



THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

David A. White, Esquire
Delaware State Bar Association
President, 2025-2026



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DSBA BAR JOURNAL

SEPTEMBER 2025 | VOLUME 49 • NUMBER 2

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The *Bar Journal* is published and distributed by the Delaware State Bar Association
704 North King Street, Suite 110
Wilmington, DE 19801
P: 302-658-5279
F: 302-658-5212
www.dsba.org

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

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

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Delaware State Bar Association
704 North King Street, Suite 110
Wilmington, DE 19801
or emailed to: dbouchatfriedman@dsba.org

Letters to the Editor should pertain to recent articles, columns, or other letters. Unsigned letters are not published. All letters are subject to editing. Send letters to the address above, Attention: Editor, Bar Journal. The *Bar Journal* Editorial Policy is available upon request.

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THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

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ON THE COVER: DSBA President David White, Esq., courtesy of DICK DUBROFF/
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It's Our Bar Association: Get Informed, Get Involved, and Stay Engaged

You may not realize it, but the members of the Delaware Bar operate a business entity known as The Delaware State Bar Association ("DSBA"). The DSBA is an appropriately diverse member organization, geographically and otherwise, whose purposes and objectives include the advancement of the science of jurisprudence, securing proper statutory reforms, preserving proper standards for members of the Bar, maintenance of honor and dignity in the profession, upholding principles of legal ethics and professional responsibility, cultivation of fraternal relationships among the Bench and Bar, perpetuation of legal history and the public perception of the profession, and to speak on behalf of the courts to preserve their honor, integrity, high standards and proper remuneration.

The business of the DSBA is managed and directed by the Executive Committee, a group composed of nearly 30 lawyers from all three counties. The day-to-day operations of the DSBA are overseen by the Executive Director, who serves at the pleasure of the Executive Committee, and the hard-working and dedicated staff, who serve at the pleasure of the President. There are also more than 20 separate Standing Committees and Special Committees and 29 individual sections of the DSBA. It's an understatement to say there is a lot going on.

Of the 4,039 current "active" members of the Delaware Bar, more than 3,000 of us are members of the DSBA. If you do the math, that means 75% of the members of

the Bar are also members of the DSBA. That's good, but we can do better. One of my goals this year is to shatter the DSBA membership record. With your help, we can do that. Having just returned from the Annual ABA Conference in Toronto, however, I can assure you that our high percentage of membership is the envy of every other state bar association... especially the voluntary bar associations like ours. Although we suffer from an embarrassment of membership riches, I am asking those of you who are not currently involved with the DSBA to please join (or re-join) us, get informed, get more involved, and stay engaged with us this year. There is a lot of opportunity to do good things for the DSBA, the Delaware Bar, and our profession.

Operating the business of the DSBA takes a lot of effort. For this, my second President's column, I want to "open the kimono" a bit and provide you with some of the important numbers...and thank you again for your continued membership and support. In June, 2025, the Executive Committee approved a \$1,701,000.00 budget for fiscal year 2025-2026; a small increase over fiscal year 2024-2025. To those of you unfamiliar with the fiscal operations of the DSBA, I wanted to remind you the DSBA is a non-profit, IRS §501(c)(6) entity.

From a revenue perspective, approximately 47% of the DSBA's revenue this fiscal year, which began July 1, will be generated from your membership and section dues. This is consistent with past years. It goes without saying that you, our

members, are the key to our long-term financial success. Another 44% of our revenue will be generated from DSBA's excellent and engaging CLE programs. This is also consistent with past years. Your continued attendance and participation in our CLE programs is the second key to our success...and is also very much appreciated. Regarding CLE revenue, last fiscal year was our best year ever...nearly \$800,000 in CLE revenue, and we are confident we can do even better this year. Just watch us!

In decreasing order of revenue generation, this monthly publication, *The Bar Journal*, brings in about 4.5% of DSBA's budgeted revenue and member functions and rental income bring in approximately 3%. The remaining revenue, approximately 1.5%, comes from sales of our *Legal Directory*, the *Delaware Law Review*, our Lawyer Referral Service, our Legacy Wall, interest, investment and dividend income, DSBIS income, DE-LAP expense reimbursements, and miscellaneous other income. As a member association, we are always looking for alternative sources of non-dues and non-CLE revenue, so please let us know if you have any creative ideas.

From an expense perspective, the DSBA has historically run lean and mean...and we will continue to do so this year. The DSBA employs a single Executive Director, Karl Randall, a member of the Delaware Bar, and seven excellent, dedicated, and hard-working staff members: LaTonya Tucker, Deirdre Sadler-Crew, Aqueelah Harris, Lauren Delle Donne, Danielle Bouchat-Friedman, Angela Rooney, and

Alison McLaughlin. Believe me, Karl and the DSBA staff are working hard for you. We are fortunate to have them and we view each of them as vitally important members of the DSBA family.

The DSBA also leases office and CLE space from the State of Delaware at 704 King Street; the former Custom House Square and Alpha Technologies building behind the Double Tree Hotel. Those two expense items, rent and employee related expenses and benefits, are just under 50% of our expected expenses. As prudent fiscal stewards of the DSBA's money, I can assure you that moving from the Renaissance Centre early last year saves us thousands of dollars every month. Additionally, although the DSBA derives a significant amount of revenue from its excellent CLEs, its publications, and member functions, it costs money to make money. Over the past year we have

also invested in the DSBA's long-term technology infrastructure needs; money spent prudently, which was long overdue. We finally got rid of the "chicken wire and duct tape" that held our technology infrastructure together.

Overall, we have a fantastic organization, but we can only be as strong and successful as the commitment, involvement, and engagement of our members. Looking ahead, I hope you will consider joining me and the rest of the Executive Committee...and help propel and sustain the DSBA well into the future. Our envious membership participation rate and our CLE revenue are testaments to the hard work of our Executive Director, the dedicated DSBA staff, the thoughtful leadership of Chief Justice Seitz and his judicial colleagues, the commitment of our Executive Committee, section leaders, committee members...and all of you.

This year especially, I will be relying on all of them, and on all of you, to keep us going.

Thank you for your continued support and membership in the organization we call the DSBA. I hope you will get informed, get involved, stay engaged, and give me and the DSBA your trust. 🙏

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/).

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Competition Among Colleagues in Legal Practice: A Good or Bad Thing?

My daughter completed a legal internship at Delaware Volunteer Legal Services this summer. Based on her report, the experience was a collegial and cooperative one. She learned a great deal and derived satisfaction from the feeling that she contributed to the office in a meaningful way. Instead of competition among the attorneys and students working there, she felt an overwhelming sense of cooperation and unity in the common goal of serving the DVLS clients, many of whom were struggling with very difficult situations, such as domestic violence.

Her experience caused me to reflect on my last legal internship too many years ago to count. Admittedly, this is not an apples-to-apples comparison (public interest vs. BigLaw private practice, to start). But the biggest difference that stands out to me now is the highly competitive nature of my experience, in contrast to my daughter's very cooperative one.

"Survivor" BigLaw Style

While still in law school in the Washington, D.C. area, I

obtained a "clerkship" at the D.C. office of a "BigLaw" firm based out of Chicago. The D.C. office was relatively small, around 35 attorneys. At the time, the firm had decided they were too small to have a formal summer associate program, and instead they would hire "clerks" to work during the school year. It was made clear that these "clerkships" had the possibility of materializing into an associate offer upon graduation.

I was profoundly grateful to have obtained such a clerkship, particularly after my interview with the hiring partner when his opening salvo was "we've never hired anyone from [my inferior law school]¹ before, but . . . [we were impressed with your resume, blah blah blah]." After being told I was hired for the clerkship, I was also told that a law student from another (more impressive) local law school had also been hired, and that "there was most likely only one full-time position to be offered." It was made clear to me that the other law student had the leg up on this competition, being from a more favored law school and all.

I can only presume that my counterpart was told something similar about the two of us competing for a single spot. As you might imagine, this was not a recipe for cooperation, collaboration, or even a mildly comfortable working relationship. I quickly made friends with a first-year associate (she remains my friend today and was the bright spot of this trying situation), and we dubbed my competitor “Evil Nemesis” (“EN” for short). I couldn’t stand the guy. I had to force a smile with every interaction. Any passing comment by my firm’s attorneys referencing EN in a positive way made me wince. It was a highly uncomfortable and unpleasant experience.

