency leadership’s attitudes about disability;
  - firm/government agency leadership that identifies as a person with a disability;
  - rates of judicial officers who identify as persons with disabilities;

CONTINUED >



- rates of awareness of disability non-discrimination policies and reasonable accommodation/modification procedures;
- rates of provision of anti-discrimination training; and
- identifying accessibility barriers lawyers experience.

The CSLD intends to re-survey DSBA members in order to assess the above, and issue a report proposing concrete action steps the DSBA and the Delaware legal community can take to reduce disability bias, and increase accessibility, such as policy/practice changes that could help lawyers with disabilities stay in the profession (e.g., leadership culture shift to reduce hours expected of lawyers to create better work-life balance; virtual or hybrid work; CLEs for firm management on workplace accommodations for employees, etc.). We can do better to make the

Delaware legal community integrated, accessible, and welcoming of all attorneys, including attorneys with disabilities. 

Notes:

Peter Blanck et al., "Diversity and Inclusion in the American Legal Profession: First Phase Findings from a National Study of Lawyers with Disabilities and Lawyers Who Identify as LGBTQ+," 23:1 U.D.C. L. Rev. 23 (Spring 2020). <https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/bbi-survey-accessible.pdf>.

Id.

ABA Commission on Disability Rights, Implicit Bias Guide: Implicit Biases & People with Disabilities, accessed May 13, 2025 at: [https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit\\_bias/](https://www.americanbar.org/groups/diversity/disabilityrights/resources/implicit_bias/) (citing T.E.S. Charlesworth & M.R. Banaji, "Patterns of Implicit and Explicit Attitudes: I. Long-Term Change and Stability From 2007 to 2016," 30(2) Psychological Science 174-192 (2019), <https://doi.org/10.1177/0956797618813087>. See also Louise Kinross, Disability bias remains strong, Harvard scientist says, Bloom Blog, <https://hollandbloorview.ca/stories-news-events/BLOOM-Blog/disability-bias-remains-strong-harvard-scientist-says>.)

**Santino Ceccotti**, Appellate Unit, Office of Defense Services, a veteran of proving physical disability bias wrong for over four decades. Santino is committed to advocating for lawyers with disabilities until they are represented in leadership positions and true inclusion is realized.



**Marissa L. Band**, Project Director, Disability Rights Delaware of Community Legal Aid Society, Inc., Marissa has been advocating for disability rights since she shlepped her family's encyclopedia to elementary school to educate



her classmates about her disability, and that her atypical gait was no laughing matter. Marissa is proud to be a lawyer with a disability, as it has helped to form her to be an empathetic and creative advocate for Delawareans with disabilities.



# August 4, 2025

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# 2025 CHRISTOPHER W. WHITE ACCESS TO JUSTICE AWARDS BREAKFAST

## NOMINATE DSBA MEMBERS FOR THIS YEAR'S AWARDS

The DSBA and the Awards Committee are seeking nominations for the 2025 Christopher W. White Access to Justice Awards formerly known as the Distinguished *Pro Bono* Service Awards.

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

#### THE LEADERSHIP AWARD

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

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

#### THE COMMITMENT AWARD

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

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

#### THE ACHIEVEMENT AWARD

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

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

#### SERVICE TO CHILDREN AWARD

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

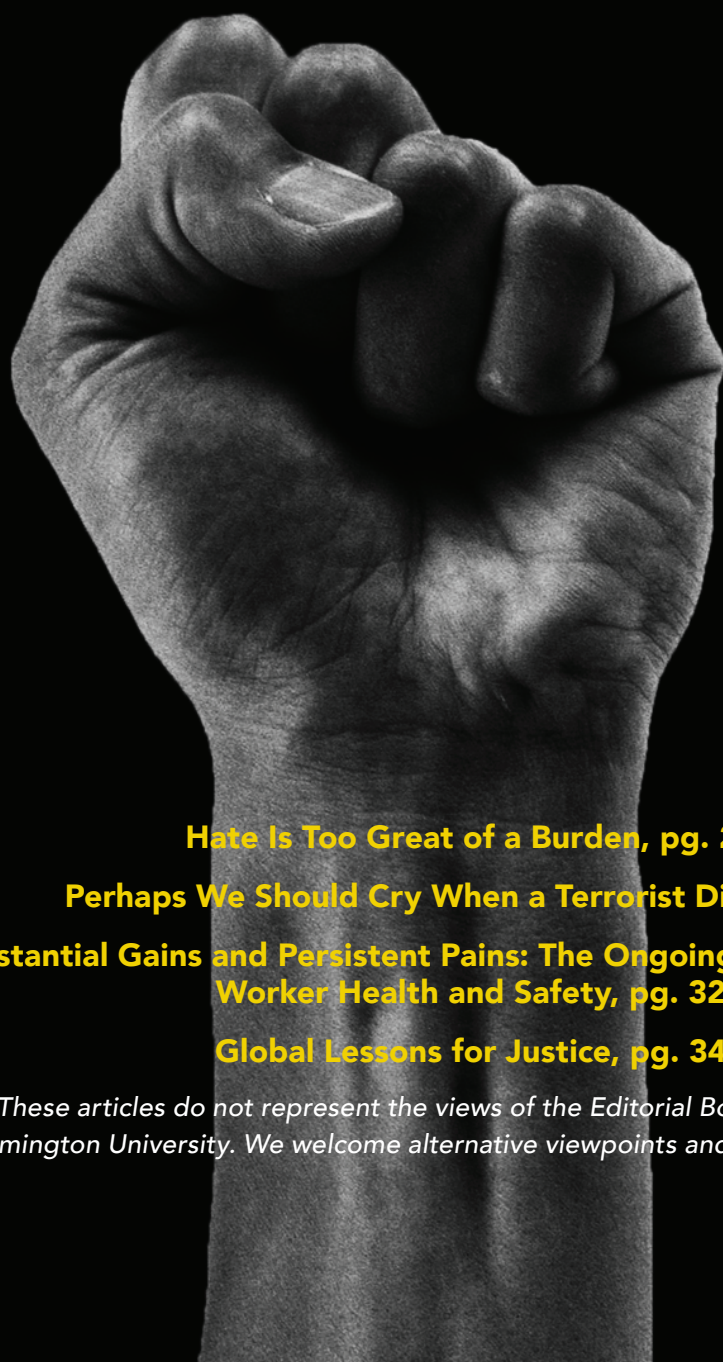
#### LEGAL PROFESSIONAL PRO BONO SERVICE AWARD

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

**THE DEADLINE FOR NOMINATIONS IS AUGUST 15, 2025.** Nominations should be submitted to Deirdre Sadler-Crew at [dsadlercrew@dsba.org](mailto:dsadlercrew@dsba.org). 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.

IN DEPTH:

# HUMAN RIGHTS



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*These articles do not represent the views of the Editorial Board, the DSBA, or  
Wilmington University. We welcome alternative viewpoints and letters to the editor.*



# Hate Is Too Great of a Burden

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BY NICOLE M. MOZEE, ESQUIRE

**J**une is a month of much celebration. Families gather and dote on loving fathers. The anniversary of D-Day is recognized on June 6.<sup>1</sup> Juneteenth (19) acknowledges the delayed emancipation of enslaved people in Texas and joyously celebrates the idea of freedom for the Black community. Festivals and concerts showcase talent and artistry in recognition of Black Music Month.<sup>2</sup> The LGBTQ+ community courageously celebrates its beauty and diversity with PRIDE. While these are a few of the special occasions in June, the month also reflects some hard truths about America.

