

Pennsylvania Family Lawyer



VOLUME 31 ISSUE NO. 2

MAY 2009

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FROM THE CHAIR

By Carol A. Behers, Esq.
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It's hard to believe that I am writing my final message to the Section. The year has passed so quickly! It has been a great experience. I have enjoyed meeting and working with new members of the Section, and also catching up with old friends.

The Program Committee, led by Co-Chairs **Gail Calderwood** and **Darren Holst**, is busy finalizing plans for the Summer Meeting. There will be two plenary sessions, one on Friday (Fred Cohen Memorial Lecture) and one on Saturday morning, and several breakout sessions on timely issues. Some of the programs will include "Handling Divorce Issues in Difficult Economic Times," "Divorce Issues Over 50," "The Anatomy of an Equitable Distribution Case" and a "Custody Potpourri."

Carol A. Behers is a principal in the Pittsburgh law firm of Raphael, Ramsden & Behers, P.C., Chair of the PBA Family Law Section; Past Chair of the Allegheny County Bar Association Family Law Section; and a member of the Supreme Court Domestic Relations Procedural Rules Committee.

Sunday morning will include the case law updates and legislative and rules updates in the town hall format. Additional details about the programs can be found in the brochure.



Carol A. Behers, Esq.

The Membership Committee Co-Chairs, **Paul Helvy** and **Ann Funge**, have been contacting family law leaders in the local county bar associations to promote membership in the Section. We are also partnering with PBI in an effort to promote the Section at each family law substantive CLE program. An outreach is being planned in Northampton County, led by **Vice Chair Jeff Williams**, with panelists **Nancy Wallitsch**, **Stanley Margle** and **Jessica Moyer**. There will also be a special presentation by **Judge Maureen Lally Green** of the Superior Court and **Scott Withers**, Counsel to the Appellate Rules

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FROM THE CHAIR COLUMN

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Committee, on the Family Fast Track Rules.

The Legislative Committee, chaired by **Chris Gale** and **Mary Burchik**, has been very active this session. A flurry of legislation on family law topics has been proposed. The Committee has been reviewing the bills and meeting on a regular basis by telephone conference. **Chris Gale** and I presented the Section's position on SB 49 (alimony) to the PBA Board of Governors in State College on March 25. The Board unanimously approved our position. **Chris** and **Mary** will represent the Section May 4 at the 12th annual "PBA On The Hill" program.

The election of officers for the Section, including a new Treasurer and seven Council positions, will take place at the July meeting. The Nominating Committee report is printed at page 71 herein. The Nominating Committee was composed of the following Members: **Chair Ned Hark, Jeff Williams, Cheryl Young, David Ladov, Jim Beck, Michele Dawson** and **Mary Schellhammer**. I thank them for their prompt work.

The following members are completing their three-year terms on Council: **Michele Dawson, Darren Holst, Rosadele Kauffman, Marion Laffey-Ferry, Carolyn Mirabile, Mary Schellhammer** and **Michael Viola**. I would like to thank each one of them, in advance, for their hard work and dedicated service to the Section.

The Summer Meeting will be held July 16-19 in Savannah, Georgia, at the Westin Savannah Harbor Golf Resort & Spa. Savannah is a charming city filled with history, great food, Southern hospitality and even a few ghosts.

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Published by the Pennsylvania Bar Association in conjunction with the Family Law Section as a service to the profession. Mailing Address: Pennsylvania Bar Association, 100 South St., P.O. Box 186, Harrisburg, Pa. 17108. Telephone: 1-800-932-0311 or (717) 238-6715.

From time to time, the *Pennsylvania Family Lawyer* will publish articles that it receives for submission. The views expressed in those articles are solely those of the authors of the articles and do not reflect the views or policies of the editors, the *Pennsylvania Family Lawyer*, the Family Law Section or the Pennsylvania Bar Association, and no endorsements of those views should be inferred therefrom.

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The hotel has a Greenbrier Spa, and an 18-hole pro golf course. A water taxi takes you directly to the city. There is a little something for everyone.

BNY Mellon has generously made a \$10,000 contribution to sponsor the Summer Meeting. We are pleased that **Neil Brown and Ed Pennfield** of **BNY Mellon** will participate on a substantive panel this year. Please continue to use **BNY Mellon's** financial services for your client's needs.

It has been my privilege to serve the Section as Chair. In these difficult times, it is good to know that the Family Law Section is healthy and thriving. The incoming officers have a wealth of experience in leadership and many great ideas. The Section has a bright future ahead.

I hope many of you and your families will join me in Savannah. Until then, enjoy the summer.

My best to all of you.

EDITOR'S COLUMN

By David S. Pollock, Esq.