Ultimately, we both received and accepted offers as full-time associates. I cannot say my feelings about EN ever improved, well after our “Survival of the Fittest” clerkship experience ended. He was forever my Evil Nemesis and the uneasy sense of him as my competitor never faded. Looking back on it now, I can say he really wasn’t a bad person, but the situation set up for us sure was.

Did this situation make me work harder? Produce better quality work for the clients? I don’t think so. After all, the arrangement offered the potential for a permanent, well-paying job after graduation. I feel confident that was incentive enough to for me to produce my very best work. Did it hurt my work product? Probably not, but it sure did not make the work environment a pleasant one.

The Upsides of Competition

What role should competition play among colleagues in a legal setting? Should competition be actively stoked by the legal employer? Lawyers are naturally competitive people; we would not be drawn to the profession if we didn’t like to win.

There is no doubt that competition can serve as a powerful motivator for associates in law firms. Every law firm I have worked in has shared associates’ billable hours and production (amount

of dollars brought into the firm) in one form or another—usually not identified by name to fellow associates. This likely fosters competition and possibly more billable hours for the firm. As an employee, it also provides fair notice of how you are performing relative to your colleagues. This is a good thing, because it prevents any surprises come review time. If you are far underperforming your colleagues in terms of billable hours, that’s important information to know—sooner rather than later.

The Drawbacks of Competition

There is no denying the drawbacks of this sort of competition, especially among the Type A, overachieving, highly competitive workforce that is already drawn to practice law. Excessive competition among associates can lead to a toxic work environment, where individuals prioritize personal success over collaboration and teamwork. This can result in increased stress, burnout, and a decline in job satisfaction.

An overly competitive environment can discourage knowledge sharing and collaboration, as associates may be reluctant to assist their peers for fear of losing their competitive edge.

Managing Competition in a Positive Way

To harness the benefits of competition while mitigating its drawbacks, legal employers should adopt strategies that promote healthy competition. Opportunities to celebrate team victories by recognizing collaborative efforts should not be overlooked. By recognizing and rewarding collaborative efforts, firms can foster a culture where associates are motivated to excel while also supporting their colleagues. Pro bono projects might also provide the opportunity to collaborate without the same pressures of traditional billable work.

Additionally, firms should prioritize the well-being of their associates by offering resources for stress management and work-life balance. We all know that substance abuse and burnout rates

are high among attorneys. By creating a supportive environment, firms can ensure that competition remains a positive force that drives success without compromising the health and satisfaction of their employees.

Conclusion

Life is full of competition, and the practice of law is no exception. Not everyone can be a winner and not everyone should get a participation award. I am not suggesting we can or should eliminate the highly competitive nature of legal practice. But given the type of individuals drawn to the law, and the built-in competition that the practice typically brings, legal employers should be keenly aware of its possibility for real damage to the work environment. Attention should be given to foster a culture that balances competition with collaboration and a healthy, collegial work environment. 🗣️

Note:

1. My husband, whom I met in law school, dubbed it “the lesser of the three Georges” (in the D.C. area). I’ll let you figure it out from there!


Bar Journal Editor **Adria Martinelli** is a partner at DiBianca Law, LLP and practices primarily employment law. She has more than 25 years of experience including large law firm practice, in-house, and government service. She can be reached at amartinelli@dibilaw.com.

QUESTION OF THE MONTH




HOW DO YOU UNWIND?

Cynthia L. Carroll, Esquire: I binge-watch 49ers football content, as it provides a spark of enjoyment at the end of my very long days. At the risk of offending the Eagles’ fans out there (like my Hubby), San Francisco is my “Home Team,” and I’m a die-hard fan!

Next month’s question will be: *What advice would you give a new/young lawyer?*
If you have a response you would like to submit for the Question of the Month, please contact Danielle Bouchat-Friedman at dbouchatfriedman@dsba.org. 

OF NOTE

- Condolences to the family of **Superior Court Judge Peggy Ableman (Ret.)**, whose husband, Joseph P. Prendergast, passed away on July 7, 2025.
- Condolences to the family of **Ken Dorsney, Esquire**, whose father, Laurence M. Dorsney, passed away on July 15, 2025.
- Condolences to the family of **William G. Campbell, Esquire**, who passed away on July 24, 2025.
- Condolences to the family of **Vice Chancellor Travis Laster**, whose father, James Hayden Laster, passed away on August 8, 2025.
- Condolences to the family of **John Brady, Esquire**, who passed away on August 10, 2025.
- Condolences to the family of **John Paradee, Esquire and Jackie Mette, Esquire**, whose father, Charles Paradee, Jr., passed away on August 11, 2025.
- Condolences to the family of **The Honorable Michael N. Castle**, who passed away on August 14, 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. 

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CALENDAR OF EVENTS / CLEs

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 • 9 a.m. - 4:30 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.

Tuesday, October 21, 2025

Christopher W. White Breakfast Awards

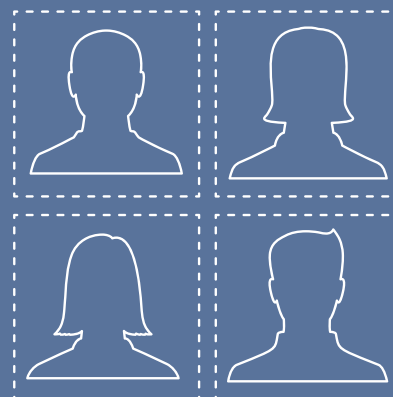
Riverfront Events

Wednesday, October 29, 2025 • Noon - 1 p.m.

Introduction to Third Party Opinion Letters

DSBA Office

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](https://www.dsba.org).



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RESEARCH-BASED TIPS FOR SUCCEEDING IN REMOTE NEGOTIATIONS

BY RYAN P. NEWELL, ESQUIRE

Before you flip to the next article—this is not another post-pandemic article about the rise of Zoom or Teams. Rather, this is an article about how to leverage the technology. Backed by data and research. For the benefit of your clients. To improve your negotiations, whether when meeting and conferring or mediating.

To get there, let's first address the technology. Then, let's discuss critical differences as compared to other mediums. From there, the tips.

Stating the obvious: We "Zoom." A lot.

According to a leading treatise addressing online dispute resolution—aptly titled, *Online Dispute Resolution: Theory and Practice*—use of online technology in dispute resolution (ranging from email to video) has expanded. Once primarily used in cases where geographical expanses dictated the use of a remote format, nearly every imaginable area of practice now utilizes technology in negotiations. You don't need a treatise to tell you that (although I have a copy of the foregoing on my shelf if you are interested). Interestingly, the treatise notes the success of online dispute resolution even when parties have the ability to convene in-person. Indeed, it can be particularly advantageous for "disputes in which emotional, rational and social issues are at least as important as transactional elements"—notably employment mediation.

"The medium is never neutral"

As *Online Dispute Resolution* notes, reliance on a particular technology in dispute resolution has its consequences. For example, according to Harvard Business School's Max Bazerman in his recently-released book, *Negotiation: The Game has Changed*, the term "channel richness" concerns "the amount of verbal and nonverbal information that can be transmitted from one person to another during any given communication." As he reports, "[i]n studies of the differences among traditional modes of communication, social scientists have found that 'channel richness' is enhanced as we move from email to telephone to face-to-face communication."

Knowing the richness of the various mediums is critical because, as Prof. Bazerman reports, we "overestimate the degree to which others understand our intended message" and we often are unable to effectively convey our own lack of understanding of what someone else communicates. That certainly poses problems to dispute resolution.

As an outsider to many a dispute (as a mediator or discovery facilitator), I routinely see how this plays out when reviewing the background emails leading up to the ripe dispute. With each passing email (the medium with the lowest level of richness), the misunderstanding chasm widens. Frustrations often rise as parties fumble their attempts to bridge that gap. By the time I am involved, the seedling that spawned the dispute is often unrecognizable from the pending disagreement.

Prof. Bazerman's research thus supports the old adage of picking up the phone or meeting in person—two mediums with greater channel richness. As detailed below, when used properly, video provides similar richness and can facilitate your negotiations.