June 17, 2025 marked the 10-year anniversary of the massacre of nine innocent lives at the Mother Emanuel African Methodist Episcopal Church in Charleston, South Carolina.<sup>3</sup> The targets were African Americans while the mass murderer was a white supremacist. A decade ago, the nation watched, paralyzed in fear and grief, as news media outlets reported on this tragedy. Despite the terror, Mother Emanuel, a church entrenched in combating racial injustice, has persevered and advocated for healing and unity with the support of allies and organizations nationwide. Unfortunately, the Mother Emanuel massacre is only an instance in a long line of hate-motivated attacks that both precede and subsequently follow it. America's history and present is decorated with crimes and incidents fueled by hate.

June 28 commemorated 56 years since the New York City Stonewall Riots.<sup>4</sup> The riots were a result of a police raid of a gay night club. For generations, the LGBTQ+ community have been unjustly targeted for merely being true to themselves. In May 2025, law enforcement conducted a "compliance check" at a gay bar in Pittsburgh, striking eerily similar undertones to the 1969 Stonewall riots.<sup>5</sup> In 2024, the FBI reported 1 in 5 hate crimes are motivated by anti-LGBTQ+ animus.<sup>6</sup> More specifically, attacks based on gender identity and sexual orientation increased 16% and 23%, respectively, from the year prior.<sup>7</sup> Regardless of advancements in LGBTQ+ rights, this community remains under attack in this country.

## Hate Is Alive and Well

Hate is at the core of this nation's founding and permeates every corner of our history and infrastructure. Beginning with the forcible removal and exploitation of indigenous tribes and escalating to institutional slavery, prejudice and discrimination has been America's downfall. Author Isabel Wilkerson eloquently explained that since its inception, America has subscribed to a legally and socially ordained caste system that dictates every aspect of life.<sup>8</sup> This system determines what liberty and justice look like solely depending on who you are and where you fall within the caste.

Reckon with this fact: for centuries, the United States of America condoned oppression while remaining steadfast to its narrative of

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being a land of freedom and justice for all. America has abused, tormented, displaced, denied, and ignored racial minorities, women, immigrant communities, and LGBTQ+ people, and more. Yet, to this day, so many Americans deny the historical fact of this country's bigotry.

Hate and bias are alive and well. They are not concepts of the past limited to World War II Japanese internment camps or the Jim Crow era. We currently live in a climate where people are emboldened to express their thoughts and act, regardless of the detriment to others. The FBI's 2023 hate crime statistics revealed the motivation and bias of over 52% of hate crimes and incidents were based on race and ethnicity, followed by religion

(22.5%), sexual orientation (18.4%), gender identity (4.1%), disability (1.6%) and gender (0.9%).<sup>9</sup> The Anti-Defamation League reported 9,354 antisemitic incidents across the United States in 2024, a 344% increase over the last five years.<sup>10</sup> While laws like the *Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act Of 2009*<sup>11</sup> remain in effect, the nation continues to grapple with hate and violence.

### Delaware Is No Exception

It is a grave mistake to think hate only exists "elsewhere." Hate is no stranger to Delaware. In 2024, the Southern Poverty Law Center identified five hate and antigovernment groups in Delaware.<sup>12</sup> Since 2021,

antisemitic events have increased throughout the state.<sup>13</sup> In April 2025, the Delaware State Police charged two Millville firefighters with hate crimes after they reportedly chased a colleague with a noose and used racial epithets.<sup>14</sup> These are only a few of the local occurrences.

In 2020, the Division of Civil Rights and Public Trust (DCRPT) was codified as the newest division of the Delaware Department of Justice and statutorily tasked to investigate and prosecute hate crimes. DCRPT successfully prosecuted its first hate crime in 2022.<sup>15</sup> In April 2025, DCRPT secured another hate crime conviction of a woman who harassed her neighbors with racial slurs in Newark, DE.<sup>16</sup>



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In 2022, the Delaware General Assembly expanded its hate crime statute, notably revising its *mens rea* to include motivation, in whole or part, because of a belief or perception regardless of the accuracy of the belief or perception.<sup>17</sup> The revised statute also mandates DCRPT to annually publish a hate crimes report.<sup>18</sup> DCRPT's 2022-2023 report indicated 57 hate crime incidents were reported to local law enforcement.<sup>19</sup>

## Hate Has No Home Here

The force to combat hate is strong in Delaware. Delaware State Police collaborate with federal and local offices to collect data and confront hate. [The Delaware Division of Human and Civil Rights](#) partners with the [Commission on Human and Civil Rights](#) to host forums for community members to share their experiences with prejudice while fostering amicable relationships amongst Delawareans. [The Southern Delaware Alliance for Racial Justice](#) and [Speak Out Against Hate](#) are Sussex-county based organizations advocating for justice, equality, and harmony.

One of the biggest challenges with fighting hate is underreporting. Many are unsure what to do or where to go. Moreover, considering some communities' history of strained relationships with law enforcement, it is not easy to report. We must overcome this barrier. First, people must report alleged hate crimes. Whether it is reporting to police, attorneys, churches, or community organizations, if you see something, say something. Second, law enforcement must be well trained and equipped on identifying and responding to hate-motivated complaints. There are nuanced sensitivities when handling an allegation of hate. Third, we, as a society, must hold ourselves accountable to teach principles of respect, unity, and love early in the home. "Hate cannot drive out hate, only love can do that."<sup>20</sup>

Hate undermines American principles of freedom. Everyone has a right to live in a just and equitable world where they are safe. ☯

Notes:

1. The National WWII Museum, "80th Anniversary of D-Day," *The National WWII Museum*, accessed June 30, 2025, <https://www.nationalww2museum.org/80th-anniversary-d-day>.
2. The late U. S. President Jimmy Carter issued formal recognition in 1979. Smithsonian National Museum of African American History and Culture, "Celebrating Black Music Month," *National Museum of African American History and Culture*, accessed June 30, 2025, <https://nmaahc.si.edu/explore/stories/celebrating-black-music-month>.
3. NAACP Legal Defense and Educational Fund, "LDF on Ten-Year Anniversary of Mother Emanuel Massacre," *NAACP Legal Defense Fund*, accessed June 30, 2025, <https://www.naacpldf.org/press-release/ldf-on-ten-year-anniversary-of-mother-emanuel-massacre/>.
4. History.com Editors, "The Stonewall Riots," *History*, accessed June 30, 2025, <https://www.history.com/articles/the-stonewall-riots>.
5. PinkNews, "Pittsburgh LGBT Bar Raid," *PinkNews*, May 6, 2025, accessed June 30, 2025, <https://www.thepinknews.com/2025/05/06/pittsburgh-lgbt-bar-raid/>.
6. Note: The FBI's 2024 report is reflective of statistical data from 2023. Human Rights Campaign, "New FBI Data: Anti LGBTQ+ Hate Crimes Continue to Spike, Even as Overall Crime Rate Declines," *Human Rights Campaign*, accessed June 30, 2025, <https://www.hrc.org/press-releases/new-fbi-data-anti-lgbtq-hate-crimes-continue-to-spike-even-as-overall-crime-rate-declines>.
7. *Id.*
8. Isabel Wilkerson, *Caste: The Origins of Our Discontents* (New York: Random House, 2020).
9. The U.S. Department of Justice has not yet released its 2024 report. U.S. Department of Justice, "Hate Crimes | Facts and Statistics," *Justice.gov*, accessed June 30, 2025, <http://justice.gov/hatecrimes/hate-crime-statistics>.
10. Anti-Defamation League, "Audit of Antisemitic Incidents 2024," *ADL*, accessed June 30, 2025, <https://www.adl.org/resources/report/audit-antisemitic-incidents-2024>.
11. U.S. Department of Justice, Civil Rights Division, "Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act of 2009," *Justice.gov*, accessed June 30, 2025, <https://www.justice.gov/crt/matthew-shepard-and-james-byrd-jr-hate-crimes-prevention-act-2009-0>.
12. Southern Poverty Law Center, "Hate Map," *SPLC*, accessed June 30, 2025, [https://www.splcenter.org/hate-map/?hm\\_year=2024&hm\\_state=DE](https://www.splcenter.org/hate-map/?hm_year=2024&hm_state=DE).
13. Delaware Online, "Antisemitism in Dela-

ware Quadrupled Last Year, Anti Defamation League Says," *Delaware Online*, March 23, 2023, accessed June 30, 2025, <https://www.delawareonline.com/story/news/local/2023/03/23/antisemitism-delaware-quadrupled-last-year-antidefamation-league-racism/70016319007/>.