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Life is good! "Every day is a holiday," my cousin Larry used to say. Good health of family and friends is our primary focus. And now our focus has been diverted by our vanishing savings and retirement. But it should not be, as long as our family and friends are healthy and we have love for them. Every day that we have productive work is a very good thing since there are many firms nationally that cannot sustain their employment. It is important to continue to approach our clients in a respectful fashion and not look to our cases as somehow productive of additional work or income. Family lawyers have always been focused on doing the right thing for their clients, not the right thing for the law firm or the lawyer. In these times when our economy is so troubled, it is even more important to focus on the troubles of our clients. As professionals, we are focused on serving our clients' best interests and can feel proud that we do so despite all of the calamity that befalls our clients and the calamity around us.

Having provided 10 case notes in 31 *Pennsylvania Family Lawyer* Issue No. 1, we are instead providing a diverse set of articles in this Issue No. 2:

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a. "A Judge's Comment on Trial Aids" by
Administrative Judge David N. Wecht

b. "Family Law and the Economic Downturn" by **Peter M. Walzer, Esq.**

c. "Sex With Clients" by **Craig E. Simpson, Esq.**

d. "Compliance Dates Approaching on Three More Laws Affecting Group Health Plans" by **Joni Landy, Esq.**

Additionally, take careful notice of the Section News as there are a variety of matters that are of interest to the practitioner, including provocative questions asked by **Allegheny County Administrative Judge Wecht** with regard to the *Gruber* "factors" for custody relocation cases. Clearly, the *Gruber* factors never did and do not replace a comprehensive best interest analysis.

Enjoy summer: go outside, walk the dogs, walk the kids, walk the grandchildren! Just enjoy!

Articles and Comments:

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A JUDGE'S COMMENT ON 'TRIAL AIDS' BY ADMINISTRATIVE JUDGE DAVID N. WECHT

Family courts often are asked to consider "trial aids." Trial aids are nowhere provided for in the Rules of Evidence or the Rules of Civil Procedure. By accretion, trial aids have metastasized over the years into a practice device used by lawyers in some family courts to provide the fact-finder material that is not admissible under the Rules of Evidence, but which the lawyers nonetheless wish the court to consider in reaching decision. Plainly, this cannot be lawful. And it is not. However, lawyers frequently do not object to a request by opposing counsel to furnish the court with such a trial aid.

Pennsylvania Rule of Evidence 1006 authorizes the court to admit "the contents of voluminous writings ... in the

form of a chart [or] summary. ..." Moreover, the "... court may order that they [the voluminous writings] be produced in court." The requirements for such admission include that the underlying evidence is made available for inspection by all parties and that the records or data being summarized are themselves voluminous. If the trial aid is not a summary under Rule 1006 of the Rules of Evidence, then it is most likely argument. Argument can be provided to the court as a matter of course and according to the court's schedule for entertaining argument. Argument can be written or oral. In

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addition, most judges are happy to receive copies of relevant statutory or decisional authority at virtually any time. But this is not really what most lawyers are trying to use as trial

Hon. David N. Wecht is the Administrative Judge of Court of Common Pleas of Allegheny County, Family Division. The views expressed herein are those of the author.

aids. Rather, their trial aids frequently are documents such as notes prepared for the litigation, letters or other documents not admissible under any hearsay exception, tabulations that selectively compile amounts or other data and then opine on that data, and the like.

If objected, such trial aids are not admissible. Lawyers should interpose objections when and where appropriate. It is not the court's function to "lawyer" the case for counsel. So a lack of objection may well be construed (and is entitled to be construed) by the court as reflecting a professional decision not to object.

Think about it.

FAMILY LAW AND THE ECONOMIC DOWNTURN

BY PETER M. WALZER, ESQ.

Family lawyers all over the world are talking about it. Whether you call it a "recession" or the "D" word, it is affecting each of us in some way. Most of us have never seen hard times, so we are dealing with new issues. Some recent legal seminar titles reflect what is going on in the economy: "Down and Out in Beverly Hills: How Current Economic Issues Impact Divorce" or "Business Valuation in a Depressed Economy." The media has picked up this idea with headlines that scream, "Will the Market Kill Your Marriage?" or "Breaking Up is Harder to do After Housing Fall."

Perhaps you have been asked by your colleagues whether your practice is affected. There is an adage that family law is recession-proof — implying that poor economic times put stress on the family, which leads to divorce. Whether that is true or not is up for speculation, but what is clear is that it is harder for clients to come up with money to pay for a divorce. A typical source of payment has been the equity in the family residence. Need I say more? Several clients indicate that American Express is getting much stricter on their payment policies. One client who proudly displayed his Centurion Card or "Black" Amex card can-

celed his card because he could not make a payment. Another client used money he borrowed on margin against his stock to pay all his attorney's fees. His scheme ended when the market crashed and he got the margin call. He had to sell off most of his portfolio to pay his debt. Sadly, he may have to go back to work. Some clients call it "a lack of liquidity" while others declare they have a cash flow problem. Others admit they are just plain broke. I imagine we could spend an evening exchanging gloomy war stories, but enough of that. Let's talk about the legal issues that are emerging from the crisis.