Get rich

Quoting Colin Rule, CEO of odr.com an online resource for dispute resolution, Online Dispute Resolution posits that "[t]echnology, like stage lighting for a play, should not be the focus—if people walk out of a play talking about the stage lighting then odds are either the play or the lighting was not a success." Here are some practical solutions to leverage video and enhance the

richness of your negotiations.

Use larger screens: Prof. Bazerman notes that video conferencing can promote value creation in negotiation, as opposed to division of the proverbial pie. Not surprisingly, "larger screens are associated with greater trust and richer communication—that is, laptops are better than smartphones when it comes to video negotiations."

By extension, I firmly believe that engagement and the clarity of communications improve when each speaker can be fully seen on screen. Conference room cameras capturing multiple people around a table may be convenient, but they are not optimal. It is often too hard to see everyone.

Think this is just a problem for your adversary? According to Prof. Bazerman, when the size of the screens of two negotiating counterparties differs, the advantage on the value-claiming side goes to the negotiator with the larger screen.

Don't multitask: One request that I have whenever mediating via videoconference is that everyone participate as if we were in person. That is, participants should remain in the breakout room all day as opposed to popping in and out to tend to other matters. They should also clear their calendars as if they were in person. Why? Prof. Bazerman reports that multitasking results in less trust. Again, this is not the opposition's problem. Instead, the multitasker achieves worse benefits than the party who is focused on the negotiation.

Don't throw the baby out with the bath water: Sure, one of the benefits of using video is that parties and litigators in contentious cases need not meet in person with their adversaries. However, Prof. Bazerman's studies suggest that social connections play an incredibly important role in successful negotiation.

For example, when his students negotiate by email with their classmates (with whom they are familiar), they are able to reach resolution in 90% or more of their simulations. When the same negotiations occur with strangers from another school, the success rate can plummet below 70%.

So rather than negotiate in siloed breakout rooms, consider opportunities to socialize—such as, pre-mediation conferences,

attorney-to-attorney sessions, and joint sessions. Perhaps less common, but client-to-client sessions can be powerful ways to remove the hired combatants so that business professionals can discuss the practical aspects of the dispute. Doing so puts the focus on the relationship and building trust—an approach Prof. Bazerman endorses.

Incorporate the benefits of text-based communication: While written communication may be lower in channel richness than video or in-person communications, it nonetheless has numerous advantages. According to *Online Dispute Resolution*, text-based communications can minimize miscommunications, minimize bias, and level negotiation power where there is a dominant party.

Video offers the added capabilities of chat functionality and screen sharing, which can allow for deal terms to be clearly communicated and key documents to be shared. When shared in the asynchronous format common in mediation, parties are able to deliberate and digest the information being presented, thus improving the richness of the communication. Moreover, this hybrid reliance on video and text can minimize personal animosity and promote analytical reasoning while also preserving the parties' ability to see the mediator or the opposing party thereby allowing them to rely on their intuition and experiences.

In summary, the next time you are negotiating via video, think about the implications of your technology and how it can facilitate your negotiations. Consider whether your setup is enhancing channel richness and thus resulting in a trusted relationship. Perhaps some of these practical tips should be memorialized in your mediation agreement. After all, the purpose of any negotiation is achieving the best result possible as compared to your alternative of not reaching an agreement. Ⓢ



Ryan is a partner in the corporate litigation section of Young Conaway Stargatt & Taylor, LLP, where he frequently is retained as a mediator or discovery facilitator.



The Power of Positive Words: Gratitude, Civility, and the Delaware Way

GratITUDE and civility are not new ideas. They are ancient virtues, long recognized as essential to human flourishing.

Gratitude was called “the parent of all virtues” by Cicero. Religious traditions across cultures—from the Psalms to Buddhist practice—have long emphasized gratitude as a daily discipline. Today, psychology research confirms what the ancients knew: gratitude strengthens resilience and improves well-being.

Civility comes from the Latin *civis*, meaning “citizen.” In Rome, *civilitas* meant the respect expected of those sharing a community. Later writers, like Erasmus in the 1500s, linked civility to humility and respect for human dignity. In democratic societies and in law, civility has always been tied to justice—arguing firmly, but with respect, for the common good.

These timeless values are not relics. They remain essential to our personal lives, our communities, and our profession.

The Science of Positive Words

Modern research backs up these traditions:

- Writing about positive experiences improves health. People who wrote about meaningful, positive experiences for just a few minutes a day over several days reported better moods and fewer health complaints afterward.¹

- Affirmations reduce stress. Short self-affirmation exercises before stressful tasks lowered cortisol—the body’s stress hormone—and improved performance under pressure.²



- Gratitude builds resilience. Keeping a gratitude journal led to greater optimism, better life satisfaction, and fewer health complaints.³

The lesson is clear: gratitude and affirming language don’t just feel good—they help us think more clearly, respond more calmly, and live healthier lives.

Grounded in Our Profession

Here in Delaware, the Principles of Professionalism for Delaware Lawyers were jointly adopted by the Delaware Supreme Court and the DSBA to encourage values like integrity, civility, compassion, diligence, and public service. These principles are not disciplinary rules—they’re aspirational. Their purpose is to promote professionalism and strengthen public confidence in the justice system.⁴

In many ways, they align directly with what I’ve chosen to highlight: gratitude, civility, and the intentional use of positive words. Professionalism is lived not just in rules and statutes, but in how we communicate—with clients, colleagues, opposing counsel, judges, staff, and our families.

Core Values in Legal Education

A quick look at law school curricula shows the same values are emphasized nationwide:

- Integrity and honesty
- Civility and respect
- Competence and preparation
- Justice and service
- Empathy and compassion

These values come alive in language. Integrity is reflected in honest words, civility in respectful words, and empathy in compassionate words. Positive language is how lawyers embody the very values that shape our profession from the start.

The Delaware Way

The phrase “the Delaware Way” is often used to describe our State’s tradition of civility, collegiality, and integrity in public and professional life. It reflects an expectation that we can be firm without being harsh, adversarial without being disrespectful.

What modern science says about the benefits of gratitude and civility is what Delaware lawyers have long practiced: positive, respectful communication strengthens both individuals and institutions.

Putting It Into Practice

Gratitude and civility don’t stop when we step out of the courtroom or close the office door. They shape how we speak to our spouses after a hard day, how we respond to our children when patience is

thin, and how we treat the cashier or the stranger ahead of us in line.

- At home: Choose words that build up rather than tear down. Kindness in tone often speaks louder than the content of the words themselves.

- With family and colleagues: Demonstrate gratitude daily—thank your partner, your children, and your staff. Small acknowledgments strengthen relationships over time.

- With strangers: Practice recognizing the dignity of the person in front of you, whether in traffic, at the grocery store, or on the other side of an argument. Every interaction is a chance to reinforce civility.

The practice of law—and of life—is full of stress. But choosing positive words and extending kindness, especially when it is hardest, is both a personal discipline and a public service.

Final Thought

Gratitude and civility are virtues with ancient roots, modern scientific support, and deep grounding in our profession’s

values. They are also part of what it means to practice law in Delaware. When practiced consistently—with clients, colleagues, opposing counsel, family, and strangers—they improve our health, strengthen our relationships, and sustain both our profession and our humanity. 🕒

Notes:

1. Burton, C. M., & King, L. A. (2004). *The health benefits of writing about intensely positive experiences*. *Journal of Research in Personality*, 38(2), 150–163.
2. Creswell, J. D., Dutcher, J. M., Klein, W. M., Harris, P. R., & Levine, J. M. (2013). *Self-affirmation improves problem-solving under stress*. *PNAS*, 110(44), 17145–17150.
3. Emmons, R. A., & McCullough, M. E. (2003). *Counting blessings versus burdens*. *Journal of Personality and Social Psychology*, 84(2), 377–389.
4. Delaware Supreme Court. *Principles of Professionalism for Delaware Lawyers* (2003).

If you need to reach out personally or on behalf of a colleague, please feel free to call **Delaware Lawyers Assistance Program** at (302) 777-0124 or email Jim at JDeel@de-lap.org.

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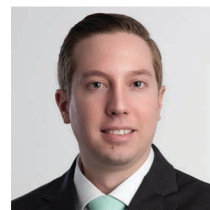
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Calls to the Ethics Hotline about Real Estate Transactions

BY JESSICA L. TYLER, ESQUIRE

Consistent with our goals of education and compliance, the Office of Disciplinary Counsel offers an Ethics Hotline as a resource to the Bar. Through the Ethics Hotline, we provide informal, non-binding guidance to both Delaware lawyers and non-Delaware lawyers regarding prospective conduct as it relates to the Delaware Lawyers' Rules of Professional Conduct. Because you hold the confidentiality of your Ethics Hotline call, you can also choose to waive that confidentiality (1) as a defense in any subsequent, related disciplinary matter in which you are a respondent, and (2) to share ODC's guidance with your out-of-state counsel, opposing counsel, or the client if it is helpful for your handling of the case or matter. ODC maintains records of all Ethics Hotline calls so we can refer back to them as needed.

In the October 2023 issue of the *Bar Journal*, I summarized a few common topics from ODC's Ethics Hotline, including UPL, Bona Fide Office, the Intersection of Candor and Confidentiality, Referral Fees and Fee Splitting, and Withdrawing from Representation.

In this article, we would like to provide an update about an established topic that we have been hearing about more recently: Real Estate Transactions, specifically the issue of disbursement of funds. We have recently received an increasing number of calls from our Delaware colleagues related to the role of title companies and lenders in Real Estate

transactions, whether residential or commercial, purchase or refinance. We have been told that, increasingly, out-of-state title companies/lenders are trying to disburse settlement funds through their accounts rather than a Delaware lawyer's Rule 1.15 Account. Our Delaware colleagues are correctly telling the title companies/lenders "no," but they are concerned about this issue.

As practitioners in this area of the law are aware, the two prominent Delaware cases are *In the Matter of: Mid-Atlantic Settlement Servs., et al.* 755 A. 2d 389 (Del. 2000) and *In the Matter of a Member of the Bar of the Supreme Court of the State of Delaware* (Del. 2006). Unlike in some other jurisdictions, just about all aspects of a real estate transaction are the "practice of law." As such, each and every real estate settlement, whether it be residential or commercial, a purchase or refinance, must be conducted by a Delaware licensed attorney. Anyone performing any of these services who is not a Delaware licensed attorney is engaging in the unauthorized practice of law and is subject to sanctions under the UPL Rules.

In *Mid-Atlantic*, the Supreme Court approved the Board on Professional Responsibility's (the "Board") Report which recommended the following:

1. An attorney licensed to practice law in Delaware is required to conduct a closing of a sale of Delaware real property.

2. An attorney licensed to practice law in Delaware is required to conduct a closing of a refinancing loan secured by Delaware real property.

3. An attorney licensed to practice law in Delaware is required to be involved in a direct or supervisory capacity in drafting or reviewing all documents affecting transfer of title to Delaware real property or where Delaware real property is used as security for the repayment of a debt or the performance of an obligation, with the exception of home equity loans in which the lender is acting in a pro se capacity and no evaluation of exceptions to title is required.

4. The participation of an attorney licensed to practice law in Delaware is necessary in evaluating the legal rights and obligations of the parties, representing the buyer in examining the title and removing exceptions to the title, supervising the disbursement of funds, and responding to questions concerning the legal effect of documents and ramifications of a transaction by which title to Delaware real property is transferred or where Delaware real property is used as security for the repayment of a debt or the performance of an obligation, with the exception of home equity loans in which the lender is acting, in a pro se capacity and no evaluation of exceptions to title is required.

In *In the Matter of a Member of the Bar* from 2006, the question for the Board was whether it was a breach of professional responsibility for a Delaware lawyer performing a real estate settlement to permit a non-licensed party to be responsible for the disbursement of settlement funds in connection with the real estate settlement. The Board concluded “that a Delaware attorney who permits a non-licensed party to receive and control the disbursement of loan proceeds on behalf of a real estate client has violated the responsibilities regarding non-lawyer assistants pursuant to Rule 5.3 and has assisted in the unauthorized practice of law in violation of Rule 5.5(a).”

The Board further stated: “A Delaware lawyer must directly supervise the disbursement of funds from real estate transactions and do so only through Rule 1.15(A) trust accounts in the future.” The Supreme Court approved the Board’s decision.

Through the Ethics Hotline, ODC’s consistent guidance has been that it is the buyer’s Delaware lawyer who needs to handle every aspect of the closing, including the disbursement of funds from the Delaware lawyer’s Delaware Rule 1.15 Real Estate Trust Account.

If you have concerns about a company engaging in the unauthorized practice of law in this area, you can choose to call or email ODC and we will evaluate the matter in accordance with the UPL Rules. If you have questions about your prospective conduct on this topic, feel free to reach out to the Ethics Hotline. ☎

Jessica is currently Chief Disciplinary Counsel for the Supreme Court of the State of Delaware. Ms. Tyler started with ODC as a Deputy Disciplinary Counsel in 2022. She came to the Court from her position as Shareholder with the law firm of Marshall Dennehey Warner Coleman & Goggin, where she practiced civil litigation defense in the firm’s Wilmington office. Before entering private practice, Ms. Tyler served as a law clerk to Judge Mark D. Buckworth and Judge Jay H. Conner (ret.) in Delaware Family Court. She can be reached at jessica.tyler@delaware.gov.



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Sage Advice from the Hon. Michael K. Newell

CURATED BY RICHARD HERRMANN, ESQUIRE



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During 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.” In this issue, I sought advice from the Honorable Michael K. Newell.



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

A Work hard, know your case better than your

client, and be respectful.

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 Yes, I had thought of a career either as in-house counsel or the US Attorney’s Office.

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

A Associate Attorney, 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 intended to stay in the field until retirement. I enjoyed the thrill of litigation but more importantly, I got great satisfaction from helping people through very difficult times.

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 There were many but the following two were the most notable. My father: he encouraged me to pursue my interest in becoming a lawyer. He introduced me to Federal Judges whom he knew, to talk with me and answer questions; and Charles Keil: he was my “Rabbi.” I practiced law with him after passing the Delaware Bar, and I was fortunate to learn family law from one of the best.

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

A Family Law can be full of interesting issues. I represented the heir to a very successful national corporation. His interest in the company was through stocks and stock dividends in the years prior to his marriage but we had to trace the stocks and dividends. We were able to successfully exclude his stock from being considered as part of the marital estate and I found the forensic accounting process in that case interesting.

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

A Early in my tenure as a Judge on the Family Court, I was presented with a custody dispute involving a same sex couple. This was before marriage equality and they were not in a civil union. The issues included legal standing, the constitution (Federal and State), legislative interpretation, and two Delaware Supreme

Court opinions on the matter. The case led to the establishment of “de facto parentage” under the Delaware Uniform Parentage Act. It was very well litigated which made my job both easy and difficult.

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

A Yes, the NBA apparently did not have a way of contacting me, so I chose the law. I would do it again without reservation.

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

A I’m not a good one to ask about work life balance. The private practice of law is a demanding profession and if you’re going to do it well you need to put in the time and work. I never missed one of my son’s athletic or school events. If I left the office to watch one of their baseball games, I either returned to my office after or took work home. The practice of law allowed me and my family

the ability to enjoy many things, although an NBA contract would have allowed more!

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 Explore the various disciplines and types of the law. Don’t preclude other options.

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

A Keep a sense of humor and always smile: it’s good for the soul. ☺

Richard K. Herrmann consults with Wilmington University on Emerging and Innovative Technologies. He can be reached at richard.k.herrmann@wilmu.edu.



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CREATING SPACE IN THE LAW: LEADERSHIP, ADVOCACY & WOMEN

CURATED BY KRISTEN S. SWIFT, ESQUIRE

Over the next several months, the Creating Space in the Law: Leadership, Advocacy, & Women column will feature question and answer profiles on Delaware women attorneys who own or lead Delaware law firms and legal departments. We hope you enjoy getting to know your colleagues a little better! — Kristen Swift

WOMEN-LED FIRMS IN DELAWARE



WITH MOLLY DIBIANCA, ESQ., OWNER OF DIBIANCA LAW, LLC

Q Introduce us to your firm. What type of law does your firm practice, and when did it open?

A I opened DiBianca Law in December 2024. We handle primarily employment matters, which include client counseling and litigation, representing both plaintiffs and defendants. I also regularly serve as a private mediator in commercial disputes. When it became clear that I would have more work than I could handle alone, I brought on my friend and former colleague, Adria Martinelli, as a partner.

Q What were the first 10 years of your career as an attorney like?

A I was very lucky to spend the first 15 years of my legal career at Young Conaway Stargatt & Taylor, LLP, where I had truly outstanding mentors, colleagues, and opportunities. One of the most important events of my early career

was creating and writing a legal blog for several years. The blog won a spot in the *ABA Journal's* Legal Blawgs Hall of Fame after being selected as a Top 100 blog five consecutive years. I made many connections through blogging that have developed into referral sources over the years.

Q Did you always envision yourself starting/leading a law firm? What was the impetus for opening your own practice/firm/leading an office?

A I certainly had thought of it as a general idea but I began to get serious about going out on my own in 2024. It was at that time that I realized I wanted to have the ability to decide what work I would and would not take. I also wanted to be able to take on employee-side representation, which was difficult to do at my prior firms.

Q I look at starting a law firm, or any business, as a leap of faith. What helped you leap?

A When I was seriously considering opening my own firm, a mentor told me that it was time to bet on myself. He said, “Molly, it’s time to bet on yourself.” He was right.

Q Who helped you along the way?

A More people than I could name. The partners in the Employment Law Department at Young Conaway were my guiding lights for many years, including Bill Bowser, Sheldon Sandler, and Barry Willoughby. They taught me the law, how to litigate, and how to be a Delaware lawyer. And I have received so much help from other lawyers—there is rarely a question or issue of law I can’t “phone a friend” for help with. And I gladly pay that forward any chance I get.

Q How do you define success?

A Success to me is having treated others with kindness, understanding, compassion, and respect. It is easy to be a paper tiger and yell from behind the keyboard; it is far harder to admit when you’re wrong and to offer a sincere apology when we make mistakes. Confidence and humility are perfectly compatible and if I live a life with equal parts of each, I will consider it a success.

Q How do you manage requests for your time that are not made by work or your family?

A I am frequently asked to present at CLEs and other trainings. As much as I enjoy developing my expertise and presenting, I have to be intentional when deciding which invitations



PHOTO COURTESY OF MICHAEL BRANSCOM

to accept and which to decline. I also have to be honest with myself once I have reached a certain number of non-billable commitments and enforce the limits I’ve set for myself.

Q What activities or interests do you pursue when you are not working?

A There is always a racecar and a racetrack calling my name. If there is a fast car involved, I’m interested. I am a social creature, for sure, and prioritize quality time with friends and family. Making time for those relationships is paramount to me. Our work has highs and lows and the consistency of real, meaningful friendships is what keeps me smiling through it all.

Q Do you have any advice for fellow attorneys?

A The game changer for me is being hyper-diligent in recording my time. If I don’t record it, I can’t bill for it. So billable time that is not recorded is just wasted time. I also track all of my non-billable endeavors. I regularly review that data so I can adjust my obligations. If I see that I am spending too much time giving presentations, for example, I know I may need to turn down some

of the next speaking invitations I receive. By recording all of my time, I generate more revenue and can feel confident in the choices I make. Additionally, I pay attention and attend to my relationships, both personally and professionally. I participate in events that take me out of my normal circle of lawyers in order to meet new people. Engaging with other members of the bar broadens my perspectives and makes the job so much more enjoyable. This has been particularly true for me in a small-firm setting.

Q How do you stay motivated to achieve your ambitions?

A Well, as with most lawyers, I suspect, I like to win. Each new client and new matter brings the opportunity for another success. There really is nothing like getting a client the outcome they deserve, particularly when the odds are not in the client’s favor. That feeling is even more profound when your name is on the letterhead. 🏆



Access to Justice: The DSBA's Lawyer Referral Service

BY KARL G. RANDALL, ESQUIRE

Would you like to have more clients? The DSBA can help you have more, and you will be providing a service that rises to the level of access to justice. Every day the DSBA receives calls from Delawareans who cannot find a lawyer with the expertise they need. In my first year as Executive Director of the Association, more than 500 people contacted us by telephone looking for competent counsel—and the DSBA's phone system starts by saying that the only way we can connect people with a lawyer is through the Lawyer Referral Service (LRS) available on the DSBA's website. Those 500+ calls were people who pressed buttons to reach a person rather than go online, in many cases because they had already tried to connect with an attorney through the LRS and not received a response. Many—if not most—people who contact the DSBA for help finding a lawyer never find assistance.

Many of you may never have heard of the DSBA's LRS, which is available here: www.dsba.org/resources/public-resources/. The foundation of the LRS is DSBA members logging into our website, updating their own profile to accept clients through the LRS, and indicating what areas of law are practiced. If someone requests help in that specialization, you get an email with the prospective client's contact information and a description of the help needed. If you meet with the prospective client, they should receive an initial 30-minute consultation for \$35, which your office would pay to the DSBA. If they hire you, the terms going forward are whatever you and your new client agree.

The system is set up this way for several reasons. For obvious reasons, the staff of the DSBA cannot give legal advice. What may be less obvious is the difficulty we have referring people to relevant attorneys. We serve all of our members, and it would not be fair if we referred prospective clients to some firms and not others. Moreover, sometimes we simply do not know a lawyer with the necessary expertise. Despite having met so many incredible Delaware attorneys, even I could not name someone to help with immigration law. An added benefit of the LRS is that by design the DSBA does not receive or retain any attorney-client privileged information.

Candidly, LRS is not a perfect system. The person accessing the site must understand English and, crucially, must know the type of lawyer they need. That is often not a simple question for someone who is not legally trained. The biggest problem, however, is that too few attorneys are taking advantage of this way to gain clients. As an example, one broad category of law that citizens can select is Criminal Defense, which then has eight subcategories like Traffic Ticket and Criminal Defense. There are two subcategories with four attorneys available, the rest have fewer, with only one lawyer potentially accepting clients for Criminal Law Federal. Even a really broad category like Litigation, for which there are literally hundreds of well-qualified attorneys, presently only has 14 attorneys available.

I assume one cause for this lack of attorney participation is lack of awareness about the LRS, which I hope to redress with this article. Perhaps another driver of this lack of participation is a perception that these prospective clients are unlikely to pay standard rates. That certainly may be true for some. Delaware's Legal Aid agencies do not have the resources to help everyone who qualifies for their help, and it is shocking how many Delawareans could qualify for free assistance. Access to justice, however, is not limited to those with limited means. Sometimes it is just difficult to find a lawyer with the right knowledge. I personally have answered calls from people who wanted legal help to form and dissolve Delaware entities, set up a family trust, and explore obtaining a patent—prospective clients who said they were happy to pay for the advice they need. If you have a niche practice, there likely is no one on our site competing with you. Putting your hat in the ring is free—seize the opportunity! Here is how:

1. Log into www.dsba.org with your member credentials. Your username will be the email address that you have on file with the DSBA. If you have forgotten your password, a reset email can be sent. If you do not receive the reset email, please check your spam filter, then email our office at reception@dsba.org for assistance. We can confirm that we have the right email address for you.
2. The Welcome page you see upon signing in has the link to join the Lawyer Referral Service. It looks like this:

Online Lawyer Referral

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UPDATE

3. After clicking the link, you can review the terms and conditions and opt in to participating. Please do! 🗣️



Karl came to the practice of law comparatively late in life because of the way a career in the aviation industry changed after 9/11. He graduated from the American University's Washington College of Law in 2007 and joined the Delaware State Bar the same year. He initially practiced as a litigator and commercial counselor at Morris, Nichols, Arsht & Tunnell LLP before becoming General Counsel of Artesian Resources Corporation. Karl joined the Delaware State Bar Association as its incoming Executive Director in April 2024. He can be reached at krandall@dsba.org.



