



# THE JOURNAL

OF THE DELAWARE STATE BAR ASSOCIATION

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OF THE DELAWARE STATE BAR ASSOCIATION



# 2023 CHRISTOPHER W. WHITE DISTINGUISHED ACCESS TO JUSTICE AWARDS BREAKFAST

## NOMINATE DSBA MEMBERS FOR THIS YEAR'S AWARDS

The DSBA and the Awards Committee are seeking nominations for the 2023 Christopher W. White Distinguished Access to Justice Awards formerly known as the Distinguished *Pro Bono* Service Awards. The 2023 Awards Breakfast will be on Thursday, October 26, 2023 at Riverfront Events in Wilmington, DE.

### 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.

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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:

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- 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:

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- 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 31, 2023.** 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.



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OF THE DELAWARE STATE BAR ASSOCIATION

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and the Women and the Law Section

BY MICHELE L. MULDOON, ESQUIRE



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# Moving Forward: A Call to Action

BY KATE HARMON, ESQUIRE AND JARED HOFFMAN\*

Just a few short weeks ago, you all bestowed upon me the honor and privilege of serving as the DSBA president. As I settle into my duties, I have taken some time to reflect on our Association's past, and its future. As a group, and as individuals, the DSBA has achieved great victories and served the First State both inside and outside the courtroom. As president, I plan to continue that work and empower attorneys to do the same.

One hundred years after our organization's founding, every one of us aims to serve our clients and community even better than those who came before us. We would like to think that we, as a profession, have become more inclusive than we were in 1923. We would prefer to think of lawyers as not influenced by immutable characteristics but by the merits of a person, their evidence, and their arguments. While we certainly have improved, we still have much further to go.

Though it happened three thousand miles away, the Lewis Brisbois-Barber Ranen<sup>1</sup> scandal has shed light on the most unsavory corners of our field. While at their former firm, the founders of Barber Ranen<sup>1</sup> exchanged over a decade of emails denigrating their colleagues, judges, and job candidates with racist, homophobic, sexist, and antisemitic language. These emails were not a secret between the two men — associates, support staff, and even other partners were copied on many of these threads. Still, the firm took no action until the two left with nearly 150 other attorneys to start their own firm and these communications came to light.

If we aim to create an environment where every attorney can practice and serve as an advocate without bigotry holding them back, the debacle in Los Angeles can serve as a lesson in what not to do. Diversity and inclusivity do not happen on their own. The creation of diversity and, in particular, inclusion, is a verb — it requires action. We must actively engage in consistent and ongoing efforts that support those ideals, stand against actions that counter inclusivity, and seek to improve the practice around us. A more diverse and inclusive practice is good for its own sake, and also for the benefits it brings to our practice and those we serve.

A firm or organization that emphasizes diversity and inclusion and makes members of historically marginalized communities feel welcome can reap benefits from bringing attorneys from all backgrounds into the fold. Attorneys from different backgrounds may offer business opportunities to their firm that the partnership had previously overlooked. New ways of thinking can lead to innovative legal strategies or better support for a client's position. Different information from different sources can make a firm or organization better able to prepare for developments in its practice areas and anticipate issues before they arise. In short, investment in a diverse practice where every attorney feels included is a business investment.

**The creation of diversity and, in particular, inclusion, is a verb — it requires action. We must actively engage in consistent and ongoing efforts that support those ideals, stand against actions that counter inclusivity, and seek to improve the practice around us.**

The Delaware Bar still has many opportunities to make those investments. Nearly 40 percent of Delawareans are people of color, over 10 percent are Hispanic or Latinx, and over half are women.<sup>2</sup> The state's practicing attorneys, however, do not reflect this diversity. In Wilmington, less than 10 percent of all attorneys are people of color, and less than 40 percent are women.<sup>3</sup> Only six percent of partners are people of color, and just over a quarter are women.<sup>4</sup> Firms in the state have made some effort to recruit a diverse workforce, with women making up 45 percent of the associate-ship in Wilmington.<sup>5</sup> However, recruitment of people of color still lags behind,

\* Ms. Harmon would like to acknowledge and thank Mr. Hoffman for his extensive research relative to and assistance with drafting this column.



with only 12 percent of associates in Wilmington identifying as non-white.<sup>6</sup>

The state Bench is similarly situated. Women make up nearly 50 percent of the state Bench, but other demographics are not nearly as proportionally represented.<sup>7</sup> Of the state's 142 state and federal judges and justices, only 21 are Black — less than 15 percent.<sup>8</sup> Only seven are Hispanic or Latinx.<sup>9</sup> Moreover, a majority of the judicial officers of color serve on the Justice of the Peace Court,<sup>10</sup> which does not require a law degree.<sup>11</sup>

While statistics are not available for LGBT+ judicial officers and attorneys, we unquestionably have much work left to do to reach parity with the population at large.

Fortunately, we know how to address these problems. Delaware's law firms, corporations, and courts have spent years studying these issues and challenges to find solutions. And, under Chief Justice Seitz's leadership, the Delaware Supreme

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# BUILDING RELATIONSHIPS

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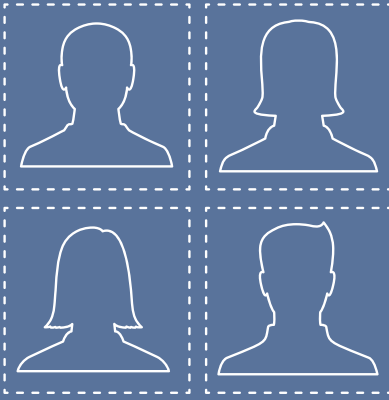
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**While no single step is sufficient to secure a diverse and inclusive legal profession, we have the tools and the understanding to reshape Delaware's Bench and Bar so it looks more like the citizens we serve.**

Court has developed and put forth a Strategic Plan on Improving Diversity in the Delaware Bench and Bar. While no single step is sufficient to secure a diverse and inclusive legal profession, we have the tools and the understanding to reshape Delaware's Bench and Bar so it looks more like the citizens we serve. From expanding recruitment of members of historically marginalized communities and women, to more actively including members of historically marginalized communities and women so they remain attorneys, to appointing judges and justices who do not fit the "traditional" mold of judicial officers, we can, and should, commit to diversifying Delaware's attorneys and making every attorney feel that they belong as our colleagues.

As president, I am committed to making this goal a reality. Together with the Delaware Supreme Court, and in conjunction with the DSBA's Director of DEI, LaTonya Tucker, the DSBA's DEI Committee and the membership

of the DSBA, I am sure we can make great strides over the next year toward a more diverse, equitable, and inclusive Bar where each member is welcome as their true self and feels that they belong. 🌐

#### Notes:

1. Upon this bigotry coming to light, the founding partners of Barber Ranen quickly tendered their resignations and a new iteration of that firm was born.
2. *QuickFacts Delaware*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/dashboard/DE/POP010210> (last visited Jun. 26, 2023).
3. REPORT ON DIVERSITY IN U.S. LAW FIRMS 29 (Danielle A. Taylor and Nikia L. Gray eds., 2023).
4. *Id.*
5. *Id.*
6. *Id.*
7. Collins J. Seitz, Jr. et al., IMPROVING DIVERSITY IN THE DELAWARE BENCH AND BAR: STRATEGIC PLAN REPORT AND RECOMMENDATIONS 58 (2022).
8. *Id.* Since the publication of this report, President Biden nominated, and the Senate confirmed, the Hon. Gregory B. Williams to serve on the United States District Court for the District of Delaware.
9. *Id.*
10. *Id.*
11. *Magistrate Screening Comm.*, DEL. COURTS, <https://courts.delaware.gov/jpcourt/screening.aspx> (last visited Jun. 26, 2023) ("The only prerequisite [sic] for filing an application [for a job as a justice of the peace] is attainment of age 25 and reside [sic] in Delaware.").



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# What the Insurance Industry Needs to Know: The ChatGPT Impact\*

BY H. JACOB YU, KATHLEEN J. DEVLIN, ESQUIRE, AND KRISTEN S. SWIFT, ESQUIRE

As technology becomes more advanced, each technological advancement seeks to make every task easier and more convenient. One such advancement is the rise of artificial intelligence (AI). The AI evolution expands the ability to automate complex tasks. The meteoric rise and interest in the technological developments offered by AI has paved a path for programs, like ChatGPT, to flood the mainstream media.

Created by OpenAI and launched in November 2022, ChatGPT (Generative Pre-trained Transformer) is a “highly advanced chatbot that scours the web to produce responses to questions or prompts.”<sup>1</sup> OpenAI is an artificial intelligence research outfit that received billions in capital from donors including Microsoft and Elon Musk. ChatGPT has been downloaded over 100 million times as of March 2023. ChatGPT’s usage in writing papers, cover letters, resumes,

conducting research, conversing with people, and meal planning, are just some of the ways it has become popular among users in diverse fields.<sup>2</sup> You may be most familiar with the oft reported ChatGPT follies users have made. Despite the occasional user folly, ChatGPT is here to stay because it offers amazing and diverse utility. If a question can be asked, ChatGPT will likely have the capability to provide an answer. It is up to the user to ensure the answer is correct.

Because ChatGPT is here to stay, and already changing the way humans perform tasks, insurance industry leaders must understand and become adept at utilizing the program. If appropriate safeguards are implemented, ChatGPT

would simplify the insurance industry by improving efficiency in claim administration and could lead to reduced costs. Many are afraid that ChatGPT will replace their jobs. But the human element, ChatGPT’s missing weakness, is required to implement ChatGPT in the most appropriate and meaningful way in the insurance industry.

ChatGPT came on the scene with what appears to be main character energy, but it is what a person or an organization does with ChatGPT that matters most. Perhaps the best way to think about ChatGPT is to consider it a sidekick, at the ready to assist but unable to replace. ChatGPT can be utilized to support the best of what your employees have to offer.

**Despite the occasional user folly, ChatGPT is here to stay because it offers amazing and diverse utility.**

\*The authors did not use ChatGPT to write this article. However, Ms. Devlin and Ms. Swift would like to thank Mr. Yu for his research and assistance in preparing this article.





## A. ChatGPT in the Insurance Industry

The insurance industry can reap benefits from ChatGPT in various areas, including customer support, underwriting, claims processing, and fraud detection.<sup>3</sup> ChatGPT will also prove useful in marketing, offering creative and adroit claim resolution techniques, assisting with language barrier issues, research, and streamlining reporting. Overall, using ChatGPT can bolster employee performance.

### 1. Customer Service

ChatGPT can positively impact customer service because of its ability to respond to unique customer needs prolifically. For example, ChatGPT can assist customers instantaneously in numerous languages and increase the speed of service time. ChatGPT can be tailored to the specific needs of a customer so the customer can receive detail-oriented assistance, including providing quotes. The increased speed of quality service would

create a mutually beneficial system where customers are happier, companies are more efficient, and costs decrease.

### 2. Underwriting

AI can shorten the underwriting process.<sup>4</sup> It takes an average of 45 to 60 days to complete the underwriting process. ChatGPT can shorten this process using predictive modeling system and finding risk patterns.<sup>5</sup> The ability to quickly analyze historical weather data can improve risk assessment. ChatGPT can create a broader and more detailed risk profile by assessing a wider range of data, including social media data.

### 3. Claims Processing

Claims processing in insurance is still in the early stages of digitization and takes up to 50 to 80 percent of premium revenue.<sup>6</sup> ChatGPT can be “used to accurately extract and categorize information from claim forms and other documents to reduce the time normally devoted to manual data entry and categorization.”<sup>7</sup>

ChatGPT can be utilized to process claims by teaching it a formula, and this formula can process claims within minutes.<sup>8</sup> Home and auto claims could be processed more quickly as there are already millions of data points from which AI may draw.<sup>9</sup> Furthermore, ChatGPT could efficiently conduct repetitive tasks such as document classification, data entry, and information extraction, thereby improving risk assessment.<sup>10</sup>

### 4. Fraud Prevention

ChatGPT can detect fraud by combining machine learning and natural language processing techniques to identify patterns used to commit fraud and flagging the claims for adjuster to review.<sup>11</sup> ChatGPT can detect identity fraud and interact with existing fraud detection programs like anomaly detection software to improve detection and prevention.

CONTINUED >

## 5. Marketing

ChatGPT is innovating digital marketing. It is adept at searching emails, identifying target consumers, identifying predictive customer service options, improving lead-contact management, writing relevant content, and even developing entire marketing campaigns.

## B. Potential Shortcomings of ChatGPT

Despite the potentially broad range of uses for ChatGPT in the insurance industry, there are shortcomings with the use of ChatGPT. Namely, the ability to deliver a human like response still requires in-depth human oversight. However, businesses can acknowledge this shortcoming by recognizing that ChatGPT typically cannot replace human workers and is best utilized to work in tandem with employees to accomplish tasks.

### 1. Biases and Lack of Common Sense

Some of the common limitations of ChatGPT include the inability to empathize with the users in their responses, potential to be affected by biases and stereotypes from its collected database, and lack of common-sense knowledge.<sup>12</sup> ChatGPT also lacks the “human touch.” It may provide generic responses not tailored to an individual policyholder’s needs and/or provide inappropriate comments or recommendations.