One of the major issues that family lawyers face is the valuation of property — whether it be the business, real estate or a car. Property values have been dropping so fast that we have to update our expert witness reports every couple of months. For the business, not only is the income from the business decreasing, but also capitalization rates are rising. A recently published research study pointed out that the trend in the restaurant industry showed that "restaurant valuations declined to their lowest levels in four years, while cap rates continue to rise." Why? The credit markets were tightening and fuel and food costs were increasing.

Bankruptcy filings are up. Declaring that banks and brokerage houses are also suffering is not news. Bank stocks have dropped to historic lows. Many other industries are suffering in the same manner. Entire industries have collapsed — the housing business, the brokerage business and the automobile business — and all the ancillary related businesses are affected, such as real estate agents, leasing agents, mort-

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gage brokers, tool makers, auto salespeople, and on and on. Our clients are being laid off and cannot find new jobs. This impacts their ability to pay spousal and child support or their need for more support. In the past, when a party was out of work, courts expected the party to get back to work. If the party did not go back to work, we retained the services of a vocational consultant to testify as to the availability of work and the party's ability to work. The court imputed income to the party even if he or she had no job. Not any more. Now, judges are going to expect to see proof that there is a job available to that party before imputing income to him or her. In the past, the last year's tax return was the Holy Grail for establishing a party's income. No longer. The attorney must be able to show that the party will be earning that money in the current year. Last year's bonus will not be a basis for support. People are happy just to keep their jobs, never mind receive a bonus. The court will probably order them to pay a percentage of any bonus received — if it is received.

Although economic conditions are bad, there will be a significant amount of work for family lawyers to do. We will be modifying support orders because old court orders are meaningless in the new economy. For others, this may be a good time to file for divorce. A "celebrity" divorce lawyer said about this crisis, "The best time to get divorced for the moneyed spouse is when everything has gone to the devil." The spouse with money will claim he or she is too broke to pay an equalization payment, and will insist the assets be divided in kind or the property will have to be sold to cash the other party out. In better times one of parties would have moved out of the family residence to start a new life. Now couples are stuck in the house with their soon-to-be ex-spouses because they do not have the funds to get a separate place or the house will not sell — or both.

No doubt times are tough, but despite the tidings of gloom and doom, people realize that they must move on with their lives — whether it is to get married or get divorced. No one is asserting that human nature will change and suddenly people will get along with one another. New issues will arise as people change jobs, relocate or file bankruptcy. And as long as there is divorce, there will be problems to solve. And there will always be divorce lawyers to solve them.

SEX WITH CLIENTS BY CRAIG E. SIMPSON, ESQ.

I write regular columns for *The Advocate*, the quarterly publication of the W.Pa.TLA, on matters dealing with attorney ethics and disciplinary law. I intend to avoid being too esoteric in my columns. Instead, I simply try to highlight ethical issues of interest and provide information, commentary or both. Most of all, I hope that each column will contain some nugget of information that will save at least one colleague from disciplinary inquiry somewhere down the road. I am honored that the *Pennsylvania Family Lawyer* has also found my columns worthy of publication.

For my inaugural column, I was torn between writing on a topic of vital importance that all attorneys should know, such as the proper handling of entrusted funds, or writing

about something that folks might actually read. And as the saying goes, "Sex sells." Admit it — the title of this column got your attention, did it not?

A relatively recent amendment to the Rules of Professional Conduct states "A lawyer shall not have sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced" [RPC 1.8(j)]. While the wording of the Rule seems relatively straightforward, it does raise a lot of questions — some of them philosophical, some practical. And I will not even get into the Clintonesque question of exactly what constitutes "sexual relations."

For the purpose of this column, I will presume that we all have the same understanding of what constitutes sexual relations. I am also only discussing *consensual* sexual relations. I must except from this discussion any sexual relations between a lawyer and a family law client, as those ethical implications are self-evident. Family law cases create vulnerabilities arising from that emotional set of circumstances.

Craig E. Simpson focuses his practice in areas of legal ethics, attorney discipline, professional licensing, attorney fee disputes and judicial discipline. He is a former disciplinary counsel, Pennsylvania Supreme Court Disciplinary Board, from 1981-1986. He can be contacted at cesimpson7@comcast.net; www.simpsonethics.com; (412) 731-3100.

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One of the philosophical questions bandied about by attorney ethics commentators is whether the disciplinary system has any business in the first place delving into what takes place in the bedrooms of *consenting* adults, simply because an attorney-client relationship exists between them. One of the rationales for the Rule is found in the accompanying Comment. The Comment asserts in part that the relationship between a lawyer and client is “almost always” unequal, and thus the comment intimates that the lawyer can effectively coerce a client into a sexual relationship.

My philosophical take on this rationale is that it exhibits a certain degree of arrogance on the part of the legal profession to presume that the lawyer-client relationship is almost always unequal and that, being attorneys, we have the upper hand. