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The 2018 Delaware Legal Directory

The Delaware State Bar Association Delaware Legal Directory is the only comprehensive up-to-date listing of all Delaware attorneys and judges, including address, telephone number, fax number, and e-mail address. The Delaware Legal Directory also contains contact information for the Delaware Court System and related offices frequently contacted by legal professionals.

Comprehensive Listings
- Entries for over 5,000 Delaware attorneys & judges
- Names, addresses, phone and fax numbers
- E-mail addresses
- Photographs
- Supreme Court ID Numbers
- Year admitted to the Delaware Bar

Extensive References
- Listing of Delaware firms with names of every partner and associate
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- Courts and government
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- Easy to use 5.5” x 8.5” wirebound book
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- Every member of the Association receives one free copy.
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Cover photo: © istockphoto.com/ Pinkypills
President’s Day has come and gone, but on the holiday itself a new survey — captioned “The 2018 Presidents and Executive Politics Presidential Greatness Survey” — was released. The survey ranks U.S. Presidents from best to worst and was based on responses from 170 current and recent members of a section of the American Political Science Association. The usual suspects were in the top three spots — Abraham Lincoln was ranked number one, George Washington was ranked number two, and Franklin Delano Roosevelt was ranked number three. Others moved around some, Barack Obama ranking eighth, up 10 slots from 2014, Ronald Reagan moving from ninth to eleventh and Bill Clinton dropping from eighth to thirteenth. President Trump was rated last. It is early in his term. Maybe history will be kinder to him.

Views of some Presidents do not change much. Former Presidents Millard Fillmore, James Buchanan, Andrew Johnson, and Franklin Pierce have consistently stayed near the bottom in presidential rankings.

Fillmore, Pierce, and Buchanan were all lawyers, though having legal training is not an indicator of a bad presidency. Franklin Roosevelt, John Adams, Thomas Jefferson, and Abraham Lincoln were all lawyers. To the contrary, even a modest amount of legal training might indicate the prospect of success for a President. Harry Truman, often ranked among the top ten Presidents, studied at the University of Missouri – Kansas School of Law, then called Kansas City Law School, but never earned a law degree. Theodore Roosevelt, also a perennial top tenner, studied law at Columbia without ever completing his law degree.

What is there about training and experience as a lawyer that might indicate success for a President? Some common leadership qualities shared by the most successful Presidents include:

- A strong vision for the country’s future
- An ability to put their own times in the perspective of history
- Effective communication skills
- The courage to make unpopular decisions
- Crisis management skills
- Character and integrity
- Wise appointments
- Ability to work with Congress

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Some of these qualities or skills, such as being an effective communicator, crisis management skills, an ability to work with other important constituencies — and I would hope some portions of character and integrity — are derived or enhanced by legal training and legal practice. But, there have been good lawyer-Presidents as well as bad lawyer-Presidents. Having a law degree or legal training is alone, no indication of guaranteed success as president.

But, all lawyer-Presidents, like all people I suppose, have had unusual traits and personal histories — and unique achievements — which are more interesting because they served as Presidents of the United States.3

James Monroe
James Monroe once chased his Secretary of the Treasury, William Crawford, from the White House with a pair of fire tongs.

John Quincy Adams
John Quincy Adams would often skinny dip in the Potomac River.

Martin Van Buren
Martin Van Buren was the first President to be born a United States citizen, all previous Presidents were born British subjects.

Franklin Pierce
Franklin Pierce was sworn in as President using a book of law, rather than the Bible.

Abraham Lincoln
Abraham Lincoln was involved in roughly 300 wrestling matches and only lost once; Lincoln was inducted into the Wrestling Hall of Fame with the honor of “Outstanding American.” Lincoln is the only U.S. President who was also a licensed bartender and co-owner of a saloon.

Rutherford B. Hayes
Rutherford B. Hayes struggled as a young man with what is known as “lysanthropia” — the fear of going insane. He banished alcohol from the White House and held a gospel sing-along almost every night in the White House. In 1879, Hayes signed the Act to Relieve Certain Legal Disability of Women, which cleared the way for female attorneys to argue cases in any U.S. federal court. In 1880, Belva Lockwood (1830-1917) became the first female lawyer to argue a case before the U.S. Supreme Court.

Grover Cleveland
Grover Cleveland was the only President to hold the job of a hangman. As Sheriff of Erie County, New York, he twice had to spring the trap door at a hanging.

Benjamin Harrison
Benjamin Harrison was the first president to live in the White House with electricity, but was terrified of electrocution and refused to touch any light switches.

William McKinley
William McKinley was the first President to campaign by telephone as well as the first to use the modern version of campaign buttons.

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William Howard Taft
William Howard Taft became Chief Justice of the Supreme Court after serving as President, making him the only person in history to serve as the head of two branches of government. Taft, dubbed “Big Bill,” was the largest President in American history and often got stuck in his bath tub, having to be pulled out by his advisors.

Woodrow Wilson
Woodrow Wilson would paint his golf balls black during winter so that he could continue playing in the snow.

And, my personal favorite:

Calvin Coolidge
Calvin Coolidge, the only President born on July 4, was said to be a little odd, not only enjoying breakfast in bed while having petroleum jelly slathered on his head — having determined it was good for his health — but he would regularly push all of the call buttons in the White House and watch the staff run into his office just to see who was working.

President’s Day has come and gone, as do Presidents, though we always have one, of one sort or another. The fact is that more than 60 percent of our Presidents to date have been lawyers or had some legal education and that seven of the top ten presidents are lawyer-(or nearly lawyer) Presidents. 😊

Notes:

Michael Houghton is the current President of the Delaware State Bar Association and is also Chair of the Delaware Economic and Financial Advisory Council (“DEFAC”), served as President of the Uniform Law Commission, serves as a member of the Boards of the Delaware Bar Foundation, the Delaware State Chamber of Commerce, the Delaware Public Policy Institute, and the Pete du Pont Freedom Foundation. Mike is a partner with the law firm of Morris, Nichols, Arsht & Tunnell LLP. He can be reached at mhoughton@mnat.com.

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Here is a list of the 27 out of 44 Presidents who were lawyers:

John Adams
Thomas Jefferson
James Monroe
John Quincy Adams
Andrew Jackson
Martin VanBuren
John Tyler
James Polk
Millard Fillmore
Franklin Pierce
James Buchanan
Abraham Lincoln
Rutherford B. Hayes
Chester Arthur
Grover Cleveland
Theodore Roosevelt*
Benjamin Harrison
William McKinley
William Howard Taft
Woodrow Wilson
Calvin Coolidge
Franklin D. Roosevelt
Harry S. Truman*
Richard Nixon
Gerald Ford
Bill Clinton
Barack Obama

* had some legal education
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I Was There for the Beginning, I Was There for the End…

It may seem inappropriate to write a column about the Super Bowl in a professional legal publication. But then again, that Super Sunday had an impact well beyond the football field. Probably safe to say that most water cooler conversations at law firms across Delaware did not focus on anything legal the next morning. Schedules that week abruptly shifted as judges kindly suggested hearings could be postponed (wink, wink), if the parties involved suddenly had a conflict on the Thursday after the big game. Emails flew between attorneys, proposing alternate dates for depositions, if for some reason that same Thursday unexpectedly proved inconvenient. The word “parade” likely was never spoken. It did not need to be.

Check back with me in a year — but at my water cooler, I went on record as saying I was there not only for the beginning, but at the end. The end of Tom Brady’s Super Bowl reign.

The Beginning

“Do you want to go to the Super Bowl?” my buddy Kevin asked. He was talking about Super Bowl XXXVI, and he was asking me on January 30, 2002, just four days before the Rams took on the Patriots. Kevin is a Boston native from “Southie,” and by definition a Patriots fanatic. He had a cousin who was a police officer who guarded the mayor of Boston, and the mayor had two extra tickets for the game in New Orleans. I could not quite believe what I was hearing, but Kevin confirmed, “Yes, in Louisiana, and we would have to leave in two days.” I said, “Sure, why not?”

We started driving Friday afternoon and arrived in New Orleans about 24 hours later — flights were next to impossible to get on such short notice. Since security at our sketchy hotel (the only one with availability last minute) did not exist, we slept with our tickets clutched in our hands. The next day, we witnessed one of the greatest Super Bowls ever. The Rams were heavy favorites and featured an offense dubbed the “Greatest Show on Turf.” U2 played at halftime to the largest public gathering since the terrorist attacks of September 11, less than five months earlier. With a minute and thirty seconds left in the game, the score tied and no timeouts, a second-year quarterback led the Patriots down the field, and they kicked a game-winning field goal as time expired. As we now know, that quarterback was Tom Brady, and this was his beginning. Earlier in the season, the Patriots starter Drew Bledsoe had been injured and Brady, who was a sixth-round draft pick and had only thrown a handful of passes prior to Bledsoe’s injury, stepped in for what led to the first of his many Super Bowl victories.

The Middle

A few years later, I headed back to the Super Bowl, not because a ticket landed in my lap, and not for the novelty of attending the big game. This time, the Eagles, the team I had watched and cheered for since I was a kid, were taking on Brady and the Patriots. Destination: Jacksonville, Florida, which was ill-equipped to handle the huge Super Bowl crowd. Available hotel rooms were so scarce, cruise ships pulled into port to provide temporary lodging, and even those rooms went quickly. My buddies and I had nowhere to stay. But, someone knew someone who was related to someone who was selling a house in Jacksonville. The homeowner was willing to rent it to us for the weekend for an extremely reasonable price.