### 2. Inaccurate Information

Insurance companies need to be cautious with utilizing AI. As ChatGPT is a very new program, it has trouble with the accuracy of some of its responses. ChatGPT may respond with incorrect information or gather information from a fake or inappropriate source. It lacks the insurance, claims, and underwriting experience possessed by claims and

underwriting professionals. It may not appreciate the specific, unique, and/or complex factual details of a claim. Examples of ChatGPT providing false or inaccurate information have been at the forefront of the media. For example, a lawyer submitted a brief using ChatGPT for legal research. However, the cases in the brief turned out to be completely fictitious. As a result of the lawyer’s careless use of ChatGPT, he now faces potential sanctions from the court.<sup>13</sup> This is a cautionary tale of how businesses should avoid implementing ChatGPT — businesses cannot place blind reliance on ChatGPT’s results. Instead, employees and businesses are best served using the results as a springboard from which they can jump into the results and begin the analysis and editing process. Training employees to consider ChatGPT as a powerful resource and not a replacement for their own work is necessary.

### 3. Leak of Confidential and/or Proprietary Information

Insurance companies must take measures to ensure that their confidential and/or propriety information is not leaked using ChatGPT. Insurance companies also need to safeguard confidential and/or personal information about policyholders. For example, Amazon has instructed its employees to beware of inputting information that is either confidential or proprietary because of the ability ChatGPT to mimic internal company data, which may place confidential information at risk of being leaked.<sup>14</sup>

### 4. Liability and Legal Consequences

Insurance companies may face legal challenges if they rely on improper processes to form conclusions using the ChatGPT model.<sup>15</sup> ChatGPT’s analysis and decision-making process may be difficult to explain to customers and/

or regulators.<sup>16</sup> Data breaches, failure to analyze source material, and improper conclusions based on biased data are some areas that could expose the insurance industry to legal liability if they are not adequately addressed.

## C. Suggested Recommendations

Although ChatGPT may provide revolutionary breakthroughs in the insurance industry, it is necessary to acknowledge the limitations and risks associated with using AI programs.

We offer some recommendations to be employed by insurance companies who want to utilize ChatGPT:

- Create a clear company policy for use of ChatGPT that sets forth when, for what business purpose, and under what circumstances ChatGPT may be used. ChatGPT protocols should address how users rely on and fact-check the data and results. Implementing a “buddy system” for employees to use ChatGPT may be useful to avoid over reliance on single users on potentially corrupt or incorrect data and results.
- Conduct testing prior to company-wide implementation of ChatGPT. The testing may include a “human” group and ChatGPT. A thorough comparison and analysis should be performed to note any issues, biases, potential for leaks, or data security concerns. that can then be addressed through the continual improvement of the instructions provided to ChatGPT to perform whatever task was assigned.
- Provide mandatory training for those who will be using ChatGPT.
- Develop safeguards so that confidential and proprietary information is not inadvertently released.



For example, premium amounts, calculations, underwriting evaluations must be protected from competitors.

- Develop safeguards to protect personal, confidential, and financial information of policyholders from being inadvertently released.
- Ensure that biases and stereotypes are avoided when utilizing ChatGPT. ⚖️



**Bar Journal Editor Kristen Swift** is co-managing partner of Weber Gallagher's Delaware office. She represents businesses and private clients in corporate, employment, civil rights, subrogation, real estate, construction, and professional malpractice cases. Her bio is available at [www.wglaw.com](http://www.wglaw.com). All opinions expressed are her own.



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**Jacob Yu** is a summer law clerk at Weber Gallagher Simpson Stapleton Fires & Newby. He is currently pursuing his law degree from Rutgers Law School.

#### Notes:

1. Christopher Deubert., & Amanda Novak, *Anticipating what CHATGPT means for the workplace*. LAW360 (March 9, 2023), <https://www.law360.com/articles/1579453/anticipating-what-chatgpt-means-for-the-workplace>
2. Ibid.
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13. Kathryn Armstrong, *ChatGPT: US lawyer admits using AI for case research*, BBC NEWS, (May 27, 2023), <https://www.bbc.com/news/world-us-canada-65735769>
14. Hurler, Kevin. *Amazon Warns Employees to Beware of ChatGPT*, Gizmodo, January 2023.
15. AiContentfy, *ChatGPT in Insurance Industry: Streamlining Claims Processing and Underwriting*.
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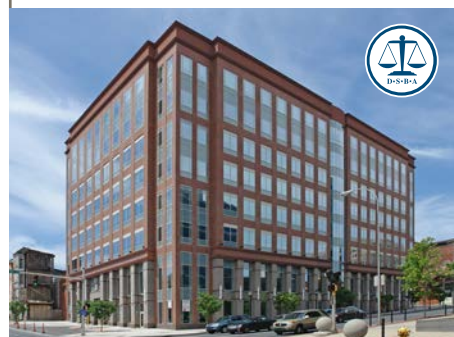
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## MEMBER BENEFIT OF THE MONTH

## DSBA Section CLE Discount



DSBA offers a 10 percent discount for any Section members of the Section sponsoring a DSBA seminar. We just thought it might be a nice way to thank the Section for assisting the association in achieving its budget goals. CLE attendance and revenue helps us keep the cost of

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

## MEMBER NEWS

Karen Ann Jacobs, Esquire, of Morris, Nichols, Arsht & Tunnell LLP was the recipient of the Caron Alumni/Family Award at the 2023 Caron Greater Philadelphia Community Service Awards Breakfast on June 2, 2022.

Karen is an advocate and leader in the recovery community. Karen helped to establish the Wilmington area parent support group for families impacted by substance use disorders and served as co-leader of this active group since it was created in 2016. In 2018, Karen joined Caron's Greater Philadelphia Regional Advisory Board, acting as an ambassador for Caron and recovery, most notably in the state of Delaware. She has been an integral part of the board and a leader through her advocacy and philanthropy. She and her husband Jack have supported the growth of Caron, including impact giving to the Keele Center in Florida and the Fran and Doug Tieman Center for Research on Caron's Wernersville Campus. Apart from her service to Caron, Karen is deeply involved in a number of community service activities, primarily in the areas of health and wellness (as former chair of the Professional Guidance Committee), legal representation for the poor (having served as President of the Delaware Volunteer Legal Services), and advocacy for women in the legal profession (having served as Chair of the Women in Law Section of the Delaware State Bar Association). ⚖️



L to R: The Honorable Eric M. Davis, Chair of the Caron's Greater Philadelphia Regional Advisory Board; Award Recipient Karen Ann Jacobs, Esquire, and Casey Duffy, Caron Board of Trustees.

## JOIN THE CONVERSATION



Great turnout for the @DelStateBar's 100th Anniversary of Women in the Law in Delaware celebration last night! #netDE #womenlawyers #Delawarelaw

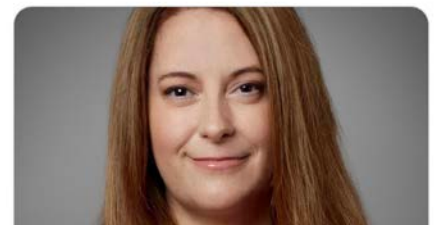


Office of the Child Advocate of Delaware is with Delaware State Bar Association and Delaware Family Court. 📘

Delaware Family Court, Office of the Child Advocate, Department of Justice, and private practitioners presented at the Annual Delaware State Bar Association Bench & Bar Conference. Judge Ranji led the panel with a discussion on the connection between child abuse, animal abuse and intimate partner violence.



Benesch partner Kate Harmon, the new president of the Delaware State Bar Association, plans to focus on bringing more diversity to the bar and making sure members of all backgrounds feel a sense of belonging, she told Law360 Pulse.



law360.com  
Benesch Partner Takes Over As Delaware Bar President - Law360 Pulse



## DSBA Diversity Clerkship Reception



Diversity Committee Chair, Kathleen M. Miller, Esquire, with incoming clerks Nicole Efunuga, Kristen Cunningham, Nkemakunam Obata, Gabriella Nordlund, and Tarik Paul. The reception brought together the newest diversity clerkship recipients with members of the Judiciary from all the courts at a special reception on Monday, June 3, 2023 at Stitchhouse Brewery in Wilmington.

## OF NOTE


Condolences to **E. Martin Knepper, Jr. Esquire**, on the death of his father, Edgar M. Knepper, Sr. who died on November 9, 2022.

Condolences to the family of **Jennifer A. Karpe, Esquire**, who died in 2022.

Condolences to the family of **O. Francis Biondi, Esquire**, who died on May 30, 2023.

Condolences to **Arthur Inden, Esquire**, on the death of his son, Matthew Inden, who died on June 14, 2023.

Condolences to the family of **S. Christopher Szczerban, Esquire**, who died on June 21, 2023.

*If you have an item you would like to submit for the Of Note section, please contact Rebecca Baird at [rbaird@dsba.org](mailto:rbaird@dsba.org).* 

CONNECT WITH YOUR COLLEAGUES

## DSBA SECTION FORUMS

- SHARE NEWS AND BEST PRACTICES
- ASK QUESTIONS AND GAIN INSIGHT
- EXPAND YOUR PROFESSIONAL NETWORK

To access the forums, log into [www.dsba.org](http://www.dsba.org) and click on Forums listed at the top of the Members Area page. From there, you will find the list of potential forums. Posting and responding is easy to do. Enjoy connecting!



## PROFESSIONAL GUIDANCE COMMITTEE

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

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\*Certified Practice Monitor

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## CALENDAR OF EVENTS

### September 2023

**Tuesday, September 19, 2023 • 12:00 p.m. – 1:00 p.m.**

**Marijuana and Synthetic Cannabinoids: Highlights of the Science for Attorneys**

1.0 Hour CLE Credit

Seminar via Zoom

**Friday, September 29, 2023 • 6:00 p.m. – 9:00 p.m.**

**DSBA's 100th Anniversary Celebration**

Young Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, DE

**Tuesday, September 26, 2023 • 2:00 p.m. – 4:00 p.m.**

**Omnicare, Inc. v. NCS Healthcare, Inc.: A 20th Anniversary CLE**

2.0 Hours CLE Credit

Live Seminar at DSBA and Live Webcast to Kent and Sussex Counties

### October 2023

**Tuesday, October 3, 2023 • 8:30 a.m. – 12:30 p.m.**

**Short Topics in Real Estate**

4.0 Hours of CLE credit

Live Seminar at DSBA and Live Webcast to Kent and Sussex Counties

**Wednesday, October 4, 2023 • 9:00 a.m. – 12:30 p.m.**

**Recent Developments in E-Discovery, Data Security, and AI/Chat GPT**

3.0 Hours of CLE credit including 3.0 hours Enhanced Ethics

Live Seminar at DSBA and Live Webcast to Kent and Sussex Counties

**Thursday, October 12, 2023 • 9:00 a.m. – 4:15 p.m.**

**Fundamentals of Will Drafting and Estate Administration 2023**

6.0 Hours of CLE credit

Live Seminar at DSBA and Live Webcast to Kent and Sussex Counties

**Saturday, October 14, 2023 • 1:00 p.m. – 4:00 p.m.**

**DSBA Fall Festival**

Ramsey's Farm, Wilmington, DE

**Tuesday, October 17, 2023 • 12:00 a.m. – 1:00 p.m.**

**Opioids: What Attorneys Need to Know**

1.0 Hour CLE Credit

Seminar via Zoom

**Saturday, October 21, 2023 • 8:00 a.m. – 4:30 p.m.**

**Wills for Seniors**

Elsmere Fire Hall, Elsmere, DE

**Thursday, October 26, 2023 • 8:00 a.m. – 10:00 a.m.**

**Christopher W. White Distinguished Access to Justice Awards Breakfast**

Riverfront Events / Hyatt, Wilmington, DE

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

## BECOME A DSBA SECTION MEMBER



To join a Section, visit [www.dsba.org/about-the-dsba/membership](http://www.dsba.org/about-the-dsba/membership).

## SECTION & COMMITTEE MEETINGS

### August 2023

Thursday, August 17, 2023 • 12:00 p.m.

#### Executive Committee Meeting

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

### September 2023

Tuesday, September 12, 2023 • 12:00 p.m.

#### Litigation Section Meeting

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

Wednesday, September 20, 2023 • 12:00 p.m.

#### E-Discovery Section Meeting

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

Thursday, September 21, 2023 • 12:00 p.m.

#### Executive Committee Meeting

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

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

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# ON READING AS AN ANTIDOTE TO TOO MUCH TECHNOLOGY

BY EMILY A. BRYANT-ÁLVAREZ, ESQUIRE,  
AND JEFFREY J. LYONS, ESQUIRE



**Emily A. Bryant-Álvarez** is Co-Chair of the Young Lawyers Section. Emily (she/her) is the judicial law clerk to Delaware Supreme Court Justice N. Christopher Griffiths and can be reached at [emily.bryant-alvarez@delaware.gov](mailto:emily.bryant-alvarez@delaware.gov).



**Jeffrey J. Lyons** is Co-Chair of the Young Lawyers Section. Jeff (he/him) is an associate at Baker & Hostetler LLP. He can be reached at [jjlyons@bakerlaw.com](mailto:jjlyons@bakerlaw.com).

**A**round this time of the year, legal publications are flooded with articles on how attorneys can disconnect from their devices after work or while on vacation as a means of reducing stress and avoiding burnout. But what happens if the nature of your practice does not allow for you to (temporarily) go full-on Luddite? We submit that even if you have to deal with the occasional interruption, it will help both your stress level and your brain to read something non-work related from the medium of your choice — a book (or e-book), a magazine, or even a newspaper article. And let's be clear, we are not here to judge your most recent *Real Housewives* or *Better Call Saul* binge. We humbly suggest that after a long day, instead of looking at another screen you should pick up a book.