14. Millville Volunteer Fire Company suspended the former firefighters upon learning of this incident. Delaware State Police, "State Police Arrest Two Firefighters in Hate Crime Investigation," *Delaware State Police*, April 16, 2025, accessed June 30, 2025, <https://dsp.delaware.gov/2025/04/16/state-police-arrest-two-firefighters-in-hate-crime-investigation/>.
15. State of Delaware Department of Justice, "Division of Civil Rights & Public Trust Secures First Hate Crime Conviction," *State of Delaware News*, February 10, 2022, accessed June 30, 2025, <https://news.delaware.gov/2022/02/10/division-of-civil-rights-public-trust-secures-first-hate-crime-conviction/>.
16. State of Delaware Department of Justice, "DOJ Secures Guilty Plea, Sentencing for Hate Crime," *State of Delaware News*, April 28, 2025, accessed June 30, 2025, <https://news.delaware.gov/2025/04/28/doj-secures-guilty-plea-sentencing-for-hate-crime/>.
17. Delaware's hate crime statute also includes interference with a person's lawful exercise of first amendment rights. 11 Del. C. § 1304(a).
18. 11 Del. C. § 1308(c).
19. DCRPT has not yet published a 2024 report. Delaware Department of Justice, *Hate Crime Report 2022-2023*, Division of Civil Rights & Public Trust, January 22, 2024, accessed June 30, 2025, <https://attorneygeneral.delaware.gov/wp-content/uploads/sites/50/2024/01/Hate-Crime-Report-2022-23.pdf>.
20. Quote by Reverend Dr. Martin Luther King, Jr.

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# Perhaps We Should Cry When a Terrorist Dies

## *Reflections on two trips to U.S. Naval Base Guantánamo Bay.*

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BY PATRICIA A. WISE, J.D.

**T**he U.S. Department of Defense selects non-governmental organization (NGO) observers to monitor the U.S. Military Commission proceedings at Guantánamo Bay, Cuba (GTMO). Observers are directed to attend, observe, and “be seen,” and to analyze, critique, and report on the proceedings at Guantánamo Bay. Reports from observers are intended to provide transparency regarding the proceedings and the assessment of international human rights. I have served as an observer on two trips to GTMO.

On a recent trip to Tennessee, I saw a fellow tourist wearing a t-shirt proclaiming that he didn’t “cry when a terrorist dies.” As one of only a few civilians to actually look directly into the eyes of 9/11 terrorist Khalid Sheikh Mohammed (sometimes known as KSM), the T-shirt tagline gave me pause.

Almost 3,000 victims were murdered on September 11, 2001. KSM and four of his co-conspirators have not yet been held legally accountable, even though KSM refers to himself as the “principal architect of the attacks,” and all five have confessed to varying levels of involvement. Although more than two decades have passed since the horrific events of 9/11, the impact of torture used in the detention of the terrorists has significantly impeded the legal process.

Legal proceedings take place at U.S. Naval Base Guantánamo Bay, the United States’ oldest base overseas, and the only one located in a Communist country. The base comprises 45 square miles leased from the Cuban government. The lease terms include “rent” of a little over \$4,000 per year in current dollars, paid by check, which Cuba does not cash. The base is a strategic logistics location for the Navy’s Atlantic Fleet and provides support for drug interdiction operations in the Caribbean.

Following the 9/11 attacks, about 660 prisoners have been held at Guantánamo. Of those, about 540 were released during the Bush administration, 200 during the Obama administration, one during the first Trump administration, and 25 during the Biden administration. 15 remain at GTMO, and three of those are eligible for transfer. The cost per detainee has been estimated at approximately \$14 million per prisoner per year. Approximately 800 troops and civilian contractors make up the remaining detainee guard force.

The legal structure at GTMO is a mixture of federal rules, civilian court procedures, and military court procedures, created specifically for this purpose. These past decades have been marked by significant delays in the prosecution of the terrorists, many resulting from the use or potential use of evidence obtained through torture. One of the terrorists, Ammar al-Baluchi, has been declared medically incompetent to stand trial, due to the impact on his mental health and a traumatic brain injury from the torture. He has been removed from the 9/11 case. (A military member of al-Baluchi’s defense team was so affected by photos and evidence of his client’s torture that he himself was treated for post-traumatic stress disorder.) And one of the terrorists, Mustafa al-Hawsawi, has a hospital-like gurney beside his



chair in the courtroom, as a result of abuse while in custody and several spine surgeries. Many of the detainees are unable to sit for long periods of time because of the torture. Hospice care is planned for several of the remaining detainees, who will likely die in custody.

In the court gallery, photography and recording are prohibited, as are mobile devices. Observers may take notes with pen and paper, but may not draw, doodle, or visibly react to the proceedings. Escorts and military police officers “supervise” the observers, even to restroom breaks. Many MPs identify themselves with aliases in the courtroom. Observers can and have been removed from the gallery for misbehavior.

The terrorists and their defense teams are seated in front of the observers and press corps section of the gallery. Defendants sit at the end of their respective counsel’s tables, and there are shackles on the floor at their seats. The chains are not visible from the jury box. In two visits to GTMO, I have not witnessed the use of any restraints during court proceedings. Observers view the proceedings from behind two-way, multi-paned glass (not bulletproof), and listen to the proceedings on a 40-second delay, to ensure confidentiality of classified information.

And this is when I looked into the eyes of KSM. The terrorists leave the courtroom one-by-one, with their respective assigned guards and military personnel, who carry the large plastic bins in which the terrorists store their legal materials. They walk directly toward the gallery on their way out the door. The other three 9/11 terrorists in court that day kept their eyes averted and did not look at us as they exited. KSM, however, looked directly at all of us, perhaps with mild interest. I cannot say that his eyes looked evil, or vacant, or in any way unusual. Still, I felt a chill.

I won’t likely cry when any of the 9/11 terrorists die. But maybe I should, given the ramifications of the torture utilized against the terrorists. This article does not address the specifics underlying the word “torture,” but I believe it more accurately conveys these atrocities rather than the euphemism “enhanced interrogation techniques.” (Interestingly, “enhanced interrogation” was originally a term used by the Gestapo.) The 9/11 murders and massive destruction can never be forgotten. But we must also consider the effects of our country’s treatment of the 9/11 terrorists.

First and foremost, victims and victims’ family members have seen no justice in over two decades. The lasting psychological harm and medical issues common to torture survivors create delays and raise legal issues that must be addressed. One is whether the torture has so tainted the entire legal process that it is impossible to conduct a fair trial. A key issue is whether any confessions or evidence gained during periods of torture should be admissible in court. In some cases, torture has led to false confessions or unreliable information, calling into question legal arguments based on this evidence. And defendants cannot always meaningfully participate in their defense due to the long-term impact of the torture.

The use of torture negatively impacts the United States’ moral position when advocating for human rights. Vladimir Putin has cited Guantánamo to refute criticism of Russian human rights violations, saying “What about Guantánamo? It is still working and doesn’t come under any kind of law. International, American, nothing. But it still exists.” And that “CIA prisons, which were opened in a lot of states exercise torture. Is that human rights? I don’t think that protects the rights of man.” Other terrorist groups cite the torture in their recruiting efforts.

Former prisoner of war and well-known opponent of torture, the late Senator John McCain, explained that U.S. troops take pride in the belief that our country has higher moral standards than its enemies. From the perspective of a POW, he wrote that “[y]our last resistance, the one that sticks, the one that makes the victim superior to the torturer, is the belief that were the positions reversed you wouldn’t treat them as they have treated you.” He also cited the specific danger to our own troops, in possible future captivity. “While some enemies, and al-Qaeda surely, will never be bound by the principle of reciprocity, we should have concern for those Americans captured by more conventional enemies, if not in this war, then in the next.”

We must reflect on the myriad ways torture has affected this process, damaging survivors, victims’ families, the military, the perception of the justice system, and the very reputation of the United States as a symbol of democracy. Dr. Martin Luther King Jr. said, “justice too long delayed is justice denied.” Surely that is a reason to cry. ☪

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**Patricia** is an Associate Professor at the Wilmington University School of Law and a nationally known employment law practitioner. She has been interviewed by NPR, quoted in the Wall Street Journal and The Economist, and has contributed to publications from San Francisco to Atlanta. Wise has testified before a Congressional subcommittee, the U.S. Equal Employment Opportunity Commission (EEOC), and the California State Legislature. This article does not reflect the views of Wilmington University and is reflective of the author’s personal views.



# Substantial Gains and Persistent Pains: The Ongoing Battle to Protect Worker Health and Safety

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BY KIMBERLY RICHARDSON, J.D.

**M**ost working Americans are at least vaguely familiar with the workplace health and safety rights afforded to them under the Williams-Steiger Occupational Safety and Health Act of 1970 (OSH Act).<sup>1</sup> However, some are surprised to learn that the OSH Act isn't a product of President Franklin D. Roosevelt's New Deal, which ushered in employment and labor laws like the Fair Labor Standards Act (1938)<sup>2</sup> and the National Labor Relations Act (1935).<sup>3</sup> The OSH Act came later, over 30 years later.

Prior to 1970, the landscape of workplace safety requirements in the United States was a patchwork of inadequate and inconsistent state and local safety laws and regulations, which left millions of workers vulnerable to injury, illness, and even death.<sup>4</sup> Moreover, the fragmented nature of laws created a competitive environment in which states with weaker health and safety standards were in a better position to attract new businesses, thereby limiting the incentive for states to implement more protective laws.<sup>5</sup>

The Congressional records from 1970 paint a bleak picture of workplace conditions that existed prior to the passage of the OSH Act:

The problem of assuring safe and healthful workplaces for our working men and women ranks in importance with any that engages the national attention today . . . 14,500 persons are killed annually as a result of industrial accidents; accordingly, during the past four years more Americans have been killed where they work than in the Vietnam war. By the lowest count, 2.2 million persons are disabled on the job each year, resulting in the loss of 250 million man days of work—many times more than are lost through strikes.

In addition to the individual human tragedies involved, the economic impact of industrial deaths and disability is staggering. Over \$1.5 billion is wasted in lost wages, and the annual loss to the Gross National Product is estimated to be over \$8 billion. Vast resources that could be available for productive use are siphoned off to pay workmen's compensation benefits and medical expenses.<sup>6</sup>

Congress could no longer ignore the human and economic costs of unregulated workplaces.

Both chambers of Congress generally agreed that a baseline level of safety was necessary to protect all workers, regardless of their location and industry, and ongoing work-related injuries and illnesses in the United States had resulted in a substantial and unsustainable burden upon and hinderance to interstate commerce.<sup>7</sup> However, Congress could not initially agree on how the federal government should address the problems.<sup>8</sup> Stakeholders were legitimately concerned about federal overreach into areas traditionally governed by states, the anticipated negative economic impact on businesses, the feasibility of implementing certain safety standards, and the structure and anticipated powers of the newly proposed agency that would be responsible for enforcing the federal law.<sup>9</sup>



Eventually, a compromise was struck, and, on December 29, 1970, President Nixon signed into law what we now know as the OSH Act.<sup>10</sup>

The OSH Act is designed “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.”<sup>11</sup> To accomplish this goal, the OSH Act established a federal “floor” of worker safety protections across the United States, extended protections to many sectors previously unregulated, and required businesses to focus on injuries and illnesses prevention in addition to post-incident response.<sup>12</sup>

Since the OSH Act’s enactment over 50 years ago, every industry sector in the United States now operates more safely, despite a constantly growing workforce and evolving workplace hazards in multiple industries.<sup>13</sup> While this achievement has, in part, been assisted by the economy’s shift from manufacturing to service jobs, the consistent downward trend across both fatal and nonfatal incidents strongly suggests a positive correlation with OSHA’s regulatory and enforcement activities.

Despite its success on the metrics, the OSH Act remains one of the most controversial pieces of legislation ever enacted in the United States, in part because it has remained largely unrevised since 1970.<sup>14</sup> And just like the language of the OSH Act itself, the resistance that existed in 1970 endures, although now manifested in budget limitations, executive orders, political pressures and other legal challenges.<sup>15</sup>

In 2024, the majority of Justices on the Supreme Court declined an opportunity to review the constitutionality of the OSH Act in *Allstates Refractory Contrs., LLC v. Su*.<sup>16</sup> However, Justices Thomas and Gorsuch supported the legal challenge with Justice

Thomas most notably stating: “The [OSH] Act may be the broadest delegation of power to an administrative agency found in the United States Code . . . If this far-reaching grant of authority does not impermissibly confer legislative power on an agency, it is hard to imagine what would.”<sup>17</sup>

Ongoing threats to the OSH Act raise important questions about the future of worker safety standards across the United States. Abolishing the OSH Act could force us to return to inconsistent state and local laws, which leave workers vulnerable and pose significant compliance problems for employers. The COVID pandemic demonstrated the challenges that modern day organizations face when trying to comply with inconsistent state and local health and safety regulations.

As we reassess the scope, breadth and constitutionality of the OSH Act, it is incumbent upon those of us who practice in this area to reaffirm our commitment to solutions that prioritize the health and safety of workers. We cannot afford to return to a patchwork of regulations that we know to be woefully inadequate to protect workers in this country. We cannot afford to minimize occupational safety and health as a privilege to be granted, a cost to be minimized, or a simple matter of legal compliance or economic efficiency. Our laws, now and in the future, should reflect our commitment to the dignity, well-being, and lives of every working individual in this country.

Life, liberty and the pursuit of happiness in the United States includes a justifiable expectation that Americans need not risk life and limb to simply put bread on the table. ☯

#### Notes:

1. THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970, Pub. L. No. 91-596, 84 Stat. 1590 (Dec. 29, 1970), reprinted in 29 U.S.C. § 650 et seq.