While everyone else paid thousands of dollars for their hotel rooms, or drove to Georgia to find available accommodations, we considered ourselves princes who had found our castle for the weekend. Word got out and our castle turned into a fraternity house for attorneys and other professionals who could not find anywhere to stay either. No one expected a waterfront condo with endless amenities, but we were not quite prepared for the lack of plumbing, the infestation, the bitter cold (in Florida!), and the refusal of cab drivers to even drive to our location. You

If your team wins, that is the memory you will treasure the rest of your life. And, what a memory it is.
When the Bettergators called me to fly to the Super Bowl in what is called an airplane, instead of road-tripping for a full day. We stayed in a much nicer private rental, not in a hotel with quarter machines attached to the bed (New Orleans). No one woke us up, shouting, “Was that a raccoon that just ran through the room?” (Jacksonville). But, at the end of the day, it does not matter whether you get there by jet or rickshaw, or where you stay. If your team wins, that is the memory you will treasure the rest of your life. And, what a memory it is.

After the game, one of the greatest ever, we did not look for a wild, raucous party, as we might have 13 years ago if the outcome had been different. We found a quiet restaurant in Minneapolis where we could watch the highlights again and again. Age possibly contributed to my lack of exuberance, but the game was so emotionally draining that a seat, a meal, and lots of highlights were all I needed.

That memory will always include watching a future Hall of Fame quarterback in what might have been his last Super Bowl. The end, brought about by the underdog team and the backup quarterback, just as it had begun. I will not count Brady out completely though, not yet. Even in the final seconds of Super Bowl LII, no Eagles fans celebrated until time ran out, because everyone knew what Brady and his offense were capable of. I found myself focusing on the clock, as opposed to the play, because I feared he would pull off another miracle drive to win yet again, as Patriots fans had come to expect. But, he could not do it. The Eagles would not let him.

Brady threw for over 500 yards, but it was not enough. He hung his head and exited the field, yielding to what might be a new beginning. Is this the start of a new dynasty with a young quarterback and a fresh, inventive coach? Just like I witnessed in 2002? Only this time, the beginning belongs to Philadelphia and its fans. Like all reigns, it will have to end someday. But let’s hope it will not be for a long, long time.
WOMEN AND THE LAW SECTION

Chair
Kyle Evans Gay
Connolly Gallagher LLP
kgay@connollygallagher.com
Kathleen A. Murphy
Morris James LLP
kmurphy@morrisjames.com

Regular Meeting
First Wednesday of every month at
12:30 p.m. at the DSBA.

Goals
To address the effect of laws upon
women in Delaware and the delivery
of legal services to them and to further
the role of women in the Delaware legal
community.

What Can Members Expect?
A wonderful community of women, fun
and informative programming, a “can’t
miss” Retreat, excellent networking
opportunities, and the opportunity to
engage with the greater community
through volunteer work and issue
advocacy.

Upcoming Events
The Section’s Annual Legislative Lun-
cheon in Dover is scheduled for April.
This event brings together Section
members and legislators to discuss
important issues and legislative initia-
tives affecting women in Delaware and
in the legal profession.

Recent Events
The Section’s 26th Annual Retreat took
place on March 2 and 3 in Rehoboth
Beach, and a terrific time was had by
all!

Previous Events
This year, the Section hosted two
exciting panels. For the first, “Thinking
Outside the Law Firm Box,” several
of our colleagues shared their unique
perspectives as attorneys practicing
outside the traditional law firm setting.
The second panel, “Advocating for
Legislative Change,” included cur-
rent and former legislative aides who
discussed the role of the constituent in
shaping legislative policy.

SECTION CONNECTION

Section Connection will highlight DSBA’s Sections each month. Sections
cover a wide array of practice areas and membership in DSBA Sections
provides networking opportunities, social events, and CLE opportuni-
ties. Learn what your Sections are up to here at the Section Connection!

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Kathi A. Karsnitz, Attorney at Law
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“Many, many, many years ago, as a new lawyer, I joined the DSBA because I was proud to be a member of a learned profession and believed that membership in a professional organization was a privilege. Although the legal profession has changed over the years, I still view it as a bulwark against the erosion of the values of truth and honor as integral components of the legal system. Membership in the DSBA is part of my commitment to those values.”

Adrian Sarah Broderick
Wilson Sonsini Goodrich & Rosati
EXECUTIVE COMMITTEE MEMBER-AT-LARGE

“I belong to the DSBA because it offers opportunities for learning (and earning CLE credit!), networking, and becoming actively involved in the Delaware legal community through participation in DSBA sections, pro bono activities and sponsored events.”

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The DSBA Bar Journal is looking for brief announcements about DSBA Members for a feature called DSBA Happenings. We welcome brief news items and photos about your activities and accomplishments — examples include Honors, Appointments, Marriages, and Births. Notices are printed at no cost and may be submitted by email to Rebecca Baird at rbaird@dsba.org. If sending a photo, please send a high resolution photo (300 dpi).

TOP 5 CARS LAWYERS SHOULD NOT DRIVE

1. Lamborghini
   Tells your clients, “I am a lawyer who wins a lot of cases, but everyone hates my personality.”

2. 1992 Civic
   Tells your clients, “You cannot afford a better lawyer.”

3. PT Cruiser
   Tells your clients, “I can help you with probate needs because I drive a hearse.”

4. Smart Car
   Tells your clients, “I like golfing so much, I drive a golf cart.”

5. DeLorean
   Tells your clients, “I bet you wish you could go back in time and not hire me.”

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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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Mary E. Sherlock, Esquire

Sussex County
Larry W. Fifer, Esquire
Dennis L. Schrader, Esquire
Carol P. Waldhauser, Executive Director
DSBA/DE-LAP Liaison

*Certified Practice Monitor

CALENDAR OF EVENTS

March 2018

Tuesday, March 13, 2018
Fundamentals of Criminal Law and Procedure
6.0 hours CLE credit including 1.0 hour Enhanced Ethics credit
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Wednesday, March 14, 2018
DE-LAP Workshop: Behind the Cool Image
2.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Thursday, March 22, 2018
Elephant in the Room: Staying on the Right Side of the Rules
5.0 hours CLE credit in Enhanced Ethics
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Tuesday, March 27, 2018
Labor & Employment Law Update
5.3 hours CLE credit including 1.3 hours Enhanced Ethics credit
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

April 2018

Wednesday, April 4, 2018
An Interview By Dean Rodney A. Smolla With Dr. Martin Luther King, Jr. (portrayed by Rev. John Moore, Sr.) on Civil Rights
2.0 hours CLE Credits
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Thursday, April 5, 2018
LOMAP: Getting Paid Combo – Basic and Advanced Concepts
2.0 hours CLE Credits
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Wednesday, April 11, 2018
Finance for Lawyers
5.5 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, DE

Thursday, April 12, 2018
Social Security Update
3.0 hours CLE credit
Delaware State Bar Association, Wilmington, DE
Webcast to Morris James LLP, Dover, DE,
Webcast to Tunnell & Raysor, Georgetown, 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.
SECTION & COMMITTEE MEETINGS

March 2018

Wednesday, March 14, 2018 • 12:00 p.m.
LGBT Section Meeting
Stevens & Lee, P.C., 919 North Market Street, Suite 1300, Wilmington, DE

Wednesday, March 14, 2018 • 4:00 p.m.
Real & Personal Property Section Meeting
The Kirsh Law Firm, 910 South Chapel Street, Suite 202, Newark, DE

Thursday, March 15, 2018 • 12:00 p.m.
Executive Committee Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Friday, March 16, 2018 • 12:00 p.m.
Workers’ Compensation Section Meeting
Marshall Dennehey Warner Coleman & Goggin, 1007 North Orange Street, Suite 600, Wilmington, DE

Tuesday, March 20, 2018 • 12:00 p.m.
Litigation Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, March 22, 2018 • 4:00 p.m.
Family Law Section Meeting
The Yeager Law Firm, 2 Mill Road, Suite 105, Wilmington, DE

Monday, March 26, 2018 • 4:00 p.m.
Taxation Section Meeting
E.I. du Pont de Nemours and Company Chestnut Run Plaza, Building 735, Floor 1, Room 1135, 975 Centre Road, Wilmington, DE

April 2018

Monday, April 2, 2018 • 12:30 p.m.
Senior Lawyers Committee Monthly Luncheon Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Tuesday, April 3, 2018 • 3:30 p.m.
Estates & Trusts Section Meeting
Bessemer Trust Company of Delaware, N.A., 1007 North Orange Street, Suite 1450, Wilmington, DE

Wednesday, April 4, 2018 • 12:30 p.m.
Women and the Law Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Wednesday, April 11, 2018 • 12:00 p.m.
LGBT Section Meeting
Stevens & Lee, P.C., 919 North Market Street, Suite 1300, Wilmington, DE

Thursday, April 12, 2018 • 12:00 p.m.
Government Law Section Meeting
Delaware Community Reinvestment Action Council, Inc., 600 South Harrison Street, Wilmington, DE

Tuesday, April 17, 2018 • 8:30 a.m.
E-Discovery Section Annual Meeting
Pepper Hamilton LLP, 1313 Market Street, Suite 5100, Wilmington, DE

Tuesday, April 17, 2018 • 12:00 p.m.
Litigation Section Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Thursday, April 19, 2018 • 12:00 p.m.
Executive Committee Meeting
Delaware State Bar Association, 405 North King Street, Suite 100, Wilmington, DE

Please contact LaTonya Tucker at ltucker@dsba.org or (302) 658-5279 to have your Section or Committee meetings listed each month in the Bar Journal.

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Mark S. Vavala
Executive Director
It was not long ago, I found myself in a large courtroom not far from home. Opposing counsel seemed particularly irritating. The judge had no control of the courtroom; and the court clerk was so engrossed in the computer screen, it was clear he was playing some kind of game. I found all of these annoyances rather strange, since petty irritation is just not part of my personality. It was as if I were someone else. I was anxious and found it difficult to sit still. As time went on, things grew worse. I found myself looking down at my hand every few minutes for no reason at all, as if I had a tick. My hand was fine, although there was a slight twitch and I noticed beads of perspiration forming. The court hearing itself was insignificant. I gathered my things, retrieved my electronics from the locker in the lobby and exited the courthouse. Although my experience in that courtroom did not repeat itself, I did have occasion to discuss it with a friend of mine who happens to be a jury psychologist. He stared at me straight in the eye and said, “You were experiencing classic symptoms of Nomophobia.” Of course, I had no idea what he was talking about, and then he explained. Nomophobia is a condition coined in 2010 as a result of a UK study of mobile phone users. It is referred to as a “psychological syndrome in which a person is afraid of being out of mobile or cell phone contact.” The name is short for “No mobile phone phobia.” A fair amount of literature exists on the subject, and an actual disagreement exists as to whether the condition is a phobia or symptoms indicating other mental illness such as separation anxiety or actual addiction.1

At least half of us have been in conferences where those in the next seat are reading email under the table (the other half of us are the ones sending the email). While everyone knows this form of conduct is rude, it may be we are too unforgiving if, in fact, those doing it are suffering from some form of mental disorder. You will be pleased to learn there is treatment for those afflicted with this condition, which some have compared to internet gambling or shopping addiction. Help is available in guides for self-treatment, support groups and treatment centers.2

Whether it is called a phobia or an addiction, it is already affecting us as lawyers in a number of ways. Studies on the subject have been made and papers written, such as “Do You Plead Connected? Understanding How Lawyers Deal With Constant Connectivity.”3 Personal injury lawyers are focusing their keen eyes on it. We all know driving while texting is a very real problem and the cause of many accidents. It is also the subject of much lawyer marketing.4

Of course, the subject of technology and addiction has been around for a number of years. As early as 2007 the question arose as to whether technology addiction qualifies under the American Disabilities Act. The statistics are stag-
Richard K. Herrmann is a partner at Morris James LLP, handling many forms of complex litigation, including intellectual property, commercial, and technology. He can be reached at rherrmann@morrisjames.com.

“Tips on Technology” is a service of the E-Discovery and Technology Law Section of the Delaware State Bar Association.

Notes:

Michael Weiss and Yvonne Tavkovian Saville are pleased to announce that

Meghan Butters Houser has been named Partner

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The convenient use of technology can run counter to the appropriate protection of information. A recent case underscores the need for all employees of corporate parties to understand the necessity for proper protection of electronic information, especially data housed by a third-party cloud provider.

In *Harleysville Insurance Co. v. Holding Funeral Home Inc.*, No. 1:15-cv-00057 (W.D. Va. Feb. 9, 2017), a dispute over the payment of insurance proceeds, the parties argued over access to the plaintiff’s claim file. The requesting party claimed that data stored on a public cloud storage site was not kept confidential and therefore should not be protected under the rules regarding inadvertent production, including Federal Rule of Evidence (“FRE”) 502.

During the incident investigation, the plaintiff and the National Insurance Crime Bureau (the “NICB”) shared information using an electronic cloud storage service, Box, Inc. The investigator uploaded videos from the fire scene to the Box site and then emailed a link to the NICB. No passwords or special security were used. The Box site was subsequently used as electronic storage for other files, including the entire case file.

Defense counsel served a subpoena on the NICB during the litigation and, in response, the NICB produced several documents, including an email that included a link to the Box site. Defense counsel noticed the link in the email, followed it, and was able to access all of the documents posted there, including the claim file. Plaintiff’s counsel noticed that the defendant had produced certain potentially privileged documents and asked if the defendant wanted them returned.

At the same time, plaintiff’s counsel also noticed that the defendant had access to the claim file, which the plaintiff had not produced and asked that the file be destroyed. The defendant declined, stating that all defense counsel had seen the file and that it was not an inadvertent production. The plaintiff filed a motion to disqualify defense counsel for its failure to abide by the rules protecting inadvertently produced data and alleging that counsel had unauthorized and improper access to privileged information. In response, defense counsel argued that the plaintiff waived privilege by failing to secure the data using proper means.

Although not willing to make the full assertion that the claim file was entirely protected under attorney-client privilege or the work-product doctrine, the court was willing, for the sake of argument, to assume that at least part of the file was protected. The court next turned to the question of whether the file was inadvertently produced. The court stated that for the waiver to be involuntary, as the plaintiff asserted, there must be a level of bad faith or criminal activity on the part of the receiving party. Since the investigator intentionally placed the information on a cloud site without additional security or protection, regardless of the intent to share it only with inside counsel, the court determined that there was no bad faith and found that the disclosure was not involuntary.

In reaching its decision, the court relied on the Virginia Supreme Court ruling in *Walton v. Mid-Atlantic Spine Specialists*, 694 S.E.2d 545, 549 (Va. 2010), which presents a five-point test to determine if conduct amounts to waiver of attorney-client privilege. It focused squarely on three of the five factors, namely...
“the reasonableness of the precautions to prevent inadvertent disclosures . . . the time taken to rectify the error,” and “the extent of the disclosure.” The Box site is available to anyone who has access to the internet and knows where to look. The Box site contained the claim file for more than six months. Also, plaintiff’s counsel accessed that site as well, so they were or should have been aware of the ease with which it could be accessed.

In finding that the plaintiff had waived privilege for the claim file, the court gave the following warning to businesses using unprotected internet-accessible data storage:

The technology involved in information sharing is rapidly evolving. Whether a company chooses to use a new technology is a decision within that company’s control. If it chooses to use a new technology, however, it should be responsible for ensuring that its employees and agents understand how the technology works, and, more importantly, whether the technology allows unwanted access by others to its confidential information.

The Court also concluded, using a similar analysis under FRE 502, that, by the plaintiff’s own admission, the placing of the claim file on the Box site was intentional and not accidental and therefore could not be inadvertent as defined by the federal rules. The court acknowledged that, by accessing the site and learning of its contents, defense counsel should have realized the existence of potentially privileged documents and should have either disclosed that to opposing counsel or sought an opinion of the court, but had done neither. Despite this misconduct, the court was unwilling to levy the extreme sanction of disqualifying counsel but rather required the defendant to pay the plaintiff’s cost in bringing and arguing its motion.

This is a wake-up call for companies and individuals using cloud service for the storage of confidential information. The evaluation of both state and federal case law and rules clearly comes down on the side of intent and the means to which the information is protected. The court here does not specifically say that cloud storage is not a proper way to store privileged or confidential information.

Instead, the court merely states that there must be proper and appropriate protections in place to secure access. The warning the Court gives to employees is also a good lesson to clients who entrust sensitive and potentially privileged information to their agents. They need to know the necessity for security and the consequences of their actions before they decide how to configure the security of their cloud storage.

This article is provided as a general informational service and it should not be construed as imparting legal advice on any specific matter.

Vincent M. Catanzaro, Senior Attorney in the eData Practice group at Morgan, Lewis & Bockius LLP (formerly Senior Counsel, Global Discovery Manager for E. I. du Pont de Nemours & Co.), works with clients on information governance, data preservation, litigation management, and international and cross-border collection.
The Year in Review: 2017 Part II

“Ethically Speaking” began the year with a review of the 2017 Delaware disciplinary decisions. This month, we continue the review with a digest of the American Bar Association Formal Opinions issued in 2017 by the Standing Committee on Ethics and Professional Responsibility that you might have missed.

Securing Communication of Protected Client Information

Formal Opinion 477R  

The Committee issued a follow up on Formal Opinion 99-413 (1999) which concluded that lawyers have a reasonable expectation of privacy in communications made by all forms of email, including unencrypted, despite the risk of interception and disclosure in concluding that a lawyer’s use of email to communicate with clients did not violate the Rule 1.6 duty to maintain client confidences.

The Committee noted that since the 1999 Opinion was issued, lawyers now use a variety of devices to transmit and store confidential communications including desktop, laptop, and notebook computers as well as tablet devices, smartphones, and cloud and other external data storage. The Committee noted that in 2012, the ABA adopted “technology amendments” to the Model Rules including the addition to the Comments to Rule 1.1 which requires an attorney to maintain technology competence, as well as the duty to take reasonable measures to prevent inadvertent or unauthorized disclosure of information relating to the representation.

While the Opinion acknowledged that cybersecurity concerns have arisen in a post-Opinion 99-413 world, the Committee concluded that a lawyer generally may transmit information relating to the representation of a client over the internet without violating the Model Rules if the lawyer has undertaken reasonable efforts to prevent inadvertent or unauthorized access. That duty may be heightened and additional security precautions required on request of the client or when the nature of the information requires a higher degree of security.

The Generally Known Exception to Former-Client Confidentiality

Formal Opinion 479 (December 15, 2017)

Like Delaware’s own Professional Conduct Rules, ABA Model Rule 1.9(c) states that a lawyer may not use information relating to the representation of a former client to the former client’s disadvantage without informed consent, or except as otherwise permitted or required by the Rules of Professional Conduct unless the information has become “generally known.” Formal Opinion 479 offers the Committee’s guidance on what constitutes “generally known.”

Rule 1.6(a) requires a lawyer to maintain the client’s confidences. Rule 1.9 extends that duty of confidentiality to former clients. Rule 1.9(c) extends that duty by prohibiting the use of “information relating to the representation” in the course of representing a subsequent client. Note the distinction between the terms “reveal,” “disclose,” and “use.”

The “generally known” exception to the use of former-client information was first introduced in the 1983 Model Rules. The term is not defined in either the Rules or the Comments. As noted by the Committee, a number of courts have concluded that information is not generally known merely because it is publicly available or is a matter of public record. Instead, the Opinion relies on a dictionary definition to conclude that information is generally known when it is “popularly” or “widely” known citing an original Comment found in New York’s version of Rule 1.6(a) governing the protection of a client’s confidential information. The Committee also noted a 2001 New York State Bar Association Committee on Professional Ethics which itself offered an opinion that “information is generally known only if it is known to a sizable percentage of people in ‘the local community or in the trade, field or profession to which the information relates.’” (N.Y. State Bar Ass’n, Comm. on Prof’l Ethics Op. 991).

Based on this reasoning, the Committee concluded that information is generally known within the meaning of Model Rule 1.9(c)(1) if (a) it is widely recognized by members of the public in the relevant geo-
graphic area; or (b) it is widely recognized in the former client’s industry, profession, or trade. Information may become widely recognized and thus generally known as a result of publicity through traditional media sources such as newspapers, magazines, radio or television; through publication on internet websites; or through social media. With respect to category (b), the Committee suggested that information should be treated as generally known if it is announced, discussed, or identified in what reasonable members of the industry, profession, or trade would consider a leading print or online publication or other resource in the particular field.

On the other hand, the Committee concluded that information that is publicly available is not necessarily generally known. The mere fact that the information may have been discussed in open court, be available in court records, in public libraries, or other public repositories does not, standing alone, mean that the information is generally known for Model Rule 1.9(c) purposes especially if the information requires specialized knowledge or expertise to locate.

Independent Factual Research by Judges Via the Internet

Formal Opinion 478

The Opinion considered whether it is proper for judges to conduct independent research as independent fact-finding in connection with litigation. While acknowledging that the internet provides ready access to a vast array of information, that information may not always be accurate.

The Committee based its opinion on the ABA Model Code of Judicial Conduct. In doing so, the opinion concluded that a judge should not gather adjudicative facts from any source on the internet unless the information is the proper subject for judicial notice.

In reaching this conclusion, the Committee noted that facts that are the proper subject of judicial notice are defined by Rule 201(b)(1) and (2) of the Federal Rules of Evidence which states that such facts are “not subject to reasonable dispute” because the facts are “generally known within the trial court’s territorial jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” While Rule 2.9(C) does not preclude a judge’s independent legal research, it does proscribe independent research of “facts.”

The opinion offers five hypotheticals to provide guidance as to situations in which independent research is permissible under the Model Code of Judicial Conduct. In each instance, the Committee counseled against independent judicial research. Instead, the Committee advised judges to ask the parties and their counsel to provide permissible evidence which can then be tested by the adversary process.

Delaware State Bar Association Committee on Professional Ethics Opinions

There were no opinions issued in 2017. For that matter, there were no opinions issued in 2016 either.

“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. Additional information about the author is available at www.delawgroup.com.

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Further Details to Follow
To answer the question in my title, the courts, apparently. Discovery is straightforward. Candidly respond to the requests of an opponent. Object where applicable. Withhold nothing responsive. Simple, right? Yet, what happens when one suspects that an opponent may be withholding documents during discovery? Document production is not always clear-cut and sometimes miscommunications can lead to discovery tragedies. Sometimes documents are intentionally withheld. It is often difficult to tell if opposing counsel is justified in withholding documents. This is where the courts come in. Sanctions, adverse inferences, dismissal, and referral to state bar authorities are some of the boogeymen awaiting parties who engage in discovery abuses. Further, our future AI overlords may assist with discovery, helping us avoid discovery abuses before we vanish after the singularity.

First, we visit the infamous Qualcomm case from the Southern District of California. Qualcomm Inc. v. Broadcom Corp., 2008 WL 66932 (S.D. Cal. Jan. 7, 2008). In Qualcomm, the plaintiff argued that it had never participated in meetings with an industry standards-setting body called the Joint Video Team (“JVT”). The plaintiff would likely have waived its claims had it been found to have participated in the meetings of the JVT. During trial, a document reviewer discovered at least 21 emails that indicated that Qualcomm had in fact participated in JVT meetings during the relevant timeframe. Attorneys for Qualcomm made the decision to not produce these documents and became whipsawed when the documents came up during cross-examination at trial. In finding that “an organized program of litigation misconduct” had taken place, the defendant was awarded nearly $10 million dollars in fees and costs due to the concealment. The associated attorneys faced hearings before their state bar.

Next, we turn to Delaware. GN Netcom, Inc. v. Plantronics, Inc., involved a client (not an attorney) intentionally deleting emails. 2016 WL 3792833 (D. Del. July 12, 2016). Gems from the offending party included emails stating, “please delete immediately” and “please delete this entire string of emails for everyone that has been copied ASAP!” A forensic expert estimated that the individual himself likely deleted 2,380 to 15,309 responsive emails from his own inbox. It was not clear how many other documents may have been deleted due to his requests to colleagues. The Court sanctioned the defendant with a $3 million punitive damages hit, attorneys’ fees for the discovery dispute, and an adverse inference in the form of a jury instruction. These significant sanctions impose high financial burdens on wrongdoers and destroy any advantage otherwise
gained through discovery gamesmanship. These types of cases can also serve as a warning to clients that trying to delete evidence while keeping counsel in the dark is a losing strategy.

In *Monier, Inc. v. Boral Lifetile, Inc.*, the Court of Chancery imposed monetary sanctions on a party that did not turn over an important responsive document to its opponents. 2010 WL 2285022 (Del. Ch. Feb. 24, 2010). The court awarded one-third of discovery costs (being conducted under the Hague Convention) and the costs associated with the sanctions motion, though declined to dismiss the case. The document in question was a PowerPoint presentation originally created by the plaintiff. During negotiations between the plaintiff and the defendant, a page from the presentation was given to the defendant. The defendant produced the single page during discovery, while the plaintiff did not produce any portion of the PowerPoint that they had themselves created. The plaintiff then filed a motion seeking the rest of the PowerPoint. Confusing? The court thought so. “The record, unfortunately, is not very helpful in providing an understanding as to what [the plaintiff’s] counsel and [the plaintiff] were doing.” The Court found that the plaintiff had materially failed to meet its responsibilities during discovery, though did not find that the plaintiff had engaged in a deliberate cover-up.

Finally, in *Beck v. Atl. Coast PLC*, the Court of Chancery addressed the intentional and unjustified withholding of a document during discovery. 868 A.2d 840, 857 (Del. Ch. 2005). Beck involved an attempt to certify a nationwide class action suit against an early internet company. The plaintiff and intended class representative had made statements on a personal website that were probative as to his sufficiency as a class representative in the suit. His out-of-state counsel was aware of the website, though consciously decided not produce the site in its entirety despite the entirety of the webpage being relevant to a document request. Out-of-state counsel for the plaintiff noted to the Court that finding the webpage (a year in advance of the document request) was a “troubling misfortune….” Although the court had several issues in addition to the lack of discovery candor, the court ordered that out of state counsel (located in Washington State) and plaintiff Beck were to pay $25,000 to the defendants, jointly and severally. Further, the Court ordered a joint and several payment of $2,500 to the Court for wasted time and costs. Additionally, the Court dismissed the complaint, and required that the Washington firm attach a copy of the court’s decision to every motion for admission pro hac vice.

**Conclusion**

Being coy or careless with document production can have far-reaching consequences. Cases can unravel, and sanctions can swamp discovery-abusers. For now, attorneys should refer to guidelines promulgated by our very own Delaware Courts to help keep on the right track.

What does our future hold? Several document review AI programs are currently being developed or put into use. Some of these programs focus on analytics and can identify when likely responsive or privileged documents have been wrongly tagged by the reviewer. These programs can also identify if a particular reviewer is making wrong decisions. That way, the reviewer can be trained to accurately make document calls or be removed from the project. Yet other AI work alongside human reviewers and “learn” how to mark documents based on instruction and document requests. Once these programs reach a high level of accuracy, they are able to complete document review in a fraction of the time that human reviewers can. Nonetheless, AI cannot (yet) stop a client from deleting relevant documents, nor could AI do much if an attorney simply never loaded a specific document into a review platform. For now, we have the above cases to remind us that honest and effective compliance with document requests is the answer.

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Michael R. Grandy is an associate at Connolly Gallagher LLP and can be reached at mgrandy@connollygallagher.com or (302) 888-6212.
Are You a Control Freak?
If So, Here Are Tips on How to Be More Flexible and Easygoing

John Doe, Esquire, accepts that he is a type A personality. He declares emphatically that he is not a control freak! Rather, John believes that his personality traits, attitudes, and need to control are no different than “regular people.” He argues that he is calmer and more relaxed when he can control everything. With a deep, agitated voice, he says: “It is when I do not have control, fear enters into the picture.” In reality, John knows that he is a victim of his own insecurities and he worries about the what ifs instead of focusing on the present. Deep down, John realizes there is no way that he can control everyone and everything in his life — even if he tries.

While being a control freak is not necessarily a bad thing in all situations, you do not want it to completely take over your thought processes and relationships. Whether it is the fear of something bad happening or lack of trust in others, it is a behavior that needs to change so you can start enjoying life again — whether you are in control or not.

Signs That You Are a Control Freak, or Are Dealing with One

According to Psychology Today¹, here is how to spot if you, or someone you know, is a control freak:

Correcting People When They Are Wrong

People with a high need for control often feel the need to correct others when they are wrong. They correct someone due to an irrational argument; they correct spelling or pronunciation; they correct details of what happened in the past; they correct bad manners; or they correct people when they do something wrong or inappropriate. It is important to understand that underneath the motivation to correct others is the belief that you are usually or always right.

Always Trying to Win the Argument or Have the Last Word

High-control men and women are difficult to have relationships with because they like to set the rules and subsequently enforce them. They act superior to others, and are determined to show everyone that they are the most practical, logical and intelligent one in any crowd.² Does this sound familiar?

Refusal to Admit When They Are Wrong

One of the most frustrating signs of a control freak is the refusal on the part of high-control men and women to admit when they are wrong. It could be the smallest, simplest issue, but high-control people do not care. (Rather, when you are wrong, promptly admit it!)

Judging or Criticizing Others

Some of the most judgmental individuals you will ever meet are men and women with a high need for control. They are highly principled, with opinions on everything from how people should hold their fork to how people should comb their hair to how they should dress. They have an answer for everything and they know it all.

Driving with Rage

People with a high need for control often get very frustrated while driving. They believe they are the only ones who know how to drive correctly.³ (I am so busted on this one!)
High-control men and women engage in a series of behaviors that frustrate and cause resentment in others and even themselves while driving.

If You, or Someone You Know, Needs to Let Go of The Need to Control

Step 1: Be Honest with Yourself and Keep It Real

The first step is to admit to yourself that you need control. Look in the mirror and ask yourself where exactly this emotion is coming from. According to the Huffington Post motivational keynote speaker Mike Robbins: “With empathy and honesty, take a look at how, why and how you hold on tight to control in whatever way you do.”

Try to find the core reason why you need to micromanage every aspect of your life. Is it because you fear the unknown? Or do you have a lack of trust when it comes to your relationship or career.

Step 2: Let Go of The Need to Control

Think of how you are being. Before you start to control a situation, try to envision what would happen if you did not. According to Tiny Buddha, we tend to control things to prevent anything from going wrong. Question the validity of your fear when you feel like being in control. If you let go of control, will the future alter in a horrible, negative way? If you answered “no,” then let it go and take charge of your life rather than letting your fears take control of you. It is empowering.

Step 3: Learn to Live in the Present

People tend to control things because they are afraid of what the future might hold, or they are experiencing flashbacks and do not want to repeat a past mistake. Focusing on the past and everything that has happened can cause anxiety. Stop worrying about the what ifs and pay attention to the present. The only thing that you really have is right now. When someone micromanages every aspect of their life, they tend to forget how to live because they have way too many things on their plate.

Step 4: Learn to Listen and Be Flexible

You can learn to let go by believing that you are not the only one who knows best. Maybe it is time to not control and listen to someone else’s ideas. In fact, being flexible is a key aspect of learning to have less control over things, and ultimately how to enjoy life more. According to Psychology Central, Sandra Sanger, Ph.D.: “A hallmark of mental health is the ability to be flexible — in behaviors and responses, and in relationship to feelings and thoughts. When you need to have control, you forgo flexibility and place a lower than necessary ceiling on your capacity for engaging in and enjoying life.”

Step 5: Learn to Trust

To let go of control and be more easygoing, you need to have faith that things will work out. Do not let your fear rule. Fear leads to your spiraling down into worry and stress. According to Huffington Post, founder of SPARKITE and accountability and empowerment coach Lauren Stahl: “Trust means belief. And belief means you honor and respect yourself. This is where your self-worth comes in and you can let go of the need of control.”

Step 6: Letting Go of Control While Taking Back Your Life

While you may believe that you can control a lot in your life, the reality is that you really only have control over one thing: your emotions. Do you really want to behave like a control freak? Be patient and over time, you may learn which battles you should pick to help you let go of your control of everything in order to achieve a healthier, carefree life.

Step 7: Ground Yourself in Reality

When you are living in the future you are living with a control mindset. You are already attaching yourself to expectations and setting yourself up for disappointments. Focus on grounding yourself. Maybe this means taking a walk in nature, calling a friend, or just getting out of your office. Here are some other quick tips Stahl suggests to let go of control and be more flexible:

- Write down a fear list
- Write down what presence (or being in the moment) means to you
- Make a freedom list: Freedom means surrendering. It means you are at peace with yourself and have trust that you do not have to control everything.

While you may believe that you can control a lot in your life, the reality is that you really only have control over your emotions. Remember, the signs of a “control freak” — do you really want to be that way? Be patient and over time, you may learn which battles you should pick to help you let go of your control of everything in order to achieve a healthier, carefree life. And, call your confidential, free Delaware Lawyers Assistance Program (DE-LAP) for more information about this topic, or any other matter, that is affecting your quality of life and/or quality of professionalism. Remember, we do together what is often difficult to handle alone. Call (302) 777-0124 or e-mail cwaldhauser@de-lap.org.

Notes:

Carol P. Waldhauser is the Executive Director of the Delaware Lawyers Assistance Program and can be reached at cwaldhauser@de-lap.org.
Nullius in Verba ("Nobody Tells Us How to Think"): Free Speech On Campus
By Erwin Chemerinsky & Howard Gillman (Yale Univ. Press, 2017)

"I Find That Offensive!"
By Claire Fox (Biteback Pub., 2016)

Civility seems a forgotten virtue in much of today’s public discourse. When those expressing a viewpoint with which others disagree attempt to speak, too often, it seems, they are not met with counter-argument and rational debate, but simply with demands that they not speak, or with intimidation and condemnation. Nowhere is this more evident than colleges and universities, where students often seek to ban unpopular speakers and topics, and demand safe spaces where they can congregate free of topics and opinions they deem unacceptable.

Erwin Chemerinsky, Dean and Professor at the University of California Berkeley School of Law, and Howard Gillman, Chancellor and Professor at the University of California, Irvine, do not like what they see. In Free Speech On Campus, they look at the current state of affairs on college campuses and argue for a very strong, robust and permissive freedom of speech.

Professor Chemerinsky and Gillman begin their book with a litany of recent collegiate instances where students and staff were suspended, expelled or otherwise disciplined for engaging in free speech — speech which was unpopular, but speech nonetheless. What ultimately seems to have prompted the two professors to write their book is a growing sentiment among many that racist, homophobic, sexist or otherwise offensive language is simply not protected by the First Amendment. When the two were co-teaching a seminar on the First Amendment and described an incident to their class where a university expelled certain fraternity members for engaging in a racist rant, the professors were surprised and disappointed that the class voted unanimously in favor of the university’s position that the students could be expelled (note that neither author in any way condones the chant itself — no person should — but that, obviously, is not the point). The professors’ central thesis is “that all ideas and views should be able to be expressed on college campuses, no matter how offensive or how uncomfortable they make people feel; but there are steps that campuses can and should take to create inclusive communities where all students feel protected.”

Over the course of their book, the authors provide a concise and well-written history of freedom of speech and the First Amendment, and then go on to propose clear and sensible policies that would respect the First Amendment and respect the core mission of universities and colleges — the advancement of arts and sciences and ideas. They reject the notion that a speaker should be banned on the basis of unpopular or offensive views, and, in support thereof, cite former President Barack Obama from his 2016 Commencement Speech to the graduates of Rutgers University:

I know a couple years ago, folks on this campus got upset that Con-
Dolezaza Rice was supposed to speak at a commencement. Now, I don’t think it’s a secret that I disagree with many of the foreign policies of Dr. Rice and the previous administration. But the notion that this community or the country would be better served by not hearing from a former Secretary of State, or shutting out what she had to say — I believe that’s misguided. I don’t think that’s how democracy works best, when we’re not even willing to listen to each other. I believe that’s misguided. . . .

If you disagree with somebody, bring them in and ask them tough questions. Hold their feet to the fire. Make them defend their positions. If somebody has got a bad or offensive idea, prove it wrong. Engage it. Debate it. Stand up for what you believe in. Don’t be scared to take somebody on. Don’t feel like you got to shut your ears off because you’re too fragile and somebody might offend your sensibilities. Go at them if they’re not making any sense. Use your logic and reason and words. And by doing so, you’ll strengthen your own position, and you’ll hone your arguments. And maybe you’ll learn something and realize you don’t know everything. And, you may have a new understanding not only about what your opponents believe but maybe what you believe. Either way, you win. And more importantly, our democracy wins.

Chemerinsky and Gillman title one of their chapters “Nullius in Verba,” which is Latin for “nobody tells us how to think,” and they conclude their excellent and balanced work with an exhortation even more compelling than that of the former President:

A renewed appreciation of the value of free expression is important, not only for life on contemporary college campuses but also for the future of civic discourse and democratic practice in the United States. The worrisome tendencies at colleges and universities to punish or silence the expression of ideas occur amid similar tendencies in the broader political system. Deep, persistent ideological divisions in society are leading many to treat political opponents as enemies, shout down critics, and reject compromise. With the collapse of traditional network news and the rise of “curated” information gathering on cable and online, it is easier for people to listen only to those with whom they already agree, and so respond to opposing viewpoints with mockery and suspicion of ill intent.