Why subject yourself to another extra word when your profession requires you to pour over thousands of them per day? Hear us out. For many of you reading this (see what we did there), there was a time when you had ample time to read for pleasure. Perhaps this was a time before law or school or col-

lege. We want you to think back to that time when you could throw yourself into a *Lord of the Rings* binge,<sup>1</sup> read an entire *New Yorker* from cover to cover,<sup>2</sup> or otherwise lose yourself in the page. That feeling can be accessed for the low price of a library card.<sup>3</sup>

And if the above plea is not enough to sway you, we get that too. Here's our second pitch: reading makes you a better writer, and ultimately a better thinker. No doubt many current and former clerks, as well as junior associates and other new lawyers, have been given the clear directive that they should be reading some combination of the country's papers of record each day; the most recent Delaware court decisions, and/or academic articles and updates related to their current practice area. That becomes a much less painful task when you have already been exercising your reading muscle regularly.

More importantly, reading is sure a way to transform yourself into a better writer. Don't want to get bogged down in legalese or sound like a robot when drafting a brief or an email to a client? Read! Your favorite authors and journalists will teach you more about an excellent topic sentence than a textbook or seminar ever will. Want to be a better thinker? Emulate the greats — fill your head with different arguments and lines of reasoning, and watch that translate on the page into better synthesis. Plus, you will have something to talk about during cocktail party season.<sup>4</sup>

At this point you may be thinking to yourselves, these two better put their money where their mouths are! Do not fear — we have some recommendations if it has been a long while since you have cracked a book for anything other than the law.

We hope you all enjoy your summer and thanks for letting us write about tips on technology this year. Happy reading! 📖

Currently, Emily has been reading and deeply enjoying the following books:



***Leg: The Story of a Limb and the Boy Who Grew from It*<sup>5</sup> by Greg Marshall**

This is an excellent new memoir by Greg Marshall. He describes his childhood and adult life as a gay, disabled man who did not learn of his disability until he was nearly 30. He also writes about his mom having cancer for several decades and his dad dying of ALS through it all.



***Draft No. 4: On the Writing Process* by John McPhee**

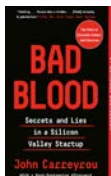
This is a masterful book of essays on craft, authored by longtime *New Yorker* staffer and author John McPhee.



***Heavy: An American Memoir*<sup>6</sup> by Kiese Laymon**

This is a memoir I continue to revisit by one of my favorite authors Kiese Laymon. Laymon writes about growing up Black in Mississippi and his relationship with his family, and in particular his mom and grandmother. I cannot more highly recommend it.

Currently, Jeff has been reading and enjoying the following (much less impressively intellectual) books:



***Bad Blood: Secrets and Lies in a Silicon Valley Startup* by John Carreyrou**

The story of Elizabeth Holmes and the Theranos fraud by Pulitzer Prize winner John Carreyrou.



***The Sparrow* by Mary Doria Russell**

An incredibly engaging science fiction-meets-philosophy novel by Mary Doria Russell about first contact with extra-terrestrials by a team led by a Jesuit priest. The novel won the Arthur C. Clarke Award, so you know it's good.

**Notes:**

1. Yes, the authors are dorks.
2. Admittedly, we are not sure anyone has accomplished this feat.
3. All Delaware residents are eligible for a free library card, good at any public library in Delaware. See, e.g., <https://delawarecity.lib.de.us/get-a-library-card/>.
4. And even if this argument fails, "Read to Impress Yourself", as Rebecca Meads explores here: <https://www.newyorker.com/culture/cultural-comment/pleasure-of-reading>
5. An interview of the author can be found here: <https://www.npr.org/2023/06/10/1181505135/greg-marshall-on-his-new-memoir-leg-the-story-of-a-limb-and-the-boy-who-grew-fro>
6. An excellent review can be found here: <https://www.nytimes.com/2018/10/31/books/review-heavy-american-memoir-kiese-laymon.html>



# Intelligent Use of AI

**A**rtificial intelligence platforms such as ChatGPT hold the promise of assisting lawyers, *pro se* litigants, and even the judiciary in various ways. It is suggested that AI could help with legal research by quickly searching and analyzing voluminous legal documents and cases while also drafting legal documents and providing legal analysis. The expectation was that such programs could automate research and drafting to permit lawyers and judges to focus on the reasoning and judgment necessary for the practice of law. The ChatGPT dataset quickly acquired over 100 million active monthly users by January 2023, according to a study by investment bank UBS.

Unfortunately, this may have been too much too soon. Open AI, the artificial intelligence research firm responsible for the ChatGPT chatbot, cautioned that ChatGPT can respond with plausible sounding but incorrect or nonsensical answers. Co-Founder and CEO Sam Altman tweeted in December 2022 that ChatGPT is incredibly limited but good enough at some things to create a misleading impression of greatness.

Recently, a New York federal judge sanctioned lawyers who submitted a legal brief created by ChatGPT which included citations of non-existent court cases including fake quotes. Unintentionally, those lawyers now serve as a cautionary exemplar for anyone else using or considering the use of this tool.

It started out as a simple personal injury suit filed in a New York federal court. Robert Mata claimed that he was struck by a metal serving cart during a 2019 flight on Avianca Airlines. Avianca moved to dismiss. Mata's lawyers, Stephen A. Schwartz and Peter LoDuca of Levidow, Levidow & Oberman, filed a brief opposing the motion. That brief cited several legal decisions.

Problems arose when the attorneys for Avianca advised the court that they could not find the legal cases that LoDuca cited in his response. Judge P. Kevin Castel ordered LoDuca to provide copies of the decisions cited in the response. In response, LoDuca purported to provide the full text of the eight cases. This compounded rather than resolved the issue as those opinions proved to be fictitious and cited "bogus judicial decisions with bogus quotes and bogus internal citations."

When called to explain, LoDuca and Schwartz admitted that they had used ChatGPT to generate the motion and that the chatbot had apparently "hallucinated" both the case law and arguments. Schwartz, an associate at the firm, admitted that he was the one who had employed ChatGPT and that LoDuca had "no role in performing the research in question" nor "any knowledge of how said research was conducted."

Schwartz and LoDuca initially failed to understand and acknowledge the issues that their use of ChatGPT had created. After opposing counsel and the judge were unable to find the cases cited in the motion, Schwartz and LoDuca again used ChatGPT to generate the cases cited in the motion without realizing that the

chatbot fictitiously generated a full text of the opinions for the citations it had fabricated.

The trial judge ordered a June 8th hearing for both LoDuca and Schwartz. At that hearing, Mr. Schwartz attempted to explain why he did not conduct further research or otherwise confirm the cases that ChatGPT had provided to him. "God, I wish I did that, and I didn't do it." He added that he felt embarrassed, humiliated, and deeply remorseful. "I continued to be duped by ChatGPT. It's embarrassing," Mr. Schwartz said.

On June 22, 2023, Judge P. Kevin Castel ordered LoDuca and Schwartz along with their law firm to each pay \$5000 in fines. He also ordered them to notify every judge falsely identified in their motion as the author of the bogus case rulings about the sanction. "The court will not require an apology from respondents because a compelled apology is not a sincere apology." Judge Castel added that he might not have sanctioned the attorneys if they had immediately "come clean" about using ChatGPT to create the brief.

The court found that the lawyers had acted in "bad faith" by making false and misleading statements about the brief and its contents after concerns were raised about the citations and by submitting the fabricated texts of the decisions to support the fictitious cites. "In researching and drafting court submissions, good lawyers appropriately obtain assistance from junior lawyers, law students, contract lawyers, legal



encyclopedias, and databases such as Westlaw and LexisNexis. Technological advances are commonplace and there is nothing inherently improper about using a reliable artificial intelligence tool for assistance. But existing rules impose a gatekeeping role on attorneys to ensure the accuracy of their filings.”

National reaction was swift. The United States District Court for the Eastern District of Pennsylvania issued a standing order dated June 20, 2023, stating, “If any attorney for a party, or a *pro se* party, has used artificial intelligence (“AI”) in the preparation of any complaint, answer, motion, brief, or other paper, filed with the court, and assigned to Judge Michael M. Baylson, they must, in a clear and plain factual statement, disclose that AI has been used in any way in the preparation of the filing, and certify, that each and every citation to the law or the record in the paper has been verified as accurate.” The United States Court of International Trade issued a similar but much lengthier order along the same lines.

A federal trial court judge in the Northern District of Texas followed suit stating, “these platforms in their current dates are prone to hallucinations and bias. On hallucinations, they make stuff up — even quotes and citations” stated Judge Brantley D. Starr of the U.S. District Court for the Northern District of Texas. “Any party believing a platform has the requisite accuracy and reliability for legal briefing may move for leave and explain why.” Starr added, the court will “strike any filing from an attorney who fails to file a certificate on the docket attesting that the attorney has read the court judge’s specific requirements and understands that he or she will be held responsible under Rule 11 for the contents of any filing that he or she signs and submits to the court regardless of whether generative artificial intelligence drafted any portion of that filing.”

No doubt that by the time that this column is published, there will be other judges in other courts that issue similar opinions and orders. Lawyers using or considering the use of AI as a practice tool should determine whether there is an applicable court order governing such use. They should also heed the warnings to fact check every part of the AI output.

Even without such orders, there are several professional conduct rules impli-

**Lawyers using or considering the use of AI as a practice tool should determine whether there is an applicable court order governing such use. They should also heed the warnings to fact check every part of the AI output.**

cated. Rule 1.1 of the Delaware Lawyers’ Rules of Professional Conduct requires the lawyer to be competent, and Comment 8 to that rule advises that lawyers should keep abreast of changes in the law and in practice, including the benefits and risks associated with relevant technology.

Misplaced reliance on AI can also implicate Rule 3.3 governing candor to the tribunal. That rule prohibits false statements of fact or law and requires an attorney disclosure directly adverse authority to the tribunal.

Blind reliance on unconfirmed information can also run afoul of Rule 4.1 which covers the lawyer’s duty of truthfulness in statements to others. Any or all of these violations could also involve Rules 5.1 and 5.2 governing the responsibility of lawyers in supervisory and subordinate positions as well as the lawyer’s responsibilities regarding the supervision of assistance by non-lawyers.

Notwithstanding its rocky start, this is an issue that appears to be here to stay.


ChatGPT has already issued GPT-4, which was able to both take and pass the Uniform Bar Examination. Microsoft issued its own version on the internet search engine Bing, although it too is reported to be capable of providing inaccurate, misleading, and weird responses.

Google’s version, called Bard, is in limited release. It is designed to draft emails, generate ideas, write blogs, and answer questions with facts or opinions

based on its own internet search. Finally, China unveiled its rival to ChatGPT called Ernie (Enhanced Representation through Knowledge Integration), although that launch was marred when its demonstration was later shown to have been pre-recorded.

Lawyers may be replaced by machines someday but apparently today is not that day. Before you wonder, this column was not generated by a chatbot.

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

*“Ethically Speaking” is available online. Columns from the past five years are available on [www.dsba.org](http://www.dsba.org).* 

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



# The Recovery Existence

**R**ecovery demands shadow the days of every raw addict. A dark, stalking shadow for the desperate, a lighter hue for the sturdily sober. Long walks in the novice's shadows, day after day, week after week. Walks for confession, walks for journaling, walks with a sponsor, walks for readings, walks for making friends, walks to help others and, above all, daily walks to meetings, meetings with other addicts seeking sobriety, one day at a time. This steady process is repeated thousands of times every day and night, in 180 nations worldwide.<sup>1</sup>

What is going on in the meeting? Connections are going on in there. Recovery is about connections. Making new friends, getting support. Why is it needed? Let's look at a visibly hopeless alcoholic. Maybe one you've lived with. Drinking alone, likely at home. Every night after work. (Perhaps legal work.) Solitary probably because, given his appearance (inside and out), he is not much of a socializer. Sitting at home, drinking room-temperature vodka, inexpensive and flavorless, thanking God for a world of grains and potatoes — all makes more sense to the inflamed addict. Drinking at parties once sounded a bit more bouncy, but the addict became boorish and thickheaded quite some time ago. The addict used to join a few heavy drinkers, but the addict can't count on them for reliability, non-drinking events, clearheaded speech or, for that matter, anything useful at all. Work colleagues? Unlikely. The addict's work colleagues for some time have been more likely to be discussing your problem with the Executive Committee than to spend time with you after 6:00 p.m. Or 5:00 p.m. Or at noon — whenever it is you normally open a bottle. Connection is meager. Hope is nonexistent.

This version of destructive drinking was unfamiliar in the final years of the Great Depression. On March 21, 1933, President Roosevelt signed into the law the Cullen-Harrison Act, which legalized the sale and consumption of beer and wine of low alcohol content. This ended a 13-year ban on alcohol. On December 5, 1933, the Twenty-First Amendment fully repealed the Prohibition. The door was opened and the thirsty walked right in.<sup>2</sup>

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**Meeting attendance builds connections and facilitates friendships. As meetings go by and sobriety becomes natural, telephone calls and fun erase the isolation of sitting home and drinking that bottle of vodka.**

Two residents of Akron, Ohio, made that walk. Both were alcoholics and both strived for sobriety. In the Summer of 1935, having met each other and determined to stop drinking, these two residents, Bill Wilson and Bob Smith, began with a relatively simple plan. Rather than relying (repeatedly) on a minister or priest, or a family member, or a physician, or an old friend, Wilson and Smith realized that help was best found by relying on another alcoholic. Share experiences. Offer support. Wilson and Smith began meeting with alcoholics — in hospitals, at home, at Dr. Smith's home, or on the street. In 1939, after persuading some 100 alcoholics in Akron and New York, Wilson and Smith wrote and published a book laying out their plan. *The Twelve-Steps* were published in that book.<sup>3</sup> The current version of that book is now translated into over 100 languages.<sup>4</sup>

What is going on in those meetings? Reducing shame is going on in there: Everyone else there has dealt with, and will be talking about, similar problems — the raw addict is not alone at a Twelve-Step meeting. Getting support is going on in there: Finding a sponsor and meeting people who can help you and who want to help you occurs during meetings. Meeting friends and receiving support is not limited to meetings themselves — it can and does include getting tacos, dancing, attending concerts, watching TV, going to baseball games, and service to new friends who need help. That is why your family's addict is home so late: the meeting might end at 7:00 p.m. or 8:00 p.m. with an easy group dinner afterward. Connections grow with time.



Connections also grow with regular, repeated meeting attendance. Sporadic visits rarely produce sobriety.<sup>5</sup> Meeting attendance builds connections and facilitates friendships. As meetings go by and sobriety becomes natural, telephone calls and fun erase the isolation of sitting home and drinking that bottle of vodka. A solitary life can be a common trigger to relapse. So can irregular meeting attendance.

A study by the AMA *Journal of Ethics* summarizes the benefits provided by Twelve-Step meetings as follows:

Although not a treatment *per se*, [Twelve-Step] groups do have something important to offer

people who are attempting to quit an addiction: they provide a social network that supports recovery; they emphasize both the powerfully compulsive nature of addiction and the importance of harnessing an individual addict's personal responsibility; there are no dues or fees for members; there are no requirements, pledges, or oaths to become a member; meetings are available in many places and at many times of the day and night; and they are compatible with other measures.<sup>6</sup>

Notwithstanding its success, Twelve-Step Meetings attract criticism. Twelve-

Step Programs are not the only path to sobriety.<sup>7</sup>

The absence of evidentiary research of A.A. and its use of Twelve-Steps has drawn plenty of controversy. The AMA *Journal of Ethics* sized up the controversy in this way: "Since there is no single, specific cause for addiction, there is no single, standard treatment for it."<sup>8</sup> The *Journal's* somewhat acerbic review of one "widely quoted" meta-analysis of 12-Steps programs:

Do 12-Step Groups Work . . . has been widely quoted: 'No experimental studies unequivocally demonstrated the effectiveness of AA or Twelve-Step Facilitation (TSF) approaches for reducing alcohol dependence or problems.' Less widely quoted is the earlier discussion in which the authors say 'there is no conclusive evidence to show that A.A. can help to achieve abstinence, nor is there any conclusive evidence to show that it cannot.'<sup>9</sup>

Not every Twelve-Steps participant maintains sobriety. A.A. took a 2014 Membership Survey. It found the following data on Length of Sobriety in years for its members:

- 27 percent stayed sober for less than year
- 24 percent stayed sober between 1-5 years
- 13 percent stayed sober between 5-10 years
- 14 percent stayed sober between 10-20 years
- 22 percent stayed sober 20 years or more

A.A.'s survey concludes that the average length of member sobriety is almost 10 years.<sup>10</sup>

A.A. Twelve-Steps work for many, but turns away others — new or old. For example, A.A. appears as a religious (specifically Christian) organization: A.A.'s Third and Eleventh Steps allow "God as

CONTINUED >



we understand him.”<sup>11</sup> Yet, A.A.’s Eleventh Step insists the following:

We all need the light of God’s reality the nourishment of His strength, and the atmosphere of His grace. To an amazing extent the facts of A.A. life confirm this ageless truth.<sup>12</sup>

And:

Now and then we may be granted a glimpse of that ultimate reality which is God’s kingdom. And we will be comforted and assured that our own destiny in that realm will be secure for so long as we try, however falteringly, to find and do the will of our own Creator.<sup>13</sup>

This insistent language, for some potential members, eliminates the idea of “God as we understand him.” The idea is replaced with “God as A.A. stipulates how to understand him.” Potential members walk out. Yet, these A.A. requirements, while repelling some, has helped untold members get and sustain sobriety.<sup>14</sup>

Not every sobriety meeting is identical. Not every addict is identical. Each meeting, each member, may have a different approach, anywhere from bringing the Big Book to a meeting to bringing your dog to a meeting. Not all question the Twelve-Steps, and not all stick to it. Your author, a life-long non-believer, with 22 years of sobriety, remains a twice-a-week attendant to A.A. meetings. Holidays included. The goal is to keep going to meetings, make connections, support members, and stay sober. Nothing else really matters. 🍷

**Scott Godshall** is the Executive Director of the Delaware Lawyers Assistance Program and can be reached at [sgodshall@de-lap.org](mailto:sgodshall@de-lap.org).

## Notes:

1. A.A. today offers meetings in 180 nations worldwide, with membership estimated at over two million. A.A. today counts more than 123,000 A.A. groups attending meetings around the world. A.A.org. Twelve-Step meetings have been adopted by at least these organizations: Al-Anon, Adult Children of Alcoholics, Cocaine Anonymous, Crystal Meth Anonymous, Heroin Anonymous, Marijuana Anonymous, Narcotics Anonymous, and Dual Diagnosis Anonymous.
2. The research is split on the issue of whether Prohibition reduced drinking. Compare *Did Prohibition Really Work*, American Journal of Public Health, February 2006:

National Prohibition succeeded both in lowering consumption and in retaining political support until the onset of the Great Depression altered voters’ priorities.

with *The Effect Of Alcohol Prohibition On Alcohol Consumption; Evidence From Drunkenness Arrests*, Economics Letters, 86 (2) 279-284:

These results suggest that Prohibition had a substantial short-term effect but roughly a Zero long-term effect on drunkenness arrests. Perhaps most strikingly, the implied behavior of alcohol consumption is similar to that implied by cirrhosis by roughly 10-20 percent...The fact that different proxies tell the same story, however, is at least suggestive of a limited effect of national Prohibition on alcohol consumption.

3. *Alcoholics Anonymous: The Story of How More than One Hundred Men Have Recovered from Alcoholism* New York, NY: Works Publishing: 1939.
4. Alcoholics Anonymous. <https://www.aa.org/>.
5. Donovan, Dennis M, Michelle H Ingalsbe, James Benbow, and Dennis C Daley. “12-Step Interventions and Mutual Support Programs for Substance Use Disorders: An Overview.” Social work in public health, August 26, 2013. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3753023/table/T1/?report=objectonly>.
6. *Addiction, 12-Step Programs, and Evidentiary Standards for Ethically and Clinically Sound Treatment Recommendations; What Should Clinicians Do?* AMA Journal of Ethics, 2016-6.
7. *Facing Addiction in America The Surgeon General’s Report on Alcohol, Drugs, and Health: Chapter 5. Recovery: The Many Paths to Wellness*, 2016, Chapter 5, p. 5-4.U.S. Department of Health & Human Services.

Most people who define themselves as being “in recovery” have experience with 12-step-oriented mutual aid groups such as A.A. and Narcotics Anonymous (NA), but many others enter recovery through professional treatment services, non-12-step mutual aid groups, or other routes of support, such as family, friends, or faith-based organizations. The diversity in pathways to recovery has sometimes provoked debate about the value of some pathways over others.

8. *Addiction, 12-Step Programs, and Evidentiary Standards for Ethically and Clinically Sound Treatment Recommendations; What Should Clinicians Do?* AMA Journal of Ethics, 2016-6.
9. *Do 12-Step Groups Work, Alcoholics Anonymous and other 12-Step Programmes For Alcohol Dependence*, Cochrane Database Syst Rev 2220 (3):CDOO5032. 2006.
10. “Alcoholics Anonymous 2014 Membership Survey.” Alcoholics Anonymous, 2014. <https://www.aa.org/alcoholics-anonymous-2014-membership-survey>.
11. “The Twelve Steps.” Alcoholics Anonymous, 1953. <https://www.aa.org/the-twelve-steps>. Steps Three and Eleven.
12. “The Twelve Steps.” Alcoholics Anonymous, 1953. <https://www.aa.org/the-twelve-steps>. Step Eleven, pp. 97-98.
13. “The Twelve Steps.” Alcoholics Anonymous, 1953. <https://www.aa.org/the-twelve-steps>. Eleven p. 98.
14. Other criticisms:

1. Some meetings forbid members from using medications to support sobriety. *Addiction, 12-Step Programs, and Evidentiary Standards for Ethically and Clinically Sound Treatment Recommendations; What Should Clinicians Do?* AMA Journal of Ethics, Fn. 23. One Delaware psychiatrist reports experiencing A.A. clients who refuse to use prescribed medications until their “sponsor” agrees. Compare, *Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health: Chapter 5. Recovery: The Many Paths to Wellness*, 2016, Chapter 5, p. 5-4.U.S. Department of Health & Human Services:

For example, people who achieve recovery with the support of medications (e.g., methadone, buprenorphine, disulfiram, acamprosate, naltrexone, or even antidepressants) have sometimes been denounced by those who do not take medications, based on assumptions that using medication is inconsistent with recovery principles or a form of drug substitutions or replacement.

2. At least one psychologist, a former substance abuser, criticizes Twelve-Step programs for concentrating on patient’s weaknesses. *American Addiction Treatment Is Shame Based, Psychology Today*, January 2, 2015, (“Addiction therapy focuses people on their deficiencies and addict identities.”)



## Looking for legal help?

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## Step up to the mic!



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

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# BREAKING BARRIERS *and* FORGING PATHS

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The History of Women in the Delaware Bar and the Women and the Law Section

BY MICHELE L. MULDOON, ESQUIRE



A stylized illustration of a pink paper airplane flying upwards and to the right. A dashed white line extends from the tail of the airplane, curving upwards and to the left, suggesting its path or a celebratory arc.

**T**his year marks a monumental date in the history of the Delaware Bar Association as it surpasses its 100th year. It also marks the anniversary of a pivotal change in the landscape of the Delaware Bar. In 1923, Delaware became the final state in the U.S. to admit women to the Bar when the Delaware Constitution was changed to permit women to be “officials of the state.” Fifty years later, only 20 women had been admitted. Women now comprise over 40 percent of the Delaware Bar membership and that number continues to grow every year.

### **A Shifting Legal Landscape**

As women began to make up a greater percentage of the Delaware Bar, their influence became apparent as legislation, caselaw, and regulations focused more on equality and women’s rights.

It was not long before women Bar members earned leadership positions within the legal community. In 1933, Marguerite Hopkins Bodziak became the first female prosecutor in Delaware and in 1962 Ruth Farrell became the first woman appointed as Deputy Attorney General of Delaware.

The latter part of the 20th century witnessed significant breakthroughs for women in the Delaware Bar. More women pursued legal education, entered law schools, and sought admission to the Bar. In 1971, Judge Roxana C. Arsht became Delaware’s first female judge when she was appointed to the Delaware Family Court, which led the way to the 1987 appointment of Judge Susan C. Del Pesco as the first woman president of the Delaware State Bar Association. In 1991, Carolyn Berger became the first woman to serve as a Justice on the Delaware Supreme Court.

CONTINUED >



Since Justice Berger's appointment, the legal landscape has shifted even more towards gender equality for all Delaware women with the enactment of laws such as the Delaware Family Court Protection from Abuse Act, Delaware Equal Accommodations Law, the Delaware Discrimination in Employment Act, the Healthy Families Act, and others.

In the following years, women lawyers in Delaware continued to appear in historically male-dominated roles. In 2018, Kathleen Furey McDonough became the first woman to lead a major Delaware law firm.

In 2021, Reneta L. Green-Streett was confirmed to serve as a Judge on the Superior Court of Delaware in Kent County, and became the first African American woman to serve as a Superior Court Judge in Kent County. Most recently on May 7, 2021, Chancellor Kathaleen St. Jude McCormick became the first woman appointed as Chancellor of the Delaware Court of Chancery. Chancellor McCormick is the first woman to lead the Court, which was established in 1792.

*The Delaware Bar has long, and rightfully, prided itself as a collaborative, scrupulous, and objective group of individuals intent on preserving the 'Delaware Way' for its generations of upcoming attorneys.*

## A Community for Women Attorneys

The Delaware Bar has long, and rightfully, prided itself as a collaborative, scrupulous, and objective group of individuals intent on preserving the "Delaware Way" for its generations of upcoming attorneys. This is especially present in the Women and the Law Section of the Delaware State Bar Association, which was originally formed in 1977 by The Honorable Aida Waserstein and Mary C. "Mimi" Boudart as the "Women's Rights Committee." Recognizing the need for collective support and advocacy, women attorneys in Delaware established the Section to address the unique challenges they faced.

The founding members of the Women and the Law Section included The Honorable Peggy L. Ableman, The Honorable Helen S. Balik, Christine M. McDermott, Marsha Kramarck, Nan Mullen Perillo, The Honorable Mary Pat Thyng, Fritz Haase, and Julianne E. Hammond. Over the years, the Section has continued to grow and assist women in gaining success and confidence in their various legal roles. Last year, the Women in the Law Section celebrated its 45th anniversary and members congregated for the 30th anniversary of its annual retreat.

The Women in the Law Section works to assist women in the legal profession by connecting new attorneys with mentors, providing training, advice and social opportunities, and presenting continuing education opportunities. The Section works to identify women for leadership roles, service awards and recognition for their contributions to the Delaware community. The Section has historically supported legislation which affects the lives of women in the Delaware community, and most recently supported the enactment of HB142, which prohibits discrimination of women regardless of their assigned sex at birth.

The most collaborative event in the Women and the Law Section is its annual retreat, which is typically held in Sussex County. The retreat



#### Delaware Firsts with Justice


**Ginsburg:** Front Row L to R: The Honorable Aida Wasserstein, first Hispanic female judge; The Honorable Arlene Minus Coppadge, first African American woman to serve on the Family Court; Justice Ginsburg, The Honorable Jan R. Jurden, first female President Judge of the Superior Court; The Honorable Vivian L. Medinilla, first Hispanic female judge of the Superior Court; The Honorable Peggy L. Ableman, first female assistant U.S. Attorney for the District of Delaware. Back Row L to R: The Honorable Jane R. Roth, first female partner of a major law firm and the first woman to sit on the District Court of the District of Delaware; The Honorable Tamika R. Montgomery-Reeves, first African American female Vice Chancellor of the Court of Chancery and first African American on the Delaware Supreme Court; The Honorable Susan C. Del Pesco, first woman on the Superior Court and first female president of the DSBA; Kathleen Furey McDonough, Esquire, first managing partner of a major law firm; The Honorable Patricia W. Griffin, first female presiding judge of a court.

provides section members with the opportunity to gather in a more relaxed fashion, and provides women members with networking, mentoring and learning opportunities that are typically not available in an office or judicial setting.

Five years ago, the late Honorable Ruth Bader Ginsberg spoke to mostly women judges and lawyers at the Hyatt Regency in Washington, DC to commemorate 95 years of women practicing law in Delaware. Justice Ginsberg was presented with honorary membership in the Women in the Law Section of the DSBA. As the “Me Too” movement was making its mark to further protect women’s advancements in all fields, Justice Ginsberg expressed her enthusiasm at its progress and stated that “every women of my vintage had not just one complaint, but many complaints.” In closing, Justice Ginsberg encouraged women to support

one another and spoke of the strength of women joining together. “While one woman speaking up can be written off as a complainer, a united body of women like we see happening with the #MeToo movement cannot be ignored.”

#### Closing

In recent years, the number of women practicing law in Delaware has continued to rise, and their representation in positions of leadership within law firms, corporate legal departments, and the judiciary has expanded. Efforts to promote gender equality, address the unique challenges faced by women lawyers, and support their professional growth remain ongoing. Women in the Delaware Bar today are making their mark, shaping the legal landscape and inspiring future generations of women attorneys. 



**Michele L. Muldoon** is a Partner at Ferry Joseph,

P.A. and practices primarily in the areas of estate planning, Medicaid planning, estate settlement, trust administration, asset protection, special needs trusts, probate and tax planning. She can be reached at [mmuldoon@ferryjoseph.com](mailto:mmuldoon@ferryjoseph.com).



# THE FIRST 100 WOMEN OF THE DELAWARE STATE BAR ASSOCIATION

As the Delaware State Bar Association is celebrating the 100th Anniversary of both the Association and the admittance of women to the Bar, we would like to honor the first 100\* women admitted to the Delaware Bar, as follows:



**Evangelyn  
Barsky**



**Sybil Ursula  
Ward**



**Annie Miles  
Saulsbury\*\***



**Marguerite  
Hopkins Bodziak**



**Roxana C.  
Arsht**



**Florence E.  
Freeman\*\***



**Brereton  
Sturtevant**



**Lucy B.  
Henson**



**Ruth M.  
Ferrell**



**Jane Richards  
Roth**



**Adrienne  
Arsht**



**Pattee C.  
Kilday**



**Helen S.  
Balick**



**Mary Anne  
Taufen**



**Doris M.  
Toll**



**Battle R.  
Robinson**



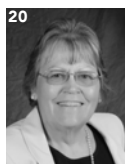
**Bonnie H.  
Sheer**



**Christine M.  
McDermott**



**Johanna D.  
Drooz Yoffie**



**Joyce Koria  
Hayes**



**Catherine S.  
Mulholland**



**June D.  
MacArtor**



**Regina M.  
Mullen**



**Marjory  
Stone**



**Peggy L.  
Ableman**



**Lucille Cirino  
Roberts**



**Susan C.  
Del Pesco**



**Julianne E.  
Hammond**



**Meredith  
Wilder**



**Mary Pat  
(Trostle) Thyng**



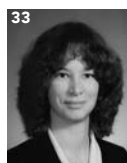
**Carolyn  
Berger**



**Mary C.  
Boudart**

\* The first 100 women admitted to the Delaware Bar span the years from 1923 through 1980. Because 24 women were admitted in 1980, we included the entire group who joined the Bar that year, which brought our list up to 104.

\*\* Picture not available. If you have a photo of the individual, please send it to Rebecca Baird at [rbaird@dsba.org](mailto:rbaird@dsba.org) to be included in our archives.



Barbara M. James



Marsha Kramarck\*\*



Nancy J. Perillo



Barbara-Cherrix O'Leary



Joanna Reiver



Aida Wasserstein



Bettina Ferguson



Barbara L. Miller



Honey F. Golby



Marie Connor Bifferato



M. Jane Brady



Andrea J. Illig



Roxanne E. Jayne



Sandra Kaufman Battaglia



Pamela Meitner



Paulette Sullivan Moore



Alesia Ranney-Marinelli



June Ellen West



Eilan K. Wharton



Helen L. Winslow



Alene S. Berkowitz



Rory Colton Godowsky



Catherine T. Hickey



Judy Oken Hodas



Mary Jo Lewis



Mary M. McDonough



Sandra E. Messick



Kathleen M. Jennings



Sue L. Robinson



Carolyn R. Schlecker



Barbara M. Weatherly\*\*



Deborah C. Donovan



Christine Whitehead-Capone



Carol P. Braverman



Cynthia Rhoades Ryan



Cynthia S. Collins



Marguerite A. Conan



Pamela Deeds Holloway



Susan Curran Donovan



Maxine L. LaPlace\*\*



Robin B. Matlin



Ruth Matruder Smythe



Elizabeth Barry Sandza



Judith A. Schuenemeyer



Christine E. Tunnell



Michelle L. Petrilli



Trudi Willcox Wood



Eileen F. Caulfield



Beverly L. Bove



Nivea R. Castro Figueroa



Beverley Burge Connolly



Barbara D. Crowell



Margriet K. Drane\*\*



L. Susan Faw



Marilou A. Ghecas



Catherine B. Hagerty



Mary Ann Hoff



Vivian Ann Houghton



Josy W. Ingersoll



Kathleen A. T. Irwin



Susan H. Kirk



Marilyn K. Levinson



Kathleen C. Lucas



Susan Friedman Paikin



Margaret S. Proctor



Marcia Rees



Judith N. Renzulli



M. Metrisko Rollins



Patricia Tate Stewart



Muriel L. D. Testa



Ina Inara Vatvars



Phebe S. Young

# The Women and the Law Section's 100th Year Anniversary Celebration of Women in the Delaware Bar

## Thursday, June 29, 2023

**D** SBA's Women and the Law Section assembled many of its members and friends at the Wilmington Country Club on June 29, 2023, to celebrate the 100th Anniversary of the admittance of women to the Delaware Bar. The event, held on the club patio, was organized by Anna Lucia Fiscella, Esquire, and Noelle B. Torrice, Esquire, and brought together many of the first 100 women admitted to the Bar, including many of the "first" women to serve as judges or in various political roles. Delaware Secretary of Human Resources Claire M. DeMatteis read a resolution signed by Governor John Carney and Lt. Gov. Bethany Hall-Long which detailed the history of women in the Bar that coincided with the birth of the Delaware State Bar Association in 1923. The resolution candidly admitted that Delaware was the last state to admit women and that it would be decades before other women would follow 1923 admittees Sybil Ward and Evangelyn Barsky. Secretary DeMatteis also read a letter from President Joseph R. Biden, Jr., also a DSBA Member, in which he praised the Women and the Law Section for carrying on the legacy of Ward and Barsky

to help "push our Nation one step closer to fulfilling its foundational promise of equality for every person." He added that the WAL Section's "efforts have led to a more just Delaware — one where women now make up nearly half of the State judiciary.

Ms. Fiscella called out the names of all of the women present who were among the first 100 women in our Bar which included, Bonnie H. Sheer, Esquire (#17), first female associate and first female partner of Cooch & Taylor; Joyce Koria Hayes, Esquire (#20), first female member of the management committee of Columbia Gas System Service Corp.; The Honorable Peggy L. Ableman (#25), first woman to serve as Assistant U.S. Attorney for the District of Delaware; The Honorable Susan C. Del Pesco (#27), first female President of the DSBA; Mary "Mimi" C. Boudart, Esquire (#32), one of the founders of the Women and the Law Section and first Housing Prosecutor for the Wilmington City Solicitor; Barbara M. James, Esquire (#33), who worked with UAW Legal Services in consumer and bankruptcy law; The Honorable Aida Waserstein (#38), one of the founders of the



Secretary of Human Resources, Claire M. DeMatteis, Esquire, reading a resolution from Governor and letter from the President.



Event Coordinator, Anna Lucia Fiscella, Esquire,



Women and the Law Section and first Hispanic attorney admitted to the Bar; The Honorable M. Jane Brady (#43), first female Attorney General of Delaware; Paulette Sullivan Moore, Esquire, (#48), first Black female admitted to the Bar and first Black person elected to a county-wide position as Recorder of Deeds in 1990; The Honorable Mary M. McDonough (#58), former commissioner for the Court of Common Pleas and the current Policy Director for Delaware's Human Trafficking Interagency Coordinating Council; The Honorable Kathleen M. Jennings (#60), Delaware's Attorney General and the prosecutor for Delaware's only serial killer case; The Honorable Sue L. Robinson (#61), first woman to serve as the Chief Judge of the Federal Court of Delaware; and Cynthia R. Ryan, Esquire (#67), first female Chief Counsel of the U.S. Drug Enforcement Administration. 📍



Attendees at the event on June 29 at the Wilmington Country Club.



Celebrating some of the first 100 Women (L to R): Bonnie H. Sheer, Esquire; Paulette Sullivan Moore, Esquire; Elizabeth M. McGeever, Esquire; Joyce Koria Hayes, Esquire; Beverly J. Wik, Esquire; Peggy L. Ableman, Esquire; The Hon. Susan C. Del Pesco; The Honorable Kathleen M. Jennings; Mary "Mimi" C. Boudart, Esquire; Cynthia R. Ryan, Esquire; Sue L. Robinson, Esquire; The Hon. M. Jane Brady; The Honorable Aida Waserstein; Mary M. McDonough, Esquire; and Barbara M. James, Esquire.

# DELAWARE STATE BAR ASSOCIATION

# BENCH AND BAR CONFERENCE 2023

THURSDAY, JUNE 15, 2023

JOHN M. CLAYTON HALL | UNIVERSITY OF DELAWARE | NEWARK, DELAWARE

The 2023 Bench and Bar Conference on June 15, 2023 brought together more than 400 members of the DSBA and celebrated the Bar's 100 year history by looking back at the many milestones of the past, while looking forward to the future and putting new ideas into action. This year's event took place at Clayton Hall at the University of Delaware — the first time that the event has been held at UD this century!

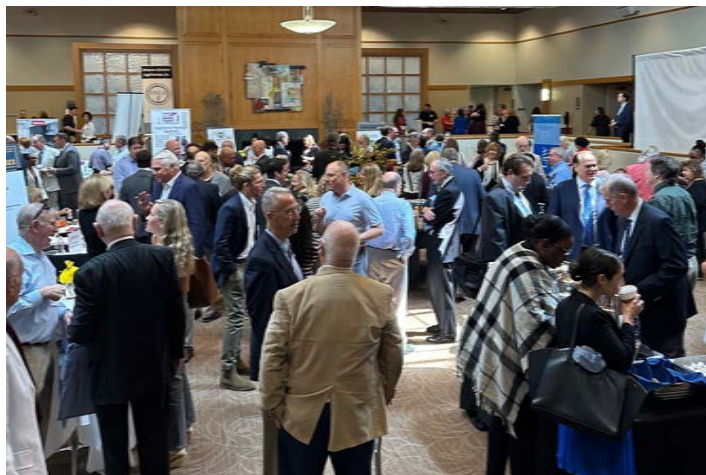
The day started off with an Opening Session that included a Welcome Address from outgoing DSBA President, Charles J. Durante, Esquire; the State of the Judiciary Address by The Honorable Collins J. Seitz, Jr., Chief Justice of the Supreme Court of Delaware; and Remarks from Dean Todd J. Clark of Widener University Delaware Law School.

The morning CLE Plenary Session featured Aaron N. Taylor, Senior Vice President, Executive Director at AccessLex Institute Center for Legal Education Excellence. The title of Mr. Taylor's address was "Reform and Rigor: How Delaware's Bar Admission Reform Efforts Can Be a Model for the Nation."

Sandwiched in between the two CLE segments was the DSBA Annual Meeting, in which Charles J. Durante, Esquire, gave his final remarks as outgoing President of DSBA and passed the gavel to Kate Harmon, Esquire. Addressing the attendees, Kate remarked that "In the DSBA's 100-year history, I am just the 10th female-identifying individual to lead this organization. This is an interesting time in our organization's history. We have a real opportunity to shape the future of the Delaware Bar and the DSBA." Kate discussed the importance of reflecting on the past, but focused on the future, concluding her address by stating, "My sincere hope is that each of us who has any ability to effect change – whether that be within our office, our department, our organization, or our community – will be moved to act and be an agent of change. The next 100 years of the DSBA and our Bar depend on it."

Also at the Annual Meeting, DSBA honored several of the attorneys who had passed their 50 year mark as an attorney and presented the prestigious First State Distinguished Service Award to William E. Manning, Esquire.

Following the Annual Meeting, attendees gathered for a Lunch Reception where they could catch up with colleagues and friends and take the opportunity to visit the Exhibitors and Sponsors of the event (please see page 34 for a list). And,



Attendees at the 2023 Bench and Bar Conference.

if attendees needed a little break with some furry friends, the Delaware SPCA was on-site with puppies available for adoption.

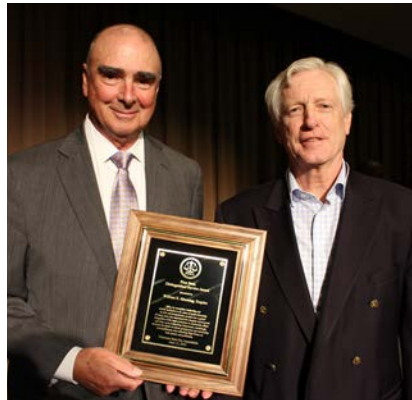
For the afternoon Breakout CLE Sessions, attendees could choose to attend one of four CLE sessions: A Family Law Panel discussion titled, "The LINK: Domestic Violence, Animal Abuse, and Child Welfare," which presented the links between various forms of abuse and how we can use that knowledge to better protect and support victims; a Criminal Law Panel, titled "Whose Crime Is it Anyway?" that discussed an update to *Brady* obligations and the new proposed change to Criminal Rule 16; The Civil Litigation Panel, "Leave it to the Mediator," offered perspectives from experienced mediators on how best to prepare for mediation, present your case during mediation, and avoid some common pitfalls throughout the process. The panel also addressed some of the ethical obligations that can arise while engaged in the alternative dispute resolution process; and lastly, the Chancery Court Panel discussion, "Real World Chancery," included members of the Court of Chancery who discussed hot topics on the court's docket in the past year, including SPACs, advance notice bylaws, and *Caremark* liability.

The event concluded with a Dessert Reception and Toast to celebrate the 100 Year Anniversary of the DSBA. The toasts were given by Past President (1993 - 1994) Richard D. Kirk, Esquire, and Incoming President Kate Harmon, Esquire, both of whom honored the greatness of the past, while looking forward to the future. 🍷





Aaron N. Taylor, Senior Vice President, Executive Director at AccessLex Institute Center for Legal Education Excellence delivering the CLE Plenary Session Keynote Address.



First State Distinguished Service Award recipient William E. Manning, Esquire with presenter, David B. Ripsom, Esquire.



Outgoing President Charles J. Durante, Esquire, passing the gavel to incoming President Kate Harmon, Esquire.



State of the Judiciary Address by The Honorable Collins J. Seitz, Jr. Chief Justice of the Supreme Court of Delaware.



Awardees for 50 Years in Practice (L to R): Jeffrey S. Goddessa, Esquire; Richard F. Rago, Esquire; Paul M. Lukoff, Esquire; David S. Swayze, Esquire; Daniel F. Wolcott, Jr., Esquire; Bayard Marin, Esquire; Edward M. McNally, Esquire; John "Pete" A. Clark III, Esquire; Louis B. Ferrara, Esquire; John H. McDonald, Esquire; Charles M. Oberly III, Esquire; Lawrence B. Steele III, Esquire; Edward C. Pankowski, Jr., Esquire; Jeffrey M. Weiner, Esquire; Thomas D. Whittington, Jr., Esquire; Gary W. Aber, Esquire; Dennis L. L. Schrader, Esquire. See page 34 for a full list of the 50 Year Awardees.



The Civil Litigation Panel, "Leave it to the Mediator": Yvonne Takvorian Saville, Esquire; David A. White, Esquire; The Honorable Joseph R. Slight III (Vice-Chancellor, Ret.); Bernard G. Conaway, Esquire; Kathi A. Karsnitz, Esquire; and The Honorable Abigail M. LeGrow.



Criminal Law Panel, "Whose Crime Is it Anyway?": The Honorable Danielle J. Brennan; Sonia Augusthy, Esquire; and Abigail E. Rodgers, Esquire.



The Family Law Panel, "The LINK: Domestic Violence, Animal Abuse, and Child Welfare,": Tania Marie Culley, Esquire; Jenna R. Milecki, Esquire; The Honorable Michael K. Newell; The Honorable Jennifer B. Ranji; Kara M. Swasey, Esquire; and Janine N. Howard-O'Rangers, Esquire.



The Chancery Court Panel, "Real World Chancery": The Honorable Lori W. Will; Benjamin M. Potts, Esquire; Mae Oberste, Esquire; The Honorable Nathan A. Cook; and The Honorable Kathaleen St. Jude McCormick.



## 50 YEAR DELAWARE BAR MEMBERS

Gary W. Aber*	Edward R. McNamara
George W. Anthes	Harold F. Measley, Jr.
Richard G. Bacon	Barry W. Meekins
Jan M. S. Black	Robert Meyer
George A. Brancati	Melvyn I. Monzack
Richard H. Burgess	Charles M. Oberly III*
Joseph A. Calvarese, Jr.	Enoch Overby
John A. Clark III*	Edward C. Pankowski, Jr.*
Jerome S. Cohen	Frank P. Porcelli
James F. Davis	Richard F. Rago*
James C. Eberly, Sr.	Robert W. Ralston
Joseph J. Farnan, Jr.	Michael J. Rich
Peter S. Feliceangeli	The Hon. Battle R. Robinson
Dennis D. Ferri	Thomas D. Runnels
Louis B. Ferrara*	G. Thomas Sandbach
Samuel J. Frabizzio	H. Murray Sawyer, Jr.
Richard E. Franta	Dennis L. L. Schrader*
Jeffrey S. Goddess*	John A. Sergovic, Jr.
Steven D. Goldberg	Peter J. Shanley
David R. Hackett	Michael R. Shapiro
Henry A. Heiman	Bonnie H. Sheer
Richard K. Herrmann	Lawrence B. Steele III*
Edward Leigh Hunt	Gerald I. H. Street
George H. Jones	William H. Sudell, Jr.
Steven R. Karlsen	Robert L. Thomas
John K. Lassen	James F. Waehler
Richard A. Levine	Robert M. Washburn
David M. Lukoff	William C. Wagner II
Paul M. Lukoff*	Jeffrey M. Weiner*
Edward M. Luria	Thomas D. Whittington, Jr.*
Stanley C. Macel III	W. Jeffrey Whittle
John M. Mahota	Daniel F. Wolcott, Jr.*
Bayard Marin*	Alan S. Yoffie
John H. McDonald*	Johanna D. Yoffie
Edward M. McNally*	<i>*Pictured on the previous page</i>

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## WITH BOARD OF BAR EXAMINERS CHAIR ANDREW D. CORDO, ESQUIRE

INTERVIEW BY SETH L. THOMPSON, ESQUIRE

Seth Thompson is a Member of the *Bar Journal's* Editorial Board and a Member on the Board of Bar Examiners. Given the recent changes to the Bar Exam, Seth reached out to the Chair of the Board of Bar Examiners, Andy Cordo, with (non-multiple choice) questions on behalf of the *Bar Journal's* readers. The questions and responses follow.

**Q** Thank you for taking the time to provide an update and information regarding the Delaware Bar admissions process. Earlier this year, the Delaware Supreme Court announced changes to the admissions process based on recommendations from the Board of Bar Examiners. What is the Board and what are its responsibilities?

**A** The Board of Bar Examiners is an Arm of the Supreme Court with responsibility for implementing the Supreme Court's rules for admitting applicants to the Delaware Bar. Among other things, the Board receives and reviews applications for admission; prepares and grades the Delaware essays questions on the Bar Exam; administers the Bar Exam; conducts the character and fitness review of each applicant who passes the Bar Exam; and, ultimately, recommends the admission of applicants who complete the requirements for admission. The Board is made up of approximately 35 members of the Delaware Bar who are appointed by the Supreme Court to serve three-year terms on a volunteer basis. The Board's day-to-day operations are managed by our Executive Director, Patty Schwartz. I am currently the Board's Chairperson.

**Q** How did the recent changes to the admissions process come about?

**A** In 2020, the Supreme Court asked the Board to take a close look at the admissions process and recommend changes. The Board's main task was considering whether any changes were necessary to address parts of our admissions process that might discourage qualified people from applying to become members of our Bar. To that end, the Board formed several committees to gather data about experiences with the Bar admissions process in Delaware and other states, and receive input from experts. That process eventually culminated in a report to the Supreme Court recommending a number of changes.



## Q What are the recent changes to the admissions process?

A Perhaps the biggest is Delaware will begin offering a February Bar Exam every year starting in 2024, in addition to the usual July administration of the exam. We saw this as a very important way to make the admissions process more inviting. Prior to the change, Delaware was the only state to administer the Bar Exam once a year. If someone was considering a move to Delaware late in the calendar year, the long wait until July to take the Bar Exam could be a factor that might push that person to make their career elsewhere.

Another change is the format of the Bar Exam was adjusted so it can be administered in two days instead of three. This was done by reducing the number of Delaware essay questions from eight to four. In other words, there will be a half-day of essays instead of a full day.

## Q Are there larger aspects of the admissions process that did not change?

A Broadly speaking, the admission process is the same as it has been for decades. People seeking admission to the Delaware Bar still need to file an application, pass the Bar Exam, demonstrate character and fitness, and complete a Clerkship and the checklist of legal activities. What has changed is some of the details in each of those steps.

## Q What is the purpose of the Delaware Bar Examination?

A Put simply, the Bar Exam is meant to test whether an applicant can demonstrate legal knowledge to show he or she is minimally competent to practice law in Delaware. It is composed of three sections: the Delaware essays questions, that test knowledge of Delaware-specific law and practice; the Multistate Practice Test, which consists of two essay-type

prompts meant to test practical skills, such as the application of law to a fact pattern; and the Multistate Bar Exam, which is a multiple-choice exam testing topics of basic legal knowledge, such as contracts and property.

The Board studied the topics tested on the essays, and recommended some changes to eliminate topics that did not appear to be relevant to testing minimal competence.

In conjunction with the change of the format of the exam, the cut score — that is, the score needed to pass the Bar Exam — was lowered from 145 to 143.

## Q Have there been changes to the admissions process outside of the Bar Exam?

A Yes. In response to applicant feedback, the Board revised the bar application form to be less cumbersome. Certain application fees have been reduced. The Board also revised the list of legal activities every applicant must observe before being admitted — which is often called the Clerkship checklist — to give applicants more options for activities to satisfy that requirement. Rather than requiring 25 items, applicants now have to complete 18 out of a list of 30. The intention was to reduce the burden in completing the checklist, while continu-


ing to provide applicants exposure to a broad spectrum of legal activities prior to admission. The Supreme Court's Rules have also been amended to reduce the duration of the Clerkship from 21 weeks to 12 weeks.

## Q Are there resources for attorneys and applicants looking for information on the changes, the examination, the Board, and the admission process generally?

A One of the other changes we made was giving the Board's website a needed facelift. It can be found at [courts.delaware.gov/bbe](https://courts.delaware.gov/bbe). There you can find the bar application, applicable rules, forms, and answers to a number of frequently asked questions.

The Supreme Court's announcement of the changes can be found on its website.

## Q How can people get involved in the Board and the admission process?

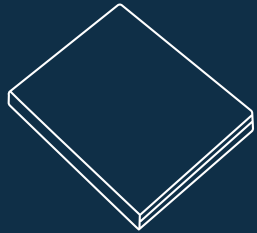
A As I mentioned, all the members of the Board are volunteers. Any members of the Delaware Bar who might be interested in volunteering can get in touch me at [acordo@wsgr.com](mailto:acordo@wsgr.com), any other member of the Board, or Patty Schwartz at [ARMS\\_BBE@delaware.gov](mailto:ARMS_BBE@delaware.gov). 



**Andrew (Andy) Cordo** is a partner in the litigation practice at Wilson Sonsini Goodrich & Rosati's Wilmington, Delaware, office. Andy's practice focuses on corporate governance litigation in the Delaware Court of Chancery. His experience includes representing stockholders, officers and directors of Delaware corporations and alternative entities in appeals, disputes over corporate and alternative entity control, fiduciary duties and management, corporate appraisal actions, and contract and other commercial disputes. Prior to joining the firm, Andy was a director in the corporate litigation and counseling groups at Ashby & Geddes, PA in Wilmington, Delaware. He can be reached at [acordo@wsgr.com](mailto:acordo@wsgr.com).

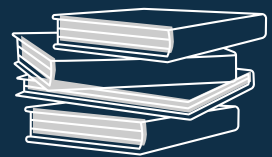


**Bar Journal Editor Seth L. Thompson** joined Parkowski, Guerke & Swayze in July 2019, and he works predominantly in the firm's Wilmington office. His practice focuses on civil litigation, family law, and municipal law. For six years, he also served as a Legislative attorney for the Delaware House of Representatives. He has served on the Board of Professional Responsibility, the Board of Bar Examiners, and the Executive Committee for the Terry-Carey American Inn of Court, as well as serving as the Sussex County Bar Association President. He may be reached at [sthompson@pgslegal.com](mailto:sthompson@pgslegal.com).



# 25 Years, 25 Books

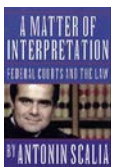
BY RICHARD A. FORSTEN, ESQUIRE



I've always loved books, and I've always loved learning. Twenty-five years ago, I wrote my first book review for *In Re*: and I haven't stopped since. Folks often ask where I find the time, but the short answer is that people always find a way to make time for what they love. Recently, someone suggested that, as part of the DSBA's 100 Year Anniversary articles and celebration, I identify those books which still stand out for me. So, here goes. One book for each year starting 25 years ago.

**March 1998**

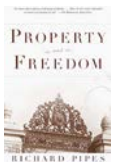
*A Matter of Interpretation*, by Antonin Scalia



My first review for the *Bar Journal*, and a book which has easily stood the test of time. Whether you liked or disliked Justice Scalia, this is one of those important books on legal theory that, like other legal classics, will still be important 50 and 100 years from now. If you only read one book on this list, you should read this book.

**December 1999**

*Property and Freedom*, by Richard Pipes



Without strong property rights, there can be no freedom. Professor Pipes traces the history and development of property rights, demonstrating both the importance of the institution for economic development, but also the importance of strong property rights as a bulwark against the power of the state. Pipes' book is excellent.

**July/August 2000**

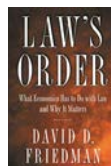
*Code And Other Laws Of Cyberspace*  
by Lawrence Lessig



At the dawn of the age of the internet, Lessig's thesis was that the computer code of the internet constituted a form of law in the many outcomes and results which were the product of that code and the choices embedded in it by its creators/programmers. With the benefit of hindsight, Lessig's insights and predictions seem even more prescient today and just as important.

**September 2001**

*Law's Order, What Economics Has To Do With Law and Why It Matters*, by David D. Friedman

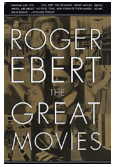


For law to function well, it must be grounded in sound economics. If we make the penalty for armed robbery as severe as the penalty for murder, some may laud this change for being "tough on crime," some will claim it violates the Constitution as cruel and unusual punishment, and others will just argue it wrong and unfair. An economist, though, might suggest that such a change will encourage muggers to kill their victims. Basic economic principles matter in every sphere of the law.



December 2002

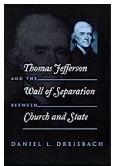
*The Great Movies*, by Roger Ebert



The review of this book generated more emails and comments than any other book review I've written. Many wrote to tell me of their favorite movie, but, as I said in my review, *Casablanca* remains the greatest movie ever. Period. Full stop.

April 2003

*Thomas Jefferson and the Wall of Separation between Church and State*, by Daniel L. Dreisbach



The phrase “wall of separation between church and state” in describing the First Amendment appears nowhere in the Bill of Rights or the congressional debates on the Amendment. Rather, it originated in an 1802 letter from President Thomas Jefferson to a Baptist church in Danbury, Connecticut thanking them for the gift of a large wheel of cheese; and the letter was only first quoted by the Supreme Court in an 1879 opinion. The letter was not quoted again by the Court until 1947, but the phrase has since become a standard metaphor. Whether the phrase actually captures the First Amendment's intent remains a matter of some debate.

November 2004

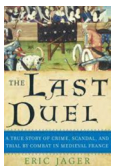
*Rubicon, The Last Years of the Roman Republic* by Tom Holland



If you don't know the story of Julius Caesar, Octavius, Cicero, Pompey, Brutus, Cassius, Marc Antony and Cleopatra, this is a great introduction. Moreover, the breakdown of the Roman Republic and its transformation into the Roman Empire offers some timely lessons we need to heed today.

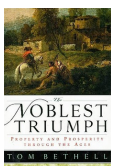
February 2005

*The Last Duel, A True Story of Crime, Scandal, and Trial by Combat in Medieval France*, by Eric Jager



This book was finally turned into a pretty good movie in 2021 starring Matt Damon and Adam Driver (although like many good movies that came out during COVID, the movie did not do well at the box office). Regardless, and even if you've seen the movie, the book is far better. It provides legal context and analysis that the movie glosses over, and, as is the case with many books turned into movies, the book is simply better. A fascinating case, and, so far as is known, the last use of trial by combat in medieval Europe.

June 2006

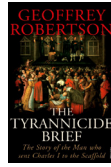


*The Noblest Triumph, Property and Prosperity Through The Ages*, by Tom Bethell

Strong property rights are essential for economic prosperity. Tom Bethell masterfully tells us why.

September 2007

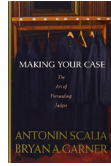
*The Tyrannicide Brief*, by Geoffrey Robertson



When Cromwell took power in England, it fell to lawyer John Cooke to write the legal brief justifying the execution of Charles I. When the beheaded king's son, Charles II, came to power eleven years later, that brief led to Cooke's own execution.

October 2008

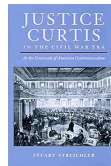
*Making Your Case, The Art of Persuading Judges*, by Antonin Scalia and Bryan A. Garner



When a Supreme Court Justice wants to offer tips on the art of persuading judges, the tips are well worth considering. In addition, Scalia and Garner are both talented writers, and so what might first sound like dry reading is actually quite lively and entertaining. I will add that Scalia wrote of his dislike of the use of footnotes for case citations, as he found it distracting when he wanted to review a citation to have to jump to the footnote and then back to the text. Garner, interestingly enough, disagrees and prefers footnotes for case citations.

May 2009

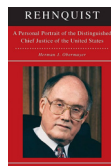
*Justice Curtis in the Civil War Era*, by Stuart Streichler



I titled my review “The Hero Who Resigned,” because Justice Benjamin Robbins Curtis dissented in *Sanford v. Scott*, and was so disgusted by the majority opinion that he resigned from the Supreme Court in protest. He was also the first Supreme Court Justice to have received a law degree, and he defended President Andrew Johnson in his impeachment trial. Curtis should be more widely recognized and lauded for his principled stand on *Dred Scott*.

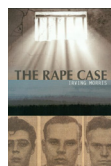
July/August, 2010

*Rehnquist, A Personal Portrait of the Distinguished Chief Justice of the United States* by Herman J. Obermayer



Everyone should have a friend like Herman Obermayer, who paints a very human picture of his friend William Rehnquist. This is not a typical legal biography, and Obermayer is not an attorney describing his friend's legal career and opinions; rather, this is a biography about Rehnquist's “everyday” life and illuminates his personal qualities. Those inclined to dislike (or even hate) Rehnquist for his legal opinions may be quite surprised by the portrait sketched by Obermayer.

September 2011



*The Rape Case*, by Irving Morris

A true story by Delaware's own Irving Morris takes the reader back in time to a different era but a quite real case. As a young attorney, Morris fought for

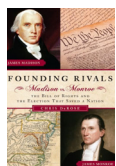
CONTINUED >



three men convicted of a 1947 rape in Wilmington, Delaware. After seven years, he was able to demonstrate their innocence and win their release from prison. A well-written, behind the scenes account of an amazing case.

### May 2012

*Founding Rivals, Madison vs. Monroe, The Bill of Rights and the Election that Saved a Nation* by Chris DeRose



Among the first congressional elections of 1788, James Madison squared off against James Monroe. Madison won, but if he had lost, there might very well have never been a Bill of Rights.

### March 2013

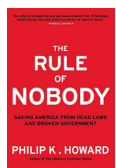
*Devil in the Grove, Thurgood Marshall, the Groveland Boys, and the Dawn of a New America*, by Gilbert King



If you only read one book on this list (after reading, of course, *A Matter of Interpretation*), this is the book you should read. This book is a page-turner, full of shocking (and often horrific) twists and turns, made all the more so because this book is a true story. An amazing read. And, Thurgood Marshall makes an appearance in the story, and, as always, his heroism in his legal efforts in the deep south at the height of its racism and Jim Crow laws demonstrates why he has to be considered the greatest lawyer of the twentieth century.

### June 2014

*The Rule of Nobody*, by Philip K. Howard



Philip K. Howard has written a lot of good books about common sense and the administrative state. This is one of his best. Far too often, officials and bureaucrats hide behind rules, never bothering to wonder if the rule makes sense or should be applied in the matters before them. Rules are easy. Rules ensure uniformity. No one can be blamed for following a rule. And, in the meantime, our government and our society is bogged down in endless rules, with one asking whether they make sense and no one wondering why change isn't happening. All of Howard's books are excellent; this one, in particular, needs a wider audience, or better yet, it needs to be applied.

### June 2015

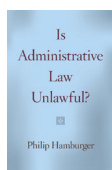
*Invented by Law, Alexander Graham Bell and the Patent that Changed America*, by Christopher Beauchamp



Intellectual property has always been an important area of the law. When Bell first said "Watson come here, I want to see you," he was setting off one of the first great patent disputes. Like so many other things in life, not everything we think we know about the history of the telephone is true.

### May 2016

*Is Administrative Law Unlawful?*, by Philip Hamburger



A big book full of big ideas and careful analysis. Do we give unelected, unaccountable bureaucrats too much power? And what does this mean for democracy? After reading this book, you will never look at regulatory agencies in quite the same way.

### October 2017

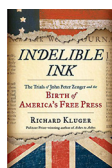
*The Blood of Emmett Till*, by Timothy B. Tyson



Emmett Till's name is remembered, but nothing can prepare the reader for the horrific details of the crime itself. As Till's murder recedes further into history, it is all the more important that Till's story be remembered.

### April 2018

*Indelible Ink: The Trials of John Peter Zenger and the Birth of America's Free Press* by Richard Kluger



Just a great story, and considered one of the great trials in American history. Very well written.

### March 2019

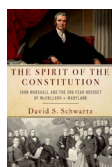
*The Coddling of the American Mind: How Good Intentions and Bad Ideas Are Setting Up a Generation for Failure*, by Greg Lukianoff and Jonathan Haicht



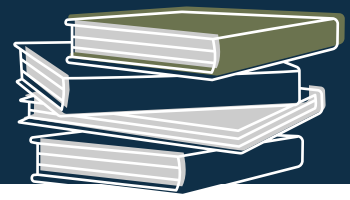
We are failing ourselves, our children, and future generations, and we need to do better. In particular, Messrs. Lukianoff and Haicht identify three great "untruths" — "what doesn't kill you makes you weaker," "always trust your feelings," and "life is a battle between good people and bad people" — as root causes for our divisive cancel culture, political polarization, loss of civility, and other social ills that are ill-equipping younger generations for civil and political society. This is actually a quite important book that deserves far more attention than it has received.

### July/August 2020

*The Spirit of the Constitution: John Marshall and the 200-Year Odyssey of McCulloch v. Maryland* by David S. Schwartz



*McCulloch* is arguably the most important Supreme Court decision, as it established the inviolability of our federal system, and this book is a great reminder of the decision's importance. Without *McCulloch*, the entire shape of our nation's history and legal system would be quite different, and there might very well be no United States. *McCulloch* put an end to the legal argument that

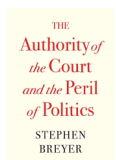


states' rights prevailed over the federal government, although it would take a civil war to put the question to rest for good.

#### October 2021

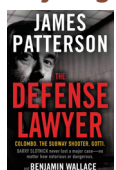
### *The Authority of the Court and the Peril of Politics*

by Stephen Breyer



A short, readable, and excellent book on the perils of treating the Supreme Court as a political, rather than judicial, body. This is a book that should be read by all — lawyers, judges, law students, the press, and the general public.

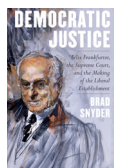
#### July/August 2022



### *The Defense Lawyer*, by James Patterson

Legendary lawyer Barry Slotnick's career is full of amazing cases and stories. A page-turner made all the more so because it's all true.

#### March 2023

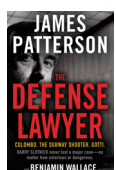


### *Democratic Justice: Felix Frankfurter, the Supreme Court, and the Making of the Liberal Establishment*, by Brad Snyder

Just a very nicely done portrait of an under-appreciated Justice and a good review of Supreme Court history.

#### Coming Soon

### *Wastelands*, by Corban Addison



Later this year, or early next, I will offer my fuller commentary and review of this book — but I mention it now because it has much to recommend it. Corban tells the inside story of a series of North Carolina cases brought under the common law theory of nuisance against large-scale hog farming in eastern

Carolina and the problems inflicted on the usually poor and underrepresented neighboring property owners. Large open lagoons of hog waste and spray irrigation of that waste rendered the lives of many unbearably unpleasant, yet it took years of litigation to start to make a difference. At times, the actions of the large pork-producing companies seem like a cliché of greedy and irresponsible corporate behavior one might expect in an over-the-top work of fiction — but, sadly, the story is all true. Told from the point of view of the plaintiffs' attorneys, and filled with the dozens of tactical decisions that trial lawyers face in every trial, the story told is truly amazing and well-written.

#### Coming Soon (to the movies)

### *Killers of the Flower Moon*, by David Grann



The movie version of this book, directed by Martin Scorsese and starring Leonardo DiCaprio and Robert DeNiro, is scheduled for release in October. Before then, you may want to read this excellent book. After oil was discovered in Osage County, Oklahoma, by the 1920s, members of the Osage Nation were the richest people, per capita, in the world. And then the murders started. This is a gripping book and a true story.

There are, of course, many more books that I could tell you about, but time and space will have to leave that for another day. In the meantime, I'll continue writing a monthly review so long as people continue to enjoy them. 📖

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

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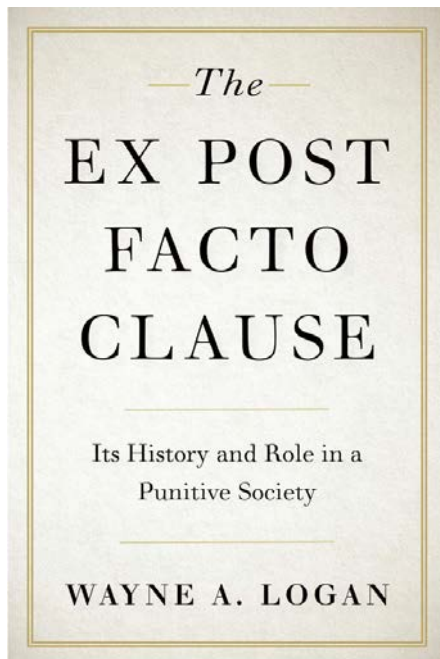
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# Before The Bill Of Rights



## *The Ex Post Facto Clause: Its History and Role in a Punitive Society*

By Wayne A. Logan  
Oxford Univ. Press, 2023

**A**t the Constitutional Convention, the Founders famously concluded that the document did not need a bill of rights. They reasoned that such a bill was unnecessary because it would protect against actions which the federal government was not empowered to take. After all, if the federal government lacked the power to establish a national church, what need would there be for language protecting freedom of religion? Of course, to our country's great fortune, James Madison came to change his mind on the subject during ratification (but that is another story).

Interestingly, and often forgotten, is that while the Framers declined to craft a bill of rights when putting the Constitution together, they nevertheless did include certain protections in the text of the original document, including a prohibition on *ex post facto* laws — something the Founders thought so important that they actually included the prohibition against *ex post facto* laws in the Constitution's text not once, but twice. In *The Ex Post Facto Clause: Its History and Role in a Punitive Society*, Professor Wayne A. Logan traces the history, importance, and continuing relevance of this important and often overlooked prohibition.

With respect to Congress, Article I, Section 9, Clause 3 states in part that: "No... *ex post facto* Law shall be passed." States are similarly restricted in Article I, Section 10, Clause 1: "No States shall... pass any... *ex post facto* law." (Note that, for ease of reference, these clauses will be referred to together as the "*Ex Post Facto* Clause").

But, what exactly is an *ex post facto* law? Strictly speaking, "*ex post facto*" simply means "after the fact," and an "*ex post facto* law" is, per *Black's Law Dictionary*, "a law passed after the occurrence of an act or commission of an act, which retrospectively changes the legal consequences or relations of such act or deed." Yet while the language and the prohibition seem broad, very early on, the Supreme Court said otherwise.

In 1798, in *Calder v. Bull*, the Supreme Court first examined the *Ex Post Facto* Clause and limited its seemingly broad applicability to criminal matters only. In the case, a Connecticut probate court issued a decree rejecting a will under which Bull stood to inherit land, and thus Calder inherited. The Connecticut legislature then passed a resolution vacating the judgment, a new hearing was ordered, and Bull prevailed. Calder claimed the resolution violated the *Ex Post Facto* Clause. The Supreme Court held otherwise in a 4-0 decision, with two justices not participating. Each of the four participating justices wrote their own opinion as was (and still largely is) the custom in England. Justice Chase's opinion is generally considered the lead opinion and, in it, he opined that the *ex post facto* provision only applied to criminal matters. Chase argued, in part, that if the *Ex Post Facto* Clause applied to civil matters there would have been no need for the Constitution's prohibition on impairment of contracts. *Calder* remains good law to this day, although it has come in for much criticism over the years.



## The primary prohibition of the *Ex Post Facto* Clause is to prohibit new laws making old acts criminal, but the clause has grown a little over the years.

The primary prohibition of the *Ex Post Facto* Clause is to prohibit new laws making old acts criminal, but the clause has grown a little over the years. The clause also prohibits increased sentences from applying to prior acts, and prohibits the easing of evidentiary rules to prove past acts. At the same time, though, the prohibition only applies to the exercise of legislative power, not judicial power and changes resulting from judicial decision. Professor Logan traces the history of the *Ex Post Facto* Clause over time, and the cases and issues are all quite interesting.

In his final chapter, Professor Logan looks at international law and history, primarily discussing the aftermath of World Wars I and II. After the end of the First World War, there were calls among the Allies to appoint a three-judge panel to try German officials for violations of the laws of humanity and the dictates of public conscience. The United States objected for several reasons, including that such an effort would violate *ex post facto* principles because there was no international statute or convention which made the alleged violations a crime. The Treaty of Versailles actually included a provision calling for the public arraignment of Kaiser Wilhelm for the “supreme offense against international morality and sanctity of treaties.” But the Kaiser was never tried. Instead, he fled to the Netherlands, which refused to extradite him in part on the basis that the acts he allegedly committed did not violate international law.

Following the end of World War II, and the atrocities committed by the Nazis, the Allies conducted the Nuremberg Trials. Although concerns were again raised about *ex post facto* laws, such concerns did not carry the day and the trials moved forward. Justice Robert Jackson, on leave from the Supreme Court, in his opening remarks at the trial, argued

that international law was sufficiently developed such that the defendants knew or should have known that their conduct violated international norms.

While not a hotbed of modern litigation and dispute, the *Ex Post Facto* Clause continues to play a role in today’s criminal justice system. It should not be overlooked for the important protections it has provided and continues to provide to this day. Professor Logan’s book is a reminder of just how critical the provision truly is. ⚖️

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

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## Pre-Vacation Checklist for Lawyers

Complete these 10 must-do tasks.



**ruby**



# Savory Rhubarb... Really

**S**trawberries have always been one of my favorite fruits. If strawberries are featured in a dessert, that's the one I'll pick. One summer when I was a teenager and my family was dining out at the Jersey Shore, I was thrilled to see strawberry rhubarb pie on the menu. I had never had rhubarb before, but the strawberries drew me in. As I took a bite of the vibrant red filling, I encountered a chunk of crunchy, tart rhubarb. Not what I expected from a strawberry dessert! That pie turned me off of rhubarb until this spring when I noticed the bright red stalks at farmers' markets. Over the last several weeks, I've been using rhubarb in different preparations and now understand that the rhubarb in that pie years ago was not to blame. It was simply undercooked.

To celebrate this unsung spring and summer vegetable, I include two savory rhubarb recipes for a July or August dinner party. Whatever the preparation, first cut off the top and bottom of the stalk, as you would with celery. The leaves are toxic, so make sure to remove and discard them.



**Susan E. Poppiti** is a mathematics educator and is pursuing qualifications in wine. Susan can be reached at [spoppiti@hotmail.com](mailto:spoppiti@hotmail.com).

## Rhubarb Crostini

### Ingredients

- 12 thin slices of your favorite baguette, cut on a bias
- Extra virgin olive oil
- 1 cup fresh rhubarb, cut into ¼-inch pieces
- 3 fresh scallions, thinly sliced (include some of the green)
- ¼ cup sugar
- Juice of ½ lemon
- ½ cup soft sheep or goat cheese
- Handful of chopped pistachios
- Fresh ground pepper

For the cheese, I use Meredith Dairy's Marinated Sheep & Goat Cheese. This jar of Australian cheese is available in many cheese shops, groceries, and online. Marinated in olive oil, peppercorns, thyme, and garlic, the cubes are flavorful and easily spreadable.

Drizzle the baguette slices with olive oil and place in a nonstick pan over low heat. Toast until light golden on each side. Set aside until you assemble just before serving so they don't become mushy.

Heat several tablespoons of olive oil over medium heat. Add the rhubarb, scallion, sugar, and lemon juice and stir. Sauté until the rhubarb is soft, about 5 minutes. Use a wooden spatula to break up the rhubarb. Remove from the heat and let cool.

Break up the cubes of cheese into a crumble and spread onto each baguette slice. Then spoon on the rhubarb mixture and sprinkle with pistachios. Top with fresh ground pepper. I like to serve the crostini on a cheese board alongside thinly sliced prosciutto.

## Steelhead Trout with Rhubarb Sauce

### Ingredients

- 2 stalks rhubarb, cut into ½-inch pieces
- 1/3 cup sugar
- Juice of 1 lemon
- 4 steelhead filets, 6 to 8 ounces each
- Extra virgin olive oil
- Salted butter
- Sea salt
- Fresh ground pepper
- Fresh basil leaves or thyme for garnish

Steelhead looks very similar to salmon but is milder in flavor and flakier in texture.

Add the rhubarb, sugar, and lemon juice to a saucepan over medium-high heat. Stir and cook until the rhubarb softens, about 6 to 8 minutes. Remove from the heat and when slightly cooled, spoon into a wire mesh strainer over a bowl. You will have to use a spoon to push some of the liquid through, separating the pieces of softened rhubarb from the sauce. Reserve what remains in the strainer as it makes a nice topping for strawberry ice cream. Set aside the sauce.

Season the steelhead with sea salt and pepper. Add two tablespoons of olive oil and a tablespoon of butter to a nonstick pan over medium-high heat. Sauté for about 4 minutes per side, starting with the skin side down. Brush the filets with the sauce before plating and garnish with fresh basil or thyme. Serve the extra sauce at the table. I recommend sautéed fresh spinach and couscous as sides.

No need to go all out with a homemade pie. Just put a dollop of the reserved rhubarb on your favorite summer ice cream or sorbet. ⚖️

## Get Published!



The Editorial Board welcomes submissions from attorneys and other professionals who wish to share their expertise on law-related topics in the *DSBA Bar Journal*.

For information on submitting articles for publication in the *Bar Journal*, please contact Rebecca Baird at [rbaird@dsba.org](mailto:rbaird@dsba.org).



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## LOST WILL

**LOST WILL:** Patricia Ann Hadfield, late of 202 3rd Avenue, Newport, DE 19803, who is now deceased. Looking for original or copy prepared by David Funk or any attorney/firm. Kindly contact Basil C. Kollias, Esq. (302) 444 - 8140; [bkollias@kolliaslaw.com](mailto:bkollias@kolliaslaw.com).

**LOST WILL:** Albert W. Littleton, Jr. Middletown, Delaware. Died: April 3, 2023. Looking for original or copy of a Will or Codicil. Please contact: Donna Reen. (302) 545-3375. [donna.d.reen@gmail.com](mailto:donna.d.reen@gmail.com). 



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# From the DSBA Archives

The Women and the Law Section spearheaded an Anniversary Celebration to mark the 75th year that women had been admitted to the Delaware Bar. At the event, which took place on November 19, 1998, the first 75 women to be admitted to the Delaware Bar were honored with United States Supreme Court Justice Sandra Day O'Connor delivering the keynote address. There were over 600 in attendance, including The Honorable Roxana C. Arsht, the 5th woman admitted to the Delaware Bar, along with her daughter, Adrienne, who was admitted 25 years later and was the 11th woman admitted. At the Celebration, the Section announced the establishment of the Roxana C. Arsht Fellowship, a three-year fellowship awarded to an attorney who works in the non-profit sector in Delaware following graduation from law school. Also as part of the Celebration, a video was presented which included interviews with some of the honorees and other members of the Bar. Attendees also received a "yearbook" of those who were honored. The December 1998 *Bar Journal* (then *IN RE*) included photographs from the event is below, along with the cover and introduction by Patricia Bartley Schwartz, Esquire, from the Celebration Yearbook. 



**1923-1998**  
**75<sup>th</sup>**  
**ANNIVERSARY**  
Delaware  
State Bar Association

**IN RE:**  
THE JOURNAL OF THE DELAWARE STATE BAR ASSOCIATION

*Celebrating  
75 Years  
of Women in the  
Delaware Bar  
1923-1998*

U.S. Supreme Court Justice Sandra Day O'Connor with honoree Roxana C. Arsht, the oldest living honoree.

Claire M. DeMatteis, Women and the Law Section Chair, and Patricia Bartley Schwartz, Chair of the Dinner.

Hon. Jane Roth, an honoree admitted to the Delaware Bar in 1965, delivers remarks.

Hon. Susan Del Pesco, an honoree admitted to the Delaware Bar in 1975, delivers closing remarks.

The first 80 women admitted to the Delaware Bar are introduced.

The four oldest living honorees: Roxana C. Arsht, Brereton Sturtevant, Lucy B. Henson, and Hon. Jane Roth.

December 1998 • Volume 22, Number 5

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**Introduction**


This year marks the 75th year that women have been admitted to the Delaware Bar. Tonight we honor the first 75 women attorneys and celebrate the contribution of women to the profession. In this commemorative program, we highlight the first 75 women. We are inspired by their example, and grateful for their achievements. We honor them for their leadership, courage and perseverance in paving the way toward a promising future for the women in the Bar.

In 1923, Delaware became the last state to admit women to the Bar. Fifty years later, only twenty women had been admitted and two of those women were related. In 1941, Roxana C. Arsht became the fifth woman admitted to the Bar, and twenty-five years later, her daughter Adrienne became the eleventh woman admitted. With the admission of the fifty women in 1975, the Bar had admitted a total of 40 women, all of whom we include on the list of tonight's honorees. Currently, women comprise approximately 30% of the Bar's members.

I wish to thank all of the Committee members, whose names appear later in this program, for their hard work over the last several months to present this celebration. I would specifically like to thank Christine Dersney who coordinated the effort to obtain the biographical information regarding the honorees; Mary Johnston who helped on the design and editing of this program; Claire DeMatteis who worked on the production of the documentary video; and also the dedicated staff of the Delaware State Bar Association who assisted at every stage of this project. Finally, I would like to thank the members of the Bar and of the community for their support and collegiality, which is evident throughout this program. Thank you all!

*Patricia Bartley Schwartz*  
Patricia Bartley Schwartz  
Chair





# Nominations Sought for 2023 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 2023.*

## **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 1, 2023** to Mark S. Vavala, Executive Director at [mvavala@dsba.org](mailto:mvavala@dsba.org).



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