Join Us for the 2025 District of Delaware and FBA Bench & Bar Conference

BY BINDU A. PALAPURA, ESQUIRE,
PRESIDENT, DELAWARE CHAPTER OF THE FEDERAL BAR ASSOCIATION


Hosted by the United States District Court for the District of Delaware and the Delaware Chapter of the Federal Bar Association, the fifth District of Delaware Bench & Bar Conference will be held on September 25-26, 2025 at the Chase Center on the Riverfront in Wilmington. This biennial event will feature judges from the District of Delaware, the Federal Circuit, the Third Circuit Court of Appeals, and other U.S. District Courts, along with prominent practitioners, in-house counsel, and thought leaders from across the legal community.

This year's plenary sessions are scheduled to include a Judges' Roundtable, Perspectives from In-House Counsel, Panel Discussion on Appellate Best Practices, Discovery Issues in the District of Delaware, and a Fireside Chat with a featured speaker. There will also be separate break-out sessions scheduled in three CLE tracks:

- **Intellectual Property Track: Trade Secret Litigation, ANDA Litigation, and Damages Issues in Patent Cases**
- **Bankruptcy Track: Independent Investigations & Purchases of Causes of Action, Available Case Closing Mechanisms after *Jevic*, and Third-Party Releases Post-*Perdue***
- **Criminal Track: The First Step Act – Primer & Panel Discussion, Third Circuit Criminal Cases – Year in Review, and Changes and Updates to U.S. Sentencing Guidelines**

The conference will offer up to nine (9) CLE credits.

The Conference will also offer opportunities to connect with colleagues, leading practitioners, and our speakers during breakfast, networking breaks, and lunch each day. A highlight for this year's conference includes a grand Thursday evening event at Longwood Gardens, featuring garden tours, a cocktail reception and dinner, and a private show of Longwood's spectacular fountain display. Transportation will be provided between Longwood Gardens and the Chase Center.

Participants may register via the Delaware Chapter of the Federal Bar Association's website (www.defba.org). Registration includes access to all sessions, breakfast and lunch both days, and the evening event at Longwood Gardens. Guest tickets for the Longwood Gardens event will also be available for purchase. Overnight accommodations are available for reservation at the Westin Wilmington Riverfront Hotel adjoining the Chase Center. 



Bindu Ann Palapura is a partner focused on patent, trademark and trade secret litigation on behalf of clients ranging from startups to the Fortune 50, and across a wide range of industries from pharmaceuticals and chemicals to software and medical devices. She currently serves on the Executive Committee of the District of Delaware Federal Bar Association as co-chair of the IP Section. She is also on the Board of the South Asian Bar Association of Delaware.

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Q&A

WITH DAVID A. WHITE, ESQUIRE, DSBA PRESIDENT, 2025-2026

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

A I have had seven of the best jobs during my legal career. I started my legal career in public service as a law clerk in the United States District Court for the District of Delaware for two years. I served as the first law clerk to the Honorable Sue L. Robinson. I remained in public service as a Deputy Attorney General at the Department of Justice for over four years, before I went into private practice for eight years. I went back to public service in 2001 when I was nominated by Governor Ruth Ann Minner to serve as a Superior Court Commissioner, which I did for seven years. I then went back into private practice again at McCarter & English, LLP for 13 years, the last several of which I was the Managing Partner of the Wilmington office. In March, 2021, I went back to public service again when I was hired by the Delaware Supreme Court to serve as Chief Disciplinary Counsel. In November, 2024, I joined Delaware ADR as a Professional Neutral and I remain in that position.

Q How long have you been a member of the DSBA, and what do you enjoy most about being a member?

A I have been a member of the DSBA for the past 38

years. I mostly enjoy the friendships I have made with fellow members and my associations with the Executive Committee and the dedicated DSBA staff.

Q What are some of your immediate and long-term goals for the DSBA?

A Increased membership in the DSBA, increased revenue from our engaging CLE programs, developing a state-of-the-art lawyer referral program, and identifying and securing alternate sources of non-membership and non-CLE revenue.

Q Who inspires you or who do you look up to?

A My wife, Kathleen Jennings, who has served the State of Delaware as our duly elected Attorney General for the past seven years. She is the rock star of the family. I'm simply her roadie.

Q If you weren't a lawyer, what would you be?

A If I couldn't be a lawyer, I would probably teach high school math. ⚖️

The Combined Campaign for Justice Cup

BY MOLLY READ MCPHEETERS

For a decade now, members of Delaware's legal community have gathered in the heart (and heat!) of summer to compete in a golf tournament, enjoy the sunshine, and raise critical funds for the Combined Campaign for Justice (CCJ).

This summer was no different. On August 4, 2025, 180 people gathered at the Combined Campaign for Justice Cup for a day of friendly competition, camaraderie, and celebrating the mission of civil justice in Delaware.

The day started with a light breakfast, some time at the driving range, and a few kind words from the lead chair of the 2025 Combined Campaign for Justice, Bradley R. Aronstam, Esq., before a shotgun start kicked off the scramble format tournament! The day wrapped up with a putting contest thanks to our friends at Veritext Legal Solutions, live music from The Learned Band—a band made up of lawyers and judges spearheaded by the Honorable James G. McGiffin, Jr. (or as he is known at the CCJ Cup—Jim the Bass Player!) and the announcing of our winners.

This year's winners on the Nemours course were the Diamond State Fi-

nancial Group foursome—Michael Durstein, Michael Witsch, Ian Oakley, and Kevin Regan. The winners on the DuPont course were the Bernstein Litowitz Berger & Grossman LLP foursome—Greg Varallo, Andrew Blumberg, Dan Meyer, and Ben Potts. Golfers also had the chance to take home awards for longest drive of the day and closest to the pin.

The CCJ is an annual fundraising effort that benefits Delaware's three civil legal aid agencies: Community Legal Aid Society, Inc. (CLASI), Delaware Volunteer Legal Services, Inc. (DVLS) and Legal Services Corporation of Delaware (LSCD). The legal advocates at these organizations work tirelessly to provide free civil legal services to Delawareans who cannot afford representation otherwise. This work keeps people in our state housed, fed, and free from domestic violence.

Ten years ago, the Combined Campaign for Justice Cup was born from the effort and energy of Spur Impact's Charlie Vincent. Charlie's vision brought us much success with the inaugural year of the Cup boasting nearly 80 golfers and raising \$32,000 for civil legal aid in Delaware. This year, the planning committee wel-

comed 164 golfers to the greens of the DuPont Country Club, raising over \$100,000 for CCJ. What a difference 10 years makes!

This success of this effort is a testament to the dedication and steadfast support of the Delaware Bar. Funds raised by the CCJ make up 12% of the budgets of Delaware's civil legal aid agencies, allowing them to continue to provide critical, life affirming, and often lifesaving services. These funds are essential to ensure that as many members of our state as possible have representation as they navigate some of the most complex times in their lives: facing eviction or foreclosure, seeking safety from an abuser, and/or advocating for their child with disabilities. 75% of the funds raised by the Combined Campaign for Justice each year are from individual members of the Bar or Delaware law firms. The Combined Campaign for Justice Cup is always an important piece of our fundraising puzzle, which last year brought in \$2.75 million through individual and law firm donations, foundation grants, and event sponsorships.

On behalf of CLASI, DVLS, and LSCD, and the clients that they serve, thank you so much to everyone who

"I've served on this planning committee for 10 years, and I've loved watching the Combined Campaign for Justice Cup grow into such a meaningful event that raises critical funds for the CCJ."

—Kevin G. Collins, Esq., CCJ Cup Chair & Director at Bayard, P.A.

came out to spend the day with us on 8/4! If you sponsored the event, or came for a full day of golf, or just joined us at the after party, we want you to know how grateful we are for your belief in our mission of advancing civil justice in Delaware. Being surrounded by our steadfast supporters makes the CCJ Cup one of our favorite days of the year!

Special thanks Bradley R. Aronstam, Esq., The Learned Band (Erica Sefton, Justin Barrett, Ben Lucy, Brad Goewert, and Jim the Bass Player), and to the dedicated members of our planning committee: Kevin G. Collins, Esq., Andrew C. Dalton, Esq., Jason D. Warren, Esq., Andrea S. Brooks, Esq., Kiadai S. Harmon, Esq., Brandon Harper, Esq., Jeremy Luzader, and Bradford Winton.



Photos: (1) Andrew Blumberg, Esquire and Dan Meyer, Esquire celebrate their win; (2) CCJ Cup Chair Kevin Collins, Esquire and CCJ General Chair Jennifer Wasson, Esquire.

CONTINUED >



Photos: (3) The Honorable James G. McGiffin, Jr.; (4) CCJ volunteers; (5) DSBA's Executive Director Karl Randall, Esquire with Office Manager Lauren Delle Donne.

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Molly is the Campaign Manager for the Combined Campaign for Justice. She is a graduate from the University of Maryland, College Park, a Wilmington native, and has been working with Delaware's legal aid agencies since 2018.



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October 9, 2025

9:00 A.M. - 11:00 A.M.

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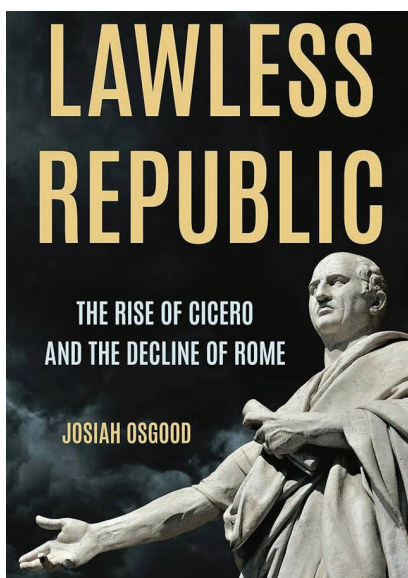
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The Failure of the Roman Republic: Was It the Roman Legal System?



Lawless Republic, The Rise of Cicero and the Decline of Rome

By Josiah Osgood
(Basic Books, 2025)

Marcus Tullius Cicero was, by all accounts, the greatest lawyer produced by the Roman Republic. He practiced in the First Century B.C., in the years leading up to Caesar's assassination. Many of his trial speeches and other information about his judicial career survives to this day, more than 2,000 years later. Indeed, we know more about the legal career and trials of Cicero than we do many American lawyers of the eighteenth and nineteenth centuries, including, for example, Alexander Hamilton and Abraham Lincoln. And there is much to be learned from Cicero's career, both legal and political, for Cicero became a member of the Roman Senate and served as Consul. During his consulship, he successfully put down the Catilinarian Conspiracy, an attempted coup to overthrow the Roman Republic, and was voted the title *Pater Patriae* (Father of the Country) by the Senate for his actions.

And yet, in the end, Cicero was killed as part of the proscriptions following the seizure of power by the Second Triumvirate (Antony, Octavian, and Lepidus). His properties were taken. His head and hands were nailed to the Rostra (speaker's platform) in Rome's Forum (as were the heads and hands of other victims of the proscription). An inglorious end.

In *Lawless Republic, The Rise of Cicero and the Decline of Rome*, Professor of Classics Josiah Osgood chronicles the amazing career of Cicero, from his early legal career to his height as Rome's leading lawyer; from his humble origins (he was born in a town some 60 miles from Rome) to his becoming a senator, to his rise to the Consulship (Rome's highest political office), and, finally, to his untimely murder.

Osgood begins with Cicero's first case, when, as a young, skinny, unknown provincial, Cicero first stood up in a Roman court to defend a son accused of killing his father for the inheritance: "I suppose you are wondering," he began, "why is it that when so many distinguished orators and men of the highest rank are sitting here, I in particular should have stood up to speak." But with his next sentence, Cicero sent shockwaves through the jury, opposing counsel, and the spectators. He told the assembled that the property of the father was worth six million sesterces (a sizeable fortune) but had been sold for a mere 2,000 sesterces to one Lucius Cornelius Chrysogonus, a former slave and, Cicero told the jury, "the most powerful man in Rome today." In a heartbeat, Cicero had completely changed the narrative of the trial. Cicero's client was ultimately not convicted.

Criminal trials during the Roman Republic were all private affairs. That is, there was no department of justice or other governmental body that brought charges. Rather, private citizens brought suits against those they accused of crimes. Relatives of the deceased or robbed or cheated were expected to bring charges, although, in theory,

any citizen could bring charges. Charges could also be brought for misbehavior in office, such as provincial governors taking property and taxes from the provinces' residents. Plaintiffs and defendants would each have their own attorney teams. Juries could be quite large, and at the end of the trial, juries did not deliberate, but simply voted, with a bare majority needed to convict. It was not uncommon for Romans to bring criminal charges or civil claims against political opponents, and, indeed, one of the reasons commonly given for Julius Caesar marching on Rome was that he wanted immunity from any lawsuits once he laid down his command (while holding office, citizens were not subject to suit).

Several other trials in which Cicero appeared as counsel are also described at some length, and Osgood's work often has a "you are there" feel to it. Part of the reason for this is that Cicero published many of his judicial speeches, and they have made their way to us over the centuries. Cicero was considered Rome's finest orator and his speeches are worthy of study.

In addition to some of Cicero's trials, Osgood also recounts Cicero's political career, including his suppression of the Catilinarian Conspiracy, his intrigues with Octavian following the assassination of Julius Caesar, his speeches against Marc Antony in the Senate (the generally-accepted reason for Antony insisting that Cicero be proscribed when he joined forces with Octavian), and other events.

The final paragraph of Osgood's introduction sets the course for his work:

At the heart of Cicero's story lies a strange irony: the career of Rome's

greatest trial lawyer also demonstrates how the rule of law broke down. To an extent, Cicero was directly implicated in the Republic's problems. As a politician who held high office, he bore responsibility for failing to address social inequality. As a lawyer, he sometimes advanced arguments for disregarding the law. But more often, Cicero's legal and political career illustrate problems that went beyond him, which any democratic society may find itself struggling with. How, after an outbreak of violence, do you restore the rule of law? How do you protect against the threat of domestic terrorism without suppressing civil liberties? How do you hold to account those who incite violence? When should voters decide a politician's fate, and when should jurors? Cicero's own extraordinary story and the tumultuous years he lived through provide no simple solutions to these hard questions. But they do help show what holds up the rule of law, what threatens it, and what happens when law gives way to disorder.

Osgood doesn't directly address the questions he raises in his introduction. Rather, he simply tells Cicero's ultimately tragic story. And there are lessons to be learned from that story, for those who forget the past are doomed to repeat it. 🎧

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

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Melanzane for a Meatless Sauce

was taught that a Sunday sauce is at its best when it combines three types of meat: beef, pork, and veal. This can be achieved any number of ways—meatballs (made with a meatloaf mix of beef, pork, and veal), braciole (rolled beef with a garlic and parsley stuffing), pork sausage (sweet, hot, or both), and country style pork ribs. A genuine Sunday sauce also requires a long simmer to soak up the rich meat flavors.

Sometimes a lighter, meatless sauce better suits the warmer weather. Eggplant, still in peak season in September, is a summer staple in our kitchen. Its earthy, smoky flavors make it an ideal choice for a summer Sunday sauce.

The inspiration for my Pasta with Grilled Eggplant Sauce comes from the recipes of mother and daughter culinary team, Wanda and Giovanna Tornabene. The Tornabenes wrote about an eggplant pasta called Spaghetti alla Norma in their cookbook *La Cucina Siciliana di Gangivecchio* (Knopf, 1996). In this traditional Sicilian recipe, the eggplant is fried and the final presentation topped with grated ricotta salata (hard ricotta). Just a few years later, the Tornabenes shared more of their approachable dishes in *Sicilian Home Cooking: Family Recipes from Gangivecchio* (Knopf, 2001). Spaghetti con Melanzane from their second cookbook also calls for frying the eggplant strips before stirring into the tomato sauce.

In my version, I extend the flavors of summer by grilling the eggplant. The charred outside and creamy inside add depth to the tomato sauce, just like beef, pork, and veal. You can use a medium-sized Globe or American eggplant—the kind we typically see in grocery stores. But it's your lucky day if you find a Sicilian eggplant in a farmer's market. These round varieties—about the size of a large grapefruit—make the creamiest sauces.

Pasta with Grilled Eggplant Sauce

INGREDIENTS:

- Medium sized Globe/American eggplant or Sicilian eggplant
- Extra virgin olive oil
- Sea salt
- Garlic cloves
- Strained tomatoes
- Fresh ground pepper
- Tomato paste
- Parmesan rind (from a grocery store container or leftover from a wedge)
- Fresh basil
- Grated Parmesan or Pecorino Romano

1. To prepare the eggplant for grilling, cut into slices about 1/3 inch thick. Layer the slices in a baking dish, rubbing

each side with extra virgin olive oil and sprinkling with sea salt. Marinate for 30 minutes to 1 hour prior to grilling. Grill on medium-low heat, turning with tongs so that both sides turn deep brown and soften in the middle. Remove from the grill and when cooled enough to handle, roughly cut the slices into about 1/2-inch squares.

2. You can use your favorite marinara as the sauce base. Here is what I do for a “fast sauce” ... Sauté five or so cloves of garlic in several tablespoons of extra virgin olive oil over low heat until sizzling, just a few minutes. Add 28 ounces of strained tomatoes (I use one box of Pomi brand) and season with salt and pepper to taste.

3. Turn up the heat so that the sauce comes to a boil and then reduce to simmer. Stir in two tablespoons of tomato paste and add a chunk of Parmesan rind for flavor and texture. Stir in the eggplant pieces, breaking them up a

bit with a wooden spoon. Simmer for about 30 minutes while you bring a pot of water to a boil for the pasta. If the sauce looks like it needs more liquid, I add a splash of leftover white wine.

4. Cook the pasta according to package instructions. I recommend spaghetti, linguine, or fettuccine for twirling some eggplant up with each bite. Use tongs to transfer the pasta to the pan of sauce and toss to coat. Bringing some of the pasta water along is good as it will help the sauce stick. Plate in pasta bowls and top with a chiffonade of basil. Serve with grated Parmesan or Pecorino Romano and red pepper flakes for some heat.

Wine Pairing

One of the most popular pairings for grilled eggplant is Syrah. This red grape has notes of dark berries, black pepper, and sometimes licorice. There are many options from around the globe—from California to Northern Rhône

to Australia (in which case it would be called Shiraz). Australian Shiraz will be among the fullest-bodied and most reasonable in price.

It's still summer, after all, so why not pour more rosé? Many of the crisp, refreshing rosés enjoyed during warm weather are made from Syrah, and Tavel is one of my

favorites from Provence. I think its deep pink color and notes of red berries are a better fit for earthy eggplant sauce than a lighter, floral rosé.

Cheers to a savory, meatless end-of-summer sauce. 🍷

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 and find a searchable collection of her “Judicial Palate” articles at cucinadipoppiti.com.



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DISBARMENT OF A NON-DELAWARE LAWYER:

In the Matter of John Du Wors, Esquire, Supreme Court No. 17, 2025

Effective Date: July 25, 2025

On July 25, 2025, the Delaware Supreme Court (the “Court”) ordered the disbarment of non-Delaware lawyer John Du Wors (“Du Wors”) for professional misconduct related to his admission *pro hac vice* in Superior Court. Du Wors was admitted to practice law in Washington in 2003, in California in 2004, and in New York in 2012. The violations in Delaware arose from Du Wors’ April 2023 *pro hac vice* certification to the Superior Court representing that he was not the subject of pending disciplinary proceedings in another jurisdiction notwithstanding the fact that such proceedings were pending in Washington, his failure to correct that false certification, and his participation in mediation of the Superior Court case while suspended from practice in Washington. The Court also ordered Du Wors to pay the costs of the disciplinary proceeding.

In June 2024, ODC filed and served a Petition for Discipline (the “Petition”) against Du Wors alleging his conduct violated Delaware Lawyers’ Rules of Professional Conduct (the “Rules”) 3.3(a)(1)(two counts), 3.4(c), 5.5(c)(3), 8.4(c)(two counts), and 8.4(d)(two counts).

Rule 3.3(a)(1) provides that a lawyer shall not knowingly “make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”

Rule 3.4(c) provides that a lawyer

shall not “knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists.”

Rule 5.5(c)(3) provides that a lawyer admitted in another jurisdiction and not suspended from practice in any jurisdiction may provide temporary legal services in a Delaware mediation if the services are related to the lawyer’s admission to practice elsewhere.

Rule 8.4(c) provides that it is professional misconduct for a lawyer to “engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

Rule 8.4(d) provides that it is professional misconduct for a lawyer to “engage in conduct that is prejudicial to the administration of justice.”

Du Wors did not answer the Petition. Therefore, pursuant to Delaware Lawyers’ Rule of Disciplinary Procedure 9(d)(2), all of the allegations and charges in the Petition were deemed admitted, leaving the appropriate disciplinary sanction as the sole remaining issue for the Board on Professional Responsibility (the “Board”).

A one-day sanctions hearing was held before a Panel of the Board in October 2024. The Panel issued its Report in January 2025. Du Wors filed objections with the Court, after which the Court ordered Du Wors’ disbarment in Delaware. He is unconditionally excluded from the admission to or the exercise of any privilege to practice law in Delaware. ⚖️

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The Inaugural Wilmington International Film Festival

BY CHARLENE DAVIS

The inaugural Wilmington International Film Festival is set to feature over 50 films from 17 countries, including several from our own backyard. The Festival kicks off on October 7, with a lineup that includes narrative features, documentaries and shorts (for adults and for kids). The main venues for the event are The 1313 Screening Room, The Delaware Contemporary, Theatre N, and The Chancery market.

In conjunction with Wilmington University, the Festival is co-sponsoring a Student Film Competition that includes a tutorial program and competition for high school students with an interest in media. The short films will be screened during the Festival and the winner awarded a full four-year scholarship to Wilmington University.

Applicants have already submitted scripts for the Festival's Short Film Screenwriting Contest. The winner will see his or her script transformed into film, courtesy of The Film Brothers, a Wilmington-based film, video and media production company that, through its principal Gordon DelGiorno, is the driving force behind the Festival.

On October 7, the Festival will present Art Means Business, an interactive panel discussion with prominent members of the public, private and creative communities focused on generating revenue for the State of Delaware through art and creativity.

NARRATIVE FEATURES

The Festival will screen more than 30 narrative features from countries through-

out the world including Germany, Mexico, Ireland, the Ukraine, Italy, France, and the U.S.

From Mexico, the Festival will present "A Pool of Nobodies," a drama about two migrants; one forced into the criminal underworld to live another day; the other fighting to save the life of her unborn child. The film won Best Feature Film, Director, Actress and Actor awards at the Caracas Ibero-American Film Festival.



For a film shot closer to home (in New Castle County, actually), the Festival will show "Relative Control," the story of a middle-aged Type-A attorney whose life spirals out of control as she juggles the demands of her handful of a father, an increasingly foggy mother, a perpetually job seeking son, a reignited romantic interest AND the biggest corporate takeover battle of her career. It stars Delaware native Teri Polo and was written and produced by retired Delaware lawyer, Charlene Davis.

DOCUMENTARIES

Several of the documentaries on the bill

have inspired culinary couplings. Others will offer an opportunity to talk with the filmmakers.


On the opening evening, a screening of "Shelf Life," a fascinating global odyssey exploring the world of cheese, will be followed by a wine and cheese tasting at the 1313 Screening Room.

Prior to a screening at Theatre N of "Alberto Sordi Secret," an Italian film, Café Mezzanote will offer an array of flavorful Italian bites. The film's producer, Rome-based Massimiliano "Max" Filippini, will attend for a meet-and-greet and a Q&A following the screening of this docufilm.

On a lighter note, the documentary "Phunny Business: A Black Comedy," is a story of the rise and fall of the All Jokes Aside comedy club. The club provided early exposure to comedians such as Dave Chappelle, Chris Rock, Jamie Foxx, Bernie Mac and many more. The club owner and film's co-writer and producer, Raymond Lambert (a Wilmington native and Salesianum graduate) will participate in a Q&A following the film.

SHORTS

The Festival will incorporate The Film Brothers' Festival of Shorts, which is now entering its 17th year in Wilmington. In addition, on October 13 at 9:30, the neighboring Delco Horror Haven will present its Best of the Fest short horror films with scare to spare for horror lovers.

For more information, please visit <https://wilmington.film/>. 



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.

Nominations should be submitted by **September 5, 2025** to Karl G. Randall, Executive Director at krandall@dsba.org.

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