These are troubling developments. It is not possible for a diverse, democratic society to survive without some measure of tolerance for opposing viewpoints, respect for people who hold different views, and a willingness to discuss and debate across lines of difference — a bundle of norms and practices that amounts to “hearing the other side.” American colleges and universities should be a corrective. They should stand as models for how diverse communities of people work together to address important and difficult questions. Campuses make their strongest contributions to free societies when a lively and diverse campus community shows a genuine desire to engage competing perspectives, learn from those who have had different experiences or hold different viewpoints, engage and rebut ideas harmful or dangerous, and resolve disagreements through rational argumentation, evidence-based reasoning, and the acquisition of new knowledge.

Promoting an inclusive culture of mutual respect, tolerating diverse and controversial views, and working through difference by way of conversation rather than intimidation are essential not only to higher education. They are also how free, diverse, democratic societies must behave if they are to remain free, diverse, and democratic.

The generation now in college will soon be our society’s leaders. The stakes could not be higher as we help them understand why free speech matters, not just on campuses but in the world. If we expect them to fight for these values, we must teach them these values.

But, while Chemerinsky and Gillman provide an excellent overview and defense of free speech in today’s higher education environment, author Claire Fox is more interested in the possible
causes of this so-called “snowflake” phenomenon — and the problem may very well be one of our own making.

Fox identifies several culprits, all tracing back to a single root issue: a culture of over-protection of children that extends adolescence, delays adulthood, and does a poor job of instilling independence and resilience in children and young adults. In particular, one of the culprits she identifies is today’s extensive anti-bullying campaigns in public schools — campaigns which, to the good, seem to have gone a long way towards inculcating a sense of inclusiveness and a sensitivity to hurtful language concerning others, but, to the bad, may have over-taught their message. Fox tells the following story:

[m]y ten-year-old niece came home in tears [one day] and, after coaxing, told me that she was being bullied at school. Was she being beaten up by nasty older kids? Having her dinner money stolen? Her head pushed down the girls’ toilet? Eventually she revealed that some of her friends had gone to the cinema without her. I was relieved and started to reassure her: this wasn’t bullying, we all fall out with friends and it is part of growing up, she would find better friends, etc. However, she indignantly corrected me and quoted her school’s anti-bullying policy on “exclusion from friendship groups” and “exclusion at playtime or from social events and networks.”

Whatever happened, Fox asks, to the old saying “sticks and stones may break my bones…” She continues: “[h]aving been reared into a fear of bullying as children, we can hardly be surprised that such fears become a major preoccupation for that same generation when they grow up, whether on campus or in the workplace.”

Great Britain, of course, lacks a First Amendment and the broad protections it extends. Fox’s book is not a legal analysis, but a sociological one. Ultimately, it is a simple plea for greater tolerance. She closes her book with two letters — one to “snowflakes,” and one to “non-snowflakes.” Each is well done. To the “snowflakes” she concludes:

THE DELAWARE STATE BAR ASSOCIATION ANNOUNCES THE

2018 POETRY COMPETITION

DEADLINE MAY 1, 2018

The Delaware State Bar Association is pleased to announce the 2018 Poetry Competition. An impartial panel will pick the three best poems. The winners have their poems published in the Bar Journal. You are encouraged to send in as many entries as you wish, with the following provisions:

1. The competition is open to all current Delaware State Bar Association members.
2. An impartial panel of lawyers will choose the final three winners without knowledge of the identity of the authors. The decisions of the judges are final.
3. Your entry must be previously unpublished and original. Among the criteria considered in judging are: style, technique, originality, and creativity.
4. Entries must be 40 lines or fewer and must be submitted electronically.
5. All entries submitted will become the property of the DSBA.
6. The winning entries, if any, will be published in the Bar Journal. The Editorial Board of the Bar Journal reserves the right to edit submissions and to select no winner and to publish no work from among those submitted if the submissions are deemed by the Editorial Board and the judges not to be of notable quality.
7. All entries must be received no later than May 1, 2018 in proper form. Submissions received after that time will not be considered. Please direct all submissions to: Rebecca Baird at rbaird@dsba.org (a confirmation email acknowledging your entry will be sent).

Richard “Shark” Forsten is a Partner with Saul Ewing Arnstein & Lehr, where he practices in the areas of commercial real estate, land use, business transactions, and civil litigation. His first book review in the Bar Journal (formerly In Re) appeared twenty years ago in March 1998 and since that time he has reviewed 232 books for the Bar Journal. He can be reached at Richard.Forsten@Saul.com.

If we let you carry on being preoccupied with such microaggressions without a fight, how on earth will you be able to cope with the very real macroproblems that your generation will face? If a whole generation lacks the resilience and sense of proportion to handle the vicissitudes of interpersonal interactions and everyday life, how will you confront, let alone tackle, the huge social challenges of everything from economic crises to ISIS terrorism? There is no such thing as a mollycoddled rebel. You need to toughen up.

And, to the “non-snowflakes,” she says:

You need a solidarity that uniformly upholds free speech for all… It is essential to ensure that our universal values are not fractured by a form of sectarian ghettoization. So, you will need to be a beacon of Enlightenment values that fight for hearts and minds. This might mean defending the right to be offensive for those Western Islamists who endorse ISIS and an example of your commitment to freedom, while simultaneously arguing uncompromisingly against their anti-freedom barbarism. You must be confident enough to separate principles and errant practices.

Chemersinsky, Gillman, and Fox have provided two takes — one legal, one psychological/sociological — on a simmering problem. Both books make excellent, pragmatic suggestions on ways to deal with the problem. Whether civility and tolerance can be restored to public discourse remains to be seen, but often the first step is acknowledging the problem and recognizing that it must be dealt with — and deal with it we must.
Christophe Clark Emmert is a graduate of Bryn Mawr College (A.B. in French Literature and History of Art); Wilmington University (MBA in Finance); and Widener University School of Law. Her practice is concentrated in the areas of Estate and Trust Planning and Administration, Business Formation and Succession Planning, and Real Estate. Christophe meets with clients in all of our offices, including Georgetown, Lewes, Rehoboth, Bethany Beach, and Milford. She currently serves on the Board of Directors for the Bethany-Fenwick Area Chamber of Commerce and as Treasurer for the Terry-Carey American Inn of Court.

Jamie C. King, a Delaware native, is a graduate of St. Andrews School, Middletown, Delaware; Dickinson College (B.A., Political Science), Wilmington University (Masters in Public Administration), and Appalachian School of Law, Virginia. Jamie practices primarily out of our Lewes office, but meets clients in all offices, including Georgetown, Rehoboth, Bethany Beach, and Milford. Jamie’s practice is primarily focused on residential and commercial real estate transactions. Jamie also represents business entities from formation to dissolution, collections, and criminal defense in the Court of Common Pleas. Jamie currently serves as the general counsel to the Delaware State Senate Republican Caucus.
Thank you to the many contributors and volunteers who gave generously to the 2017 campaign to help ensure access to civil legal aid for the most vulnerable of Delaware’s population. CCJ benefits Community Legal Aid Society, Inc. (CLASI), Delaware Volunteer Legal Services, Inc. (DVLS) and Legal Services Corporation of Delaware, Inc. (LSCD).

Total Contributions: $1,466,059
The Delaware State Bar Insurance Services (DSBIS) offers comprehensive, highly customized insurance solutions and risk control services to protect lawyers from professional exposures and provide enhanced member services.

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The 2018 Mid-year Meeting of the American Bar Association’s House of Delegates took place February 5 in Vancouver, British Columbia, Canada. As always, it was a pleasure to return to Canada for an ABA meeting — celebrating the relationship that U.S. lawyers and judges have with their counterparts to the North, and taking in the richly diverse city of Vancouver.

The Delaware Delegation

The Delaware Delegation to the House of Delegates, the principal policymaking body of the ABA, again included The Honorable William C. Carpenter, Jr., member of the ABA Board of Governors; Ben Strauss, DSBA Bar Delegate; Mary I. Akhimien, DSBA Young Lawyer Delegate; and yours truly, State Delegate.

Remarks from ABA Officers and Others

Throughout the session of the House, we heard from ABA officers and others. Speakers included Chair of the House of Delegates Deborah-Enix Ross, ABA President Hilarie Bass, ABA Treasurer Michelle Behnke, ABA Secretary Mary Smith, ABA President-Elect Nominee Judy Perry Martinez, and Executive Director Jack Rives. Also addressing the House was The Honorable Maureen O’Connor, Chief Justice of the Ohio Supreme Court and President of the Conference of Chief Justices.

Resolutions Adopted by the House

The House adopted the following resolutions (with numbers as indicated), and in so doing articulated as ABA policy the substance of each resolution:

- Encouraging law firms to develop initiatives to provide women lawyers with opportunities to gain trial and courtroom experience (10A);
- Urging federal courts, Congress and the U.S. Patent and Trademark Office (“USPTO”) to adopt rules or enact legislation to establish an evidentiary privilege applicable only to clients of patent agents who are registered with the USPTO (101A);
- Supporting efforts in Congress and federal courts to allow the filing of a copyright infringement action once a proper application for registration of a copyright has been delivered to the Copyright Office (101B);
- Granting accreditation to the Privacy Law program of the International Association of Privacy Professionals of Portsmouth, New Hampshire for a five-year term as a designated specialty certification program for lawyers (103A);
- Urging Congress and the Social Security Administration to strengthen the safeguards and protections for all individuals receiving benefits via the representative payee program (104);
- Urging stakeholders, where appropriate, to consider the recommendations set out in the report, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change, by the National Task Force on Lawyer Well-Being (105);
- Urging Congress and the President to re-authorize, raise the appropriation level of, and fully fund the Legal Assistance for Victims Grant Program of the Violence Against Women Act, 34 U.S.C. § 20121 (106);
- Urging legislative bodies and governmental agencies to enact laws and adopt policies regarding the use of solitary confinement for detainees (108A);
- Urging legislatures to enact legislation creating a substantive right and procedures for individuals to challenge their convictions by demonstrating that forensic evidence or testimony used to obtain their conviction has subsequently been undermined or discredited (108B);
- Urging the Department of Justice to restore prosecutorial discretion in choosing the charges to pursue and to reserve mandatory minimum sentencing to only the most serious drug traffickers and prohibit its use to secure plea agreements (108C);
- Urging courts to extend Batson v. Kentucky, 476 U.S. 79 (1986), to prohibit discrimination against jurors on the basis of sexual orientation or gender identity/expression (108D);
- Urging Congress to enact legislation protecting Deferred Action for Childhood Arrivals (“DACA”) recipients and other undocumented immigrants who were brought to the United States as children and who meet age, residency, educational, and other qualifications as set forth by the U.S. Citizenship and Immigration Service (“DREAMers”) (108E);
- Urging Congress to approve appropriations necessary to enable the Library of Congress to adequately staff, maintain, modernize, and enhance its services, collections, facilities, digital projects and outreach efforts (109);
- Adopting the Model Provisions on Electronic Commerce for International Trade Agreements, dated February 2018, and recommending the Model
Provisions as a template for international trade agreements (110);
- Without taking a position supporting or opposing the death penalty, urging each death penalty jurisdiction not to execute or sentence to death anyone who was 21 years-old or younger at the time of the offense (111);
- Approving the Uniform Directed Trust Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein (112B);
- Approving the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein (112C);
- Approving the Uniform Parentage Act (2017), promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein (112D);
- Approving the Uniform Protected Series Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein (112E);
- Approving the Uniform Regulation of Virtual-Currency Businesses Act, promulgated by the National Conference of Commissioners on Uniform State Laws (Uniform Law Commission), as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein (112F);
- Supporting the development of integrated, systemic approaches within administrative, civil and criminal court contexts to address the special needs of youth and young adults experiencing homelessness (113);
- Urging governments to provide legal counsel as a matter of right at public expense to low-income persons in all proceedings that may result in a loss of physical liberty, regardless of whether the proceedings are: a) criminal or civil; or b) initiated or prosecuted by a government entity (114);
- Urging Congress to repeal Section 641 of the National Defense Authorization Act for Fiscal Year 2017, as codified at 10 U.S.C. § 1408 (a)(4) (115C);
- Supporting an interpretation of Title VII of the Civil Rights Act of 1964 that defines sex discrimination by covered employers to include discrimination on the basis of sexual orientation and gender identity (116A);
- Urging Congress to enact legislation overruling Middlesex County Sewerage Auth. v. Nat’l Sea Clammers Ass’n, 453 U.S. 1 (1981) and supporting legislation enabling plaintiffs to bring constitutional claims in lieu of a statutory cause of action based upon environmental harm due to governmental acts or omissions (116B);
- Urging governments and relevant private entities to recognize that transmission of the human immunodeficiency virus (HIV), which causes Acquired Immune Deficiency Syndrome (AIDS), is driven by certain “social determinants of health” that law can address, including, among others, poverty, stigma, discrimination, and racism; housing, food, and transportation insecurity; over-criminalization of HIV non-disclosure; and misinformation about HIV transmission risk (300);
- Endorsing General Comment No. 21 on Children in Street Situations which was issued in June 2017 by the United Nations Committee on the Rights of the Child, and urging U.S. and international governments, the legal community, and the private sector to utilize General Comment No. 21 to develop comprehensive, long-term strategies to realize the rights of children living in street situations (301); and
- Urging all employers and specifically all employers in the legal profession to adopt and enforce policies and procedures prohibiting harassment and retaliation based on gender, gender identity, and sexual orientation (302).

For a detailed description of each resolution, please see www.americanbar.org.

The practical effect of the House of Delegates adopting policy, as outlined above, is that elected officers of the Association staff, and volunteer leaders are then authorized to advocate those policy positions — whether with legislators, courts, or others. This, importantly, can translate into grassroots advocacy in Washington (such as the annual ABA Day on Capitol Hill) and in state legislatures to urge, for example, increased funding of legal services for the poor.

Membership

As I have encouraged previously in offering this Report, if you are not currently a member of the ABA, please join! ABA membership delivers real value, complementing your DSBA membership with numerous opportunities. Please let me or any other member of the Delaware Delegation know if you would like to discuss any or all of these opportunities — whether you are or are not currently a member of the ABA.

It continues to be my privilege and pleasure to serve as State Delegate to the ABA House of Delegates. The House will next meet August 6 and 7 in Chicago, during the ABA Annual Meeting. If you have questions or comments at any time, please let me know at wjohnston@ycst.com or (302) 571-6679.

Bill Johnston is a partner with Young Conaway Stargatt & Taylor, LLP. He is a Past President of the Delaware State Bar Association, serves in the ABA House of Delegates as State Delegate from Delaware, and is Immediate Past Chair of the ABA Business Law Section.
The 2018 Blue-Gold High School All-Star Basketball Games

By Lawrance Spiller Kimmel, Esquire
Chairman, Blue-Gold Board of Trustees

The 20th annual Blue-Gold High School All-Star Boys’ and Girls’ Basketball Games will take place at the University of Delaware in the Bob Carpenter Center on Saturday, March 17, 2018, beginning at 1:30 p.m. The beneficiary of these Games is Best Buddies, Delaware, a charitable foundation designed by Anthony Kennedy Shriver to benefit children with disabilities. Best Buddies facilitates peer relationships between people with and without intellectual and development disabilities. These programs are conducted through Delaware middle schools, high schools, and several Universities.

In efforts to do more fundraising for Best Buddies of Delaware, Attorney Mort Kimmel developed a basketball oriented skills competition. Mr. Kimmel coined the competition “Dribble, Drive, Shoot,” where contestants must successfully make one lay-up, one foul shot, and one three-pointer under a one minute time cap. There were nine different venues spread throughout the State of Delaware. Wilmington Police Chief Robert Tracy along with the new recruits of the 98th Precinct, volunteered to assure safety during the basketball contest. With the help of the Board of Trustees, local law enforcement, and volunteers, we were able to have a successful first-ever “Dribble, Drive, Shoot” competition.

The Blue-Gold Board of Trustees comprises prominent citizens from Delaware, including former Vice President Joseph R. Biden, Jr., Governor John Carney, Attorney General Matt Denn, among many more. In addition, substantial support for the Games comes from the Delaware legal community. Furthermore, over 200 police officers, high school coaches, local business people, and college and high school students will volunteer their time and talents. More than 100 college coaches have been invited to attend this classic event in which another capacity crowd is anticipated. This year, at the conclusion of the Girls’ Game, the finalist of the first-ever “Dribble, Drive, Shoot” will compete at the halftime for a signed Joel Embiid jersey or a signed Elena Delle Donne jersey. Thereafter, the Boys’ Game begins at 4:00 p.m. During halftime of the Boys’ Game, there is a spectacular slam dunk contest.

The Blue-Gold Basketball Games on March 17 are the highlight of a week-long schedule of events for the student athletes and children from Best Buddies. These Blue-Gold student athletes have been selected by their coaches during the latter part of February 2018. This honor and the week-long celebration create memories that will last a lifetime. Even the Blue-Gold practices at Wesley College and the Sanford School are spiced with sage advice from different guest speakers, including Superior Court Judge Jane Brady and former Family Court Judge Bill Chapman, on “life after sports.”

On March 14, 2018, the student athletes will travel to Dover for a full day of festivities kicked off by Judge Jeffrey Clark discussing procedures of the Superior Court and providing a tour of the Kent County holding cells. Lunch at Christ’s Church of Dover will follow, with guest speaker Patricia Dailey Lewis, the Executive Director of the Beau Biden Foundation. The student athletes will then introduce themselves during a live session in the House of Representatives at Legislative Hall. The day concludes with Governor Carney speaking with the students and taking individual photos with them.

Del Tech South is the site of the Banquet on Thursday, March 15, 2018, beginning at 6:00 p.m. Between 500-600 people will attend the annual Banquet highlighted by spectacular trophies for the student athletes.

Please join us at one or all of the events. Legal financial support plays a huge role in the success of the Games and Best Buddies, Delaware’s continuing need to assist children and adults with disabilities. Ticket information is available for the Games and Banquet at TomWaite@BestBuddies.org. If you cannot attend but would like to make a contribution or volunteer at one of the events please call Tom Waite, the State Director of Best Buddies, Delaware at (302) 691-3187.
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JACOBS & CRUMPLAR P.A. is seeking a Delaware licensed attorney who is committed to protecting the rights of the injured and abused. Applicants should possess 3-4 years of civil litigation experience. Experience in personal injury and workers compensation is a plus. Please send cover letter and resume to Jacobs & Crumplar, P.A. c/o Gina Smith, Office Manager, at gina@jcdelaw.com.

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BERGER HARRIS LLP is seeking an attorney with 2-5 years’ experience to join its corporate transactional group. All candidates must have superior academic credentials, a strong work ethic plus a commitment to professional development, strong oral and written communications skills, and prior experience as a transactional attorney. Candidates should submit a confidential resume to abrennan@bergerharris.com.

Chimicles & Tikellis LLP is a class action law firm with a national practice representing plaintiffs in consumer protection, healthcare, investor fraud and shareholder rights litigation. We offer the opportunity for motivated individuals to get involved in challenging, complex, and often high-profile litigation. Our mid-size firm offers strong compensation and great quality of life. C&T is currently seeking an Associate with 1 to 4 years of experience for its Wilmington, DE office. Class action, consumer fraud, and/or securities litigation experience is preferred, but not required. Qualified candidates should possess strong academic credentials (top 1/4 ranking preferred), and excellent legal research and writing skills. Clerkship or journal experience is strongly preferred. Interested, qualified candidates should submit a cover letter, resume, and transcript to AMG@chimicles.com.

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TO: TIMOTHY ERIC SAMPLE  
In Re: C.J.S. No. 2017-9128

A Petition has been filed by the Bucks County Children and Youth Social Services Agency to Involuntarily Terminate your Parental Rights with respect to the child C.J.S. A Hearing on the Petition has been fixed for 10:00 a.m., March 27, 2018 in Courtroom 260 of the Bucks County Justice Center, 100 N. Main Street, Doylestown, Pennsylvania. Should you wish to defend this Petition, you should take this Notice to your lawyer at once. If you do not have a lawyer or cannot afford one, call the Bucks County Bar Association at 215-348-9413.

Take notice of an option that may be available to you to have Post-Adoption contact with your birth child pursuant to Act 101 of 2010. Under the law, it is possible for a written agreement for continuing contact entered into voluntarily by a birth parent, birth relative, adoptive parent(s) and children age 12 or older to be enforced by the Court. Such contact may take different forms. To consider this option you must immediately contact Brenna Bunting, your caseworker from the Bucks County Children and Youth Social Services Agency at 215-348-6900.

Susan E. Poppiti is a regular contributor to the Judicial Palate and a mathematics teacher and director of the legal shadowing program at Padua Academy High School and managing member and cooking instructor for La Cucina di Poppiti, LLC and can be reached at spoppiti@hotmail.com. Recipes and cooking tips are available on Susan’s food blog at www.cucinadipoppiti.com.

Walter L. Pepperman II (admitted 1967) and T. Ann Wilkes Pepperman announce their final retirement to Cherokee Foothills Farm, 165 Old Melvin Hill Road, Campobello, SC 29322, where they are living happily ever after with their two Alaskan Malamutes (Silver & Midnight) and their three horses (Zellie, Loulie & Rebel).

Sonnet 9  
O City of Brotherly Love

Great food resides just up the road a piece / Begin at Beau Monde for a crêpe Suzette / Or maybe try a salty one with Suisse / Then cross 6th Street to Bistrot La Minette.

This French bistro serves up the best foie gras / You must visit the markets on 9th Street / Italian vendors make you ooh and aah / Find olives, peppers, cheese, figs, and cured meat.

Noord eetcafé has excellent gravlax / And Tria boasts bubbles from France and Spain / The oysters on Sansom knock off your socks / Amada is tapas so there’s no main.

Foodies love Philly for drink, meal, or snack / And here’s to Foles our team’s great Quarterback.

NOTICE TO ALL OF OUR FRIENDS INVOLVED WITH THE DELAWARE LEGAL PROFESSION

Walter L. Pepperman II (admitted 1967) and T. Ann Wilkes Pepperman announce their final retirement to Cherokee Foothills Farm, 165 Old Melvin Hill Road, Campobello, SC 29322, where they are living happily ever after with their two Alaskan Malamutes (Silver & Midnight) and their three horses (Zellie, Loulie & Rebel).
December 17, 2017 was the 30th anniversary of the day I met my saint of a wife and we decided to go out to dinner to celebrate. Unlike 30 years ago, when we had our first meal together at Constantinou’s on Delaware Avenue, we brought our entourage — our two local daughters and our daughter’s boyfriend. We chose Del Pez Mexican Gastropub in Wilmington, near the Riverfront and Penn Cinema theatres.

The choice of restaurant is always a point of contention. My wife is half-Mexican and our kids are a quarter-Mexican, which means they really, really like Mexican food. For me, nothing soothes my need to binge like Italian food. But, on this special night, I felt it was appropriate to eat at Del Pez, mostly to make up for the thirty years of suffering that I had inflicted on this lovely woman. It was a decision I did not regret.

Del Pez possesses an authentic Mexican charm, although it was dimly lit such that I used my phone flashlight to read the menu. The rustic tables have high benches open on both ends so servers can bring your food and refill your water without leaning across you or asking you to pass something. There are also tables with chairs and a private back room for larger parties. The music, playing just loud enough to hear, but not so loud it precluded conversation, was a playlist that all of us enjoyed. But, while the ambiance is nice, it is the food which will make you want to return.

As always, we began with guacamole. Del Pez offers five different guacamoles: the house guacamole, the Diablo (serrano peppers and lump crab meat), the Cabra (garlic and goat cheese), the Granada (mango and pomegranate) and the Sol (sun-dried tomatoes, pine nuts and basil). We stuck with the traditional house guacamole which was a perfect avocado and garlic blend, chunky but not too chunky, and served with hot (which they call “warm”) tortilla chips.

Selecting from the menu is easy for me. I look down the list of entrees, see one that will make me happy, select it, and close my menu. Then, I usually stare at my family who, for some reason, do not think they will ever be permitted to eat in a restaurant again and must select that perfect meal. I chose the Del Pez braised short ribs, a food which always surprises me when it comes on the plate because I am expecting something else. But, nonetheless, these little nubs of meat were delicious, as well as my new vegetable addiction — Brussels sprouts. Completing my dish were golden mashed potatoes which were good, but not a favorite food since an unfortunate incident when I was 13 and that’s all we’ll say about that.

My daughter and wife had fish tacos, one of seven types of tacos offered on the dinner menu which included shrimp, chicken, salmon, steak, pork, and pork belly tacos. Normally, I do not like fish tacos because I believe very strongly that putting fish in a taco shell or soft tortilla is an offense against nature. Everyone knows that beef or chicken are the only meats allowed. But, the flaky beer-battered mahi mahi made me definitely want to taste them, but I will not commit to it until I return. My other daughter chose the traditional beef enchilada because she understands the rules about what belongs in a tortilla. There is something very comforting about the mix of beef, cheddar cheese, red beans, and rice which absolutely satisfied. Her boyfriend selected the Chipotle Chicken Pasta which actually made me a little angry. Don’t get me wrong, my dinner was delicious, but his dinner was abundant. He had a healthy portion of Farfalle (bow ties) which are very likely the type of pasta that God ate as a child. As I watched him devour his chicken, pasta, peas, asparagus, parmesan, onions, and poblano peppers, with me still nibbling on what was left of my ribs, I could only make a mental note that maybe picking the first thing I see on a menu is not necessarily the best method of dinner selection.

The final meal at our table was the Del Pez Chicken and Shrimp, which my wife ordered after much consternation and internal debate. She normally orders something with mole sauce, but Del Pez did not offer an entrée with that sauce. I am sure I will offend someone, but chocolate does not belong on meat, and Del Pez did not offer an entrée with that sauce. I am sure I will offend someone, but chocolate does not belong on meat, it belongs with peanut butter. Despite her disappointment in not being able to cover her chicken with chocolate, she was absolutely happy with her meal choice. The chicken and shrimp were cooked to perfection, but it was the homemade corn cake side which melted in her mouth in all its buttery goodness. Our daughter confirmed that the corncake was “authentic.”

We have been to Del Pez a few times and have never been disappointed with the atmosphere, the music, the service, or the food. I can remember another Mexican restaurant on 9th Street years ago which offered the typical fare of tacos, quesadillas, and burritos smothered in cheese and served with tons of rice and beans. While there is a time and place for eating that type of Mexican food, Del Pez offers something a bit more refined and nuanced. Next, I am planning to go for lunch.

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KEITH E. DONOVAN

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Managing Partner

as of January 1, 2018

Mr. Donovan, who has served on the firm’s executive committee for the past nine years, moves into the position as David H. Williams steps down from this role after fourteen years of service. Mr. Donovan will work closely with the Executive Director, Practice Group Leaders, Marketing Director, and other committees within the Firm that impact client service, administration, growth and integrity of the firm, and professional development.

Mr. Donovan commented, “I am excited to take on the role of Managing Partner and I appreciate the confidence my partners have placed in me to serve in this leadership capacity. Dave Williams and I have been working closely together to prepare for the transition and I am thankful to have such an experienced, capable partner as a continuing resource.”

Mr. Donovan has 27 years of experience in personal injury related matters. He is a past board member and president of the Delaware Trial Lawyers Association. Mr. Donovan served as president of the Delaware Chapter of the American Board of Trial Advocates and currently serves as ABOTA’s treasurer. He also served as a Board Member of the Delaware Board of Bar Examiners and as the Civil Liaison for the Superior Court of Kent County. Mr. Donovan is a member of the Delaware State Bar Association, American Bar Association, and American Association for Justice.

He can be reached at kdonovan@morrisjames.com or 302.678.4371.