2. FMLA, 29 U.S.C. § 201, et seq. (The FMLA established a federal minimum wage, overtime pay requirements, and child labor standards).
3. NLRA, 29 U.S.C. § 151, et seq. (The NLRA protected workers’ rights to form unions and collectively bargain).
4. MARK A. ROTHSTEIN, OCCUPATIONAL SAFETY AND HEALTH LAW 2-3 (2017).
5. See MACLAURY, JUDSON, THE JOB SAFETY LAW OF 1970: ITS PASSAGE WAS PERILOUS, U.S. DEPARTMENT OF LABOR MONTHLY LABOR REVIEW (1981), <https://www.dol.gov/general/aboutdol/history/osh#:~:text=The%20Massachusetts%20report%20of%201872,factory%20safety%20and%20health%20laws> (last visited May 4, 2025).
6. *Atlas Roofing Co. v. OSHRC*, 430 U.S. 442, 444 n.1 (1977) (quoting S. Rep. No. 91-1282, p. 2 (1970), Leg. Hist. 142).
7. MACLAURY, *supra* note 5.
8. *Id.*
9. *Id.* See also ROTHSTEIN, *supra* note 4 at 6-8.
10. See generally OSH Act, *supra* note 1.
11. *Id.* at 1590 (preamble).
12. See generally *id.*
13. See, e.g., Bureau of Labor and Statistics (BLS) *Census of Fatal Occupational Injuries Summary 2023*, available at <https://www.bls.gov/news.release/cfoi.nr0.htm> (last visited April 29, 2025).
14. ROTHSTEIN, *supra* note 4 at 8.
15. Rep. Andy Biggs (R-AZ) thrice introduced the Nullify Occupational Safety and Health Administration Act (NO-SHA), a bill designed to completely abolish the OSH Act. See H.5813, 117th Cong. (Nov. 2, 2021), H.69, 118th Cong. (Jan. 9, 2023), H.86, 119th Cong. (Jan. 3, 2025).
16. *Allstates Refractory Contrs, LLC*, 144 S. Ct. 2490 (2024) (denying cert.).
17. *Id.* at 2490-91 (J. Thomas, dissenting) (internal citations omitted).

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# Global Lessons for Justice

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BY VERONICA J. FINKELSTEIN, J.D.

A fair and just legal system is one of the cornerstones of democracy. When a justice system functions effectively, all individuals are guaranteed the right to a fair trial regardless of their financial status. In the United States, the public defender system plays a crucial role in this process. Due in part to the Supreme Court's decision in *Gideon v. Wainwright*, public defenders are a mainstay of the American criminal justice system.

In *Gideon*, the United States Supreme Court interpreted the Sixth Amendment of the United States Constitution to guarantee the right to legal counsel for defendants facing felony criminal charges. Before *Gideon*, many defendants faced serious charges without the benefit of counsel.

Although *Gideon* broadly expanded protections for defendants, limitations on the right to counsel remain today. For example, in the United States, the right to counsel applies only to criminal cases. In civil cases—such as divorce, child custody, eviction, debt collection, or immigration proceedings—there is no constitutional right to a court-appointed lawyer. This is true notwithstanding that the outcome of many civil cases can dramatically impact a person's life.

Additionally, there is no comprehensive guarantee of counseling, economic empowerment, and rehabilitation for defendants in the United States. Diversionary programs are typically offered at the discretion of prosecutors, judges, or legislatures. Eligibility depends on factors like the type of offense, the jurisdiction, and the 'criminal history—meaning many defendants may find themselves unable to utilize the programs that exist.

As a result of these and other gaps, the American justice system still has room for improvement. It can find inspiration for solutions to bridge these gaps in other countries, including Nigeria and Kenya. The criminal defense system across the African continent varies significantly due to differences in legal systems, economic conditions, and judicial effectiveness. However, Nigeria and Kenya provide interesting models for how the United States might further enhance its criminal justice system.

In some Nigerian states, a public defender is provided in some civil cases. The Lagos State Office of the Public Defender (OPD) was established in 2000 by the civilian government of Governor Bola Ahmed Tinubu. With a population of 15-20 million people, Lagos is the most populous city in Africa and one of the fastest-growing urban areas in the world. The OPD, which is a division of the Ministry of Justice, employs 38 public defenders. Along with a handful of volunteers, these 38 lawyers defend the city's residents in both civil and criminal matters.

Despite its limited resources, the OPD is committed to ensuring access to justice for all Lagosians, particularly the most vulnerable. The OPD offers legal advice, assistance, representation, education, and alternative dispute resolution mechanisms like mediation and conciliation. Its lawyers handle everything from homicide cases to custody disputes. As Yetunde A. Ajayi, Deputy Director at the OPD, notes: "Providing free legal representation in both criminal and civil cases at the Office of the Public Defender in Lagos is a quite a task given that there are so few of us serving so many. Yet, it remains very essential for the indigent citizens of Lagos State as it impacts fundamental rights, determines liberty and shapes livelihoods."



To ensure high-quality representation, the Ministry of Justice has partnered with the National Institute for Trial Advocacy (NITA) and the law firm of Jones Day to provide regular, ongoing trial skills training. NITA is an American non-profit organization specializing in teaching practical skills through a “learning by doing” methodology. Using a custom case file addressing both civil and criminal issues, OPD lawyers develop skills to hone their advocacy in both areas. NITA’s efforts in Nigeria are spearheaded by retired Seventh Circuit Judge Ann Claire Williams, who emphasizes: “It is an extraordinary experience to be in Lagos State in Nigeria, working with public defenders and prosecutors, as well as members of the judiciary to advance the cause of justice for those who are most in need. This was the ninth training we’ve done with NITA and with Jones Day for the last five years. As always, we learn more than we give. The talent and the commitment to justice by everyone, no matter how difficult their circumstances is the reason we keep coming back. As challenging as our criminal justice system is and how overworked our public defenders are, the difficulties faced here are even more challenging.”

Robust representation at trial is crucial, but a truly effective justice system requires efforts outside of the courtroom. In Kenya, restorative justice starts at the grassroots level through organizations like Justice Nest.

Justice Nest, founded by Executive Director Miriam Wachira, is a non-profit organization dedicated to ensuring access to justice for vulnerable families and individuals in Kenya. The organization focuses on protecting and restoring families in contact with the justice system,

with a particular emphasis on women, children, and prisoners. Recognizing that the overuse and abuse of prosecution and imprisonment lead to family disintegration, Justice Nest addresses these issues through various programs.


One of its key initiatives is the Mothers Diversion Program, which seeks to divert mothers and children from the justice system by focusing on rehabilitation rather than punishment. This program acknowledges that criminalizing vulnerable women often exacerbates their challenges, making it harder for them to access routes out of the issues driving their offenses. By offering pre-court diversion, Justice Nest provides a swift and meaningful response to offenses while reducing or avoiding harmful criminal justice system involvement.

Additionally, Justice Nest offers a Juvenile Justice Diversion Program that provides support, intervention, and diversion opportunities for children who have come into conflict with the law. This program addresses the root causes of juvenile delinquency and provides tailored interventions to prevent further involvement in criminal activity and promote long-term success for participating youth.

To bridge the justice gap, Justice Nest also conducts Prison Paralegal Training programs. Access to legal representation is a fundamental right, yet many prisoners in Kenya face significant barriers to obtaining adequate legal assistance. By training prisoners as paralegals, the organization empowers them to navigate the legal system, advocate for justice, and create a lasting impact within their communities.

Through these initiatives, Justice

Nest strives to create a just and equitable society where every family and individual has access to the justice they deserve. Their family-centered holistic approach aims to mend the social fabric by addressing systemic issues within the justice system and promoting restorative practices. As Wachira herself notes: “In many African communities it is often said that, ‘the child who is not embraced by the village will burn it down to feel its warmth!’ The justice system response to the plight of those both in conflict and contact with the law impacts the cohesion and peace in the society. Hence the need for the system to be people-centered and holistic as opposed to an offence and procedural approach.”

Although the American criminal justice system has many strengths, it is not immune to improvement. Considering practices from other countries, like Nigeria and Kenya, can help the American system achieve its goal of truly comprehensive and effective access to justice. 

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**Veronica** is an Associate Professor of Law at the Wilmington University School of Law and a Litigative Consultant to the U.S. Attorney’s Office for the Eastern District of Pennsylvania. She serves as a Program Director for the National Institute for Trial Advocacy and travels across the country teaching advocacy skills. All views expressed in this article are her own.





# DELAWARE STATE BAR ASSOCIATION BENCH AND BAR CONFERENCE 2025

## *Building a Better Future* **Chase Center on the Riverfront**

**T**he 2025 Bench and Bar Conference on June 12 brought together a sold out crowd of more than 500 members of the DSBA at the Chase Center on the Riverfront. This year's theme was Building a Better Future: Learning From The Past To Shape The Future Through Education And Technology.

The day began with welcoming remarks from Mary Dugan, DSBA President, followed by the State of the Judiciary Address by The Honorable Collins J. Seitz, Jr., Chief Justice of the Supreme Court of Delaware.

The morning CLE Session featured a video about the Hockessin Colored School 107C, followed by a panel discussion with James Knott, former student of HCS 107C, The Honorable Matt Meyer, Dr. Ray Blackwell, and Betsy Renzo, Esquire.

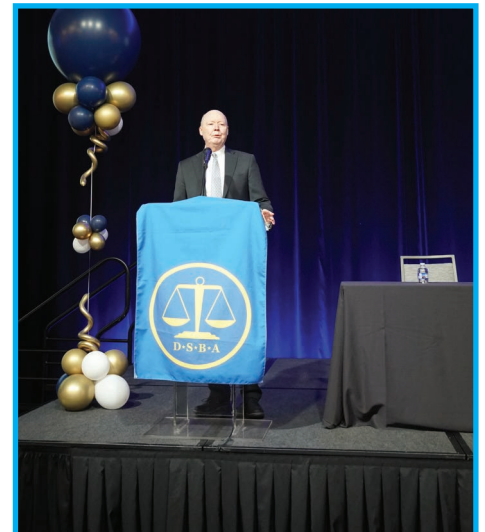
In between the two CLE segments was the DSBA Annual Meeting, in which Mary Dugan, gave her final remarks as outgoing President of DSBA and passed the gavel to David White.

Also at the Annual Meeting, DSBA honored several of the attorneys who had passed their 50 year mark as members of the Bar. In addition, the prestigious First State Distinguished Service Award was presented to Michael Houghton, Esquire (read his remarks on page 39) by Attorney General Kathleen Jennings.

For the afternoon CLE Session, attendees heard from Aubrie Souza and Zach Zarnow from the National Center for State Court's Access to Justice team, who presented on the potential, and potential challenges, of using AI to advance access to justice.

The day's events concluded with a Dessert Reception as well as recognition of the student artwork from the

Delaware Court of Chancery's Third Annual Student Art Competition. It was truly a wonderful event. The DSBA is grateful to the exhibitors and sponsors from this year's event. We look forward to seeing you next year!







**T**hank you, Kathy [Jennings], for your very kind and generous introduction; our decades of friendship and collaboration has been a large part of my career and helped shape my history. Your many years of leadership in Delaware and beyond—and your advocacy now—during these incredibly challenging times—shows me, Kathleen, that you are much more deserving of this award than I am.

I am humbled, grateful and pleasantly surprised by this award.

My career in law—4 decades at Morris Nichols—in business, public policy and politics has never been planned. Serendipity, curiosity, friendships and mentors have defined my more than 40-year career—a career that is still active and is still developing (getting an award like this suggests the recipient is either done or dying or both—neither are true in my case).

I think the best part of being recognized today is that I can give you some unsolicited advice... and it is this:

Work hard but be grounded in—and cherish—your family—in my case, my wife, Leigh, and son, Andy, and daughter, Emily, and their spouses, Mandy and Josh, and my grandchildren, they are your foundation and your lodestar. Cherish your friends and cherish and engage in your community.

And take care of yourself—your

physical and mental health. That sounds trite but if you aren't protecting your health—your law practice, your career will all unravel.


Remember that Delaware is unique—our corporate laws, our Courts provide us livelihoods and professional roles on a national stage that are disproportionate to our size, but our franchise and our institutions are fragile things. Support and be engaged in our legal and political community, don't just sit behind a desk or on Zoom calls for a living—be mentored and mentor others, be an engaged citizen as well as an attorney.

To me, the real essence of being a Delaware lawyer is serving as a “citizen lawyer”.

I like to think I've done that for 43 years. I encourage you to do your own version of a “citizen lawyer”—it will enrich your practice and your life.

*--Michael Houghton, Esquire, recipient of the First State Distinguished Award*



*Photos, clockwise from bottom left, page 38: A few of the 50-year attorneys, from left: David McBride, the Honorable Josh Martin, David Ripsom, Charles McDowell, William Kirk, and the Honorable Robert Coonin; State of the Judiciary Address by The Honorable Collins J. Seitz, Jr., Chief Justice of the Supreme Court of Delaware; former DSBA president Mary Dugan with incoming DSBA president David White; Photos, clockwise from top left, page 39: First State Distinguished Award recipient Michael Houghton with Mary Dugan; morning CLE session with a panel discussion with James Knott, former student of HCS 107C, Dr. Ray Blackwell, The Honorable Matt Meyer, and Betsy Renzo, Esquire; afternoon CLE session from Aubrie Souza and Zach Zarnow from the National Center for State Court's Access to Justice team; from the Delaware Court of Chancery's Third Annual Student Art Competition. *

# DELAWARE LOSES A LEGAL LEGEND AND CHAMPION

## Victor F. Battaglia, Sr. Esquire

1931 - 2025

BY WILLIAM D. JOHNSTON, ESQUIRE

**O**n May 22, 2025, Delaware lost a legal legend and champion, with the passing of Victor F. Battaglia, Sr. I commend to you his obituary, lovingly authored by his son Victor, Jr. ([www.delawareonline.com/obituaries/pdov1186273](http://www.delawareonline.com/obituaries/pdov1186273)).

In 2021, it was my privilege to report in this publication on then-Governor John Carney's awarding to Victor of the Order of the First State, the highest honor that a Delaware governor can bestow. I noted that the award recognized Delawareans who have had a significant impact upon the State and its citizens.

Victor was a "dean" of the Delaware Bar, promoting and protecting the Rule of Law and doing his best to ensure access to justice for all Delawareans throughout his more than 60-year career as a Delaware attorney. As one of the State's most talented trial lawyers, he had been recognized as an elected Fellow of the American College of Trial Lawyers.

Victor was a selfless volunteer, assisting fellow Delaware lawyers in need of practice guidance or other support. He was a Past President of the Delaware State Bar Association, former Bar Delegate and then State Delegate to the American Bar Association's House of Delegates, and a former member of the board of directors of the American Judicature Society. He had been a member of (and typically had chaired) virtually every significant committee of



the Delaware Bench and Bar, had been a member of the Judicial Nominating Commission, and had supported the courts and been instrumental in connection with the Delaware Bar Foundation (including IOLTA funding). He encouraged alternative dispute resolution and, as a champion of civil rights, he was recognized by the Delaware Chapter of the ACLU.

As an attorney in private practice, Victor made compassion and empathy his touchstones. Hence, he received well-deserved recognition by the St. Thomas More Society. He was a dedicated public servant, working as City Solicitor in the wake of Wilmington's tumultuous riots of 1968. He was a longtime lawyer-citizen involved with Delaware politics. He was a community leader, working with charitable organizations such as the American Heart Association, United Way, the Delaware Art Museum, and the Combined Campaign for Justice. Importantly, Victor

and his wife, Toni, established, in honor and memory of their late son, Christopher, an award in recognition of—and encouraging—pro bono legal representation in Delaware.

On a personal note in the 2021 article, I shared that I had known Victor for over 45 years. I first met him when I was in my junior year at Brandywine High School and interned at his firm, Biggs & Battaglia (which now includes Victor, Jr. and previously included Chief Magistrate Judge Mary Pat Thyng and others). The internship had been life-shaping for me, with "Mr. Battaglia" taking me under his wing and proceeding to model what I now know to be the best of the practice of law. In the ensuing years, Victor continued to be a model and a mentor to me (and to so many others). Most importantly, we became friends.

Now, slightly more than four years after publication of the Order of the First State article, and more than 50 years after Victor and I first met, I am privileged to reflect back on a deep friendship with Victor (or, at his invitation, "Vic") and a growing friendship with Victor, Jr.—resulting in large part from the three of us partnering with one another to include Victor, Sr. in the Delaware State Bar Association's oral history project. The upshot, from my perspective, was an informative and entertaining interview of Victor posted on the DSBA website ([www.dsba.org/about-the-dsba/oral-history-project/](http://www.dsba.org/about-the-dsba/oral-history-project/)). And the



lead-up to the interview was so enjoyable on my part, as Victor shared during our many “prep” lunches his memories and insights from more than nine decades of a life well-lived.

Nothing that I can say here will ever even begin to top the obituary authored by Victor, Jr. As he so aptly put it in describing his dad, “He learned hard work and concern for others in the family grocery store.” And, “It was always his honor to serve.”

Governor Carney, now Mayor of Wilmington, during the presentation of the Order of the First State in Victor’s law offices (compliments of the COVID pandemic), joked that Victor had “moved uptown,” having grown up at Second and West Streets in Wilmington (where his immigrant parents ran two businesses) and at the time of the award and until his passing practicing law at Tenth and Orange Streets. The governor also thanked Victor for his service and lauded him as “one of the good guys.” And the Democrat governor, noting Victor’s deep-rooted



Victor Battaglia, Sr. with his wife Antoinette during the holidays in the 1950s.

Republican party involvement, said that one thing was clear: Victor “would always put Delaware first.”

Please join me in wishing the Battaglia family our deepest sympathies and condolences and in celebrating the life and legacy of Victor F. Battaglia, Sr., a Delaware legal legend and champion. 🕊️



**Bill Johnston** is a partner at Young Conaway Stargatt & Taylor, LLP. He is a past president of the DSBA.

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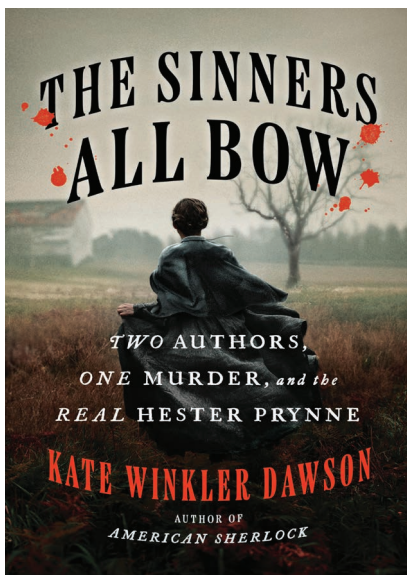
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# Stranger Than Fiction



***The Sinners All Bow,  
Two Authors, One Murder, and the  
Real Hester Prynne***  
By Kate Winkler Dawson  
(Putnam, 2025)

**T**he *Scarlett Letter* is a classic of American literature, read by tens of thousands of middle and high school students every year. Set during the years 1642-49 in Puritan, Massachusetts, author Nathaniel Hawthorne tells the tale of Hester Prynne, a woman who becomes pregnant by a man to whom she is not married (and whose identity she will not disclose). As part of her punishment, she is shunned by society and forced to wear the letter “A” (for adultery) in scarlet. The novel remains a rite of passage for many in public education.

But what if the book was based, in part, on a true (and more horrific) story? What if, in fact, Hawthorne drew inspiration from the real life death of Sarah Maria Cornell, a “factory girl” of the 1830’s, found hung, in the early morning hours of December 21, 1832, in Tiverton, Rhode Island. Cornell was pregnant, and the alleged father was a married minister, Ephraim Avery, who would go on trial for Sara Cornell’s murder the following year.

In what may very well be the first “true crime” book published in America, Catharine Williams first wrote about Sarah Cornell and the trial in 1833, and it is her book which is the primary source for Kate Winkler Dawson’s own book about this long-forgotten trial, *The Sinners All Bow, Two Authors, One Murder, and the Real Hester Prynne*.

Dawson’s modern account, though, is more than just a retelling of Williams’ 1833 account. Dawson reviewed other primary sources and conducted extensive research as part of her 2025 book. She reviewed the trial records, and she had unsigned letters found in Sarah Cornell’s trunk after her death analyzed by a handwriting expert (something not available in the 1830’s).

Dawson’s book ultimately consists of three parts. It is a story of 1830’s New England and the mill economy that developed there to turn raw cotton and other fibers into fabrics. Thousands of young (and older) women toiled in these factories, which were a major part of the New England economy. It is also the story of Sarah Maria Cornell, who bounced from town to town, factory to factory, in the Connecticut, Rhode Island, Massachusetts area. Even with the independence that millwork could afford, many young women struggled, and Sarah was no exception. She found religion in the Methodist movement of the 1820’s and ‘30’s, but ultimately it was her involvement in religion that would lead to her death.

Was Sarah’s death a suicide (as first thought) or murder? And who was the father of Sarah’s unborn daughter? Ephraim Avery, a Methodist minister, would be charged with the crime and go to trial; he was alleged to be the father—but was he the father or not? The main focus of Dawson’s book is the investigation into Sarah’s death and the subsequent trial.

There was no “CSI” in the 1830’s. Today, DNA testing would conclusively demonstrate whether Avery was the father or not. Modern crime scene investigation would also be able to establish whether Sarah was dead prior to being hung, or whether she died as a result of the hanging itself. Sarah’s body had bruising which suggested to those who examined her body that there had been a struggle, but no one who first investigated could say for sure.

The prosecution’s case relied entirely on circumstantial evidence. Sarah had told a few people that Avery was the father, indeed, she told those same people that Avery had raped her, but he denied everything. Avery had gone out for a lengthy walk the day of the death, so he could have been at the crime scene; but no one could identify him as being at or near the scene. A note left in Sarah’s trunk at her boarding house read simply: “If I am missing enquire of the Rev. E.C. Avery.” There were other unsigned letters in Sarah’s trunk, but Avery would deny he had written them.

The trial was lengthy. The prosecution’s case laid out a chronology of circumstances strongly suggesting Avery was a murderer. He had the means, motive, and opportunity. The defense countered with an attack on Sarah’s character and state-of-mind. She was an unchaste woman, who slept with many men. She was distraught over her pregnancy. Avery had had Sarah removed from membership in his church because of her sins (or so he claimed) and she wanted revenge—her suicide was an attempt to frame him. Yet Sarah had told her doctor, and her sister and brother-in-law that she was going to keep the baby and raise the baby herself. In this regard, she was encouraged to reach out to Avery and seek child support. Why would Sarah have committed suicide if she intended to keep her child?

Modern forensics would have supplied at least some answers to the questions that 1830’s science could not answer. And perhaps it would have dis-

covered more. But what forensics would have shown will forever be in doubt.

Catharine Williams’ 1833 book was a bestseller in its day. But, was the story of Sarah Cornell the basis, or at least partial inspiration, for *The Scarlett Letter*? Dawson provides no evidence to suggest that Hawthorne had read the earlier book. The time periods in each are different. Hester Prynne is not murdered, nor does she commit suicide, but lives to raise her daughter. However, both Hawthorne’s 1850 novel, as well as Williams’ 1833 book, along with Dawson’s modern 2025 account, do all deal with many of the same issues and themes, even if one is a work of fiction.

Several years ago, a friend suggested to me that re-reading *The Scarlett Letter* as an adult would offer insights and nuances that a teenager might easily have missed. Having read *The Sinners All Bow, Two Authors, One Murder, and the Real Hester Prynne*, I plan to do just that, but I would suggest reading Dawson’s most recent book, even if you have no interest in reading or re-reading Hawthorne’s novel. 📖

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THE JUDICIAL PALATE | BY SUSAN E. POPPITI, ESQUIRE



# A Picnic Poulet for Pépin

© istockphoto.com/oigna

Chicken is one of the most versatile summer proteins. Grilled and spatchcocked (aka butterflied) or roasted whole, this poultry can serve as a light dish to showcase your herb garden. Over the years, I have shared several chicken recipes, including Chicken Tagine (May 2015), Coq au Champagne (January 2021), and Chicken Tacos (March 2022). But no one knows more about *le poulet* than culinary icon Jacques Pépin, whose 90th birthday is this December.

Many of us have likely seen Pépin on TV cooking with Julia Child. His first show dates to the early 1980s, and he continues to instruct to TV audiences, sometimes while sipping a glass of French white. Some of us may even have one of his over 30 cookbooks in our home collection. I have two: *Jacques Pépin New Complete Techniques* (Black Dog & Leventhal, 2012) and his more recent *Art of the Chicken* (Harvest, 2022).

The first is a culinary encyclopedia. In its over 700 pages, Pépin clearly outlines the techniques for essentials...preparing Gravlax,



Many of us have likely seen Jacques Pépin on TV cooking with Julia Child. His first show dates to the early 1980s, and he continues to instruct to TV audiences, sometimes while sipping a glass of French white.

boning a chicken, or making a brioche dough. The second is a much lighter read and features Pépin's recipes and illustrations of his favorite subject: *le poulet*. After all, Pépin is not only famous for his culinary artistry but also his paintings of landscapes, abstract scenes, and, of course, chickens.

Recently, I explored The Jacques Pépin Foundation website and learned about its 90/90 Dinner Series to celebrate his dedication to culinary education. (<https://jp.foundation/news/celebrate-jacques-90th-birthday-nationwide>) Craving more information about Pépin's life, I decided to read his memoir called *The Apprentice: My Life in the Kitchen* (Harvest, 2015).

A fun and easy read, *The Apprentice* begins with Pépin's childhood in Bourgen-Bresse, just north of France's food capital of Lyon. At a very young age, he worked as a cowherd during the summer and chopped vegetables in his parents' restaurant. Over the next eight or so decades, Jacques became personal chef to Charles de Gaulle, recipe developer for Howard Johnson's, cookbook author, and culinary educator. I look forward to learning more about Pépin's story as I continue my summer reading.

Getting back to where I began this summer column, I offer a simple chicken salad idea to enjoy the leftovers from your grilled or roasted whole chicken. As I don't particularly enjoy mayonnaise-y salads, my dressing is olive oil based. (Even for potato salad, I use olive oil, vinegar, and fresh herbs.)

Pull apart and shred the leftover chicken.

Pépin also recommends this method in his chicken salad recipes for tastier bites. Mix with candied pecans and arugula. Toss with balsamic vinegar glaze or Champagne vinegar along with extra virgin olive oil. Season with sea salt and fresh ground pepper. Enjoy as a picnic salad or a baguette sandwich.

In honor of Pépin, who notes in his memoir that he favors the young wines of his youth, I recommend a Beaujolais. This region is celebrated for its red Gamays, like the Beaujolais Nouveau released every November, but also produces a small percentage of Chardonnays. Many are aged in stainless steel, preserving crispness and acidity, and have notes of citrus and stone fruits. Either would be an excellent pairing for the summer poulet while paying homage to Pépin's tastes.

Joyeux Anniversaire, Jacques Pépin! 🍷

**Susan E. Poppiti** is the owner of Susan Poppiti Math Tutoring LLC. Susan holds a WSET (Wine and Spirit Education Trust) Level 3 Award in Wines with Merit. You can contact Susan at [spoppiti@hotmail.com](mailto:spoppiti@hotmail.com) and find a searchable collection of her "Judicial Palate" articles at [cucinadipopppiti.com](http://cucinadipopppiti.com).



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# ANNOUNCING

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*Left to right: Paul Heath, president; Jeff Moyer, executive vice president; Matt Criscimagna, senior vice president. All will remain active in their respective practice areas.*

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# LGBTQ+ Section Summer Reception

Thursday, July 10, 2025



The 2025 LGBTQ+ Section Summer Reception took place on Thursday, July 10 at the Queen in downtown Wilmington. So many people came out to honor Delaware Volunteer Legal Services Deputy Director Jacki Chacona, Esquire and her lifelong dedication to helping those in need. The Section is eternally grateful to all the sponsors who contributed more than \$32,000 for the DSBA 1L & 2L Clerkship Program. The sponsors' generosity allows five additional law students to take advantage of the program and learn about Delaware's legal community.

*Photos, clockwise from top right: Attorney General Kathy Jennings with DSBA president David White; the summer reception was in the Olympia Room at the Queen; from left to right: The Honorable Bill Chapman, Jr., Incoming Chair for the LGBTQ+ section Ciara Sprance, Esquire, Jacki Chacona, Esquire, and the Honorable Jan. R. Jurden, dean of the Wilmington University School of Law.*





# Nominations Sought for 2025 Awards

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

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

## AWARDS DESCRIPTION

### **Daniel L. Herrmann Professional Conduct Award**

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

### **Outstanding Service to the Courts and Bar Award**

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

### **Distinguished Mentoring Award**

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

### **Government Service Award**

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

*These are not necessarily annual awards. All or some of these awards will be presented only upon the recommendation of the Awards Committee and approval by the Executive Committee of the DSBA. Please note that previous nominations must be renewed to be considered. These awards will be presented in a special Awards Luncheon in December 2025.*

## **Delaware State Bar Association Awards Nomination Form**

Name of Candidate: \_\_\_\_\_

Title/Occupation of Candidate: \_\_\_\_\_

Award: \_\_\_\_\_

Date: \_\_\_\_\_

Nominator: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

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

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Nominations should be submitted by **September 5, 2025** to Karl G. Randall, Executive Director at [krandall@dsba.org](mailto:krandall@dsba.org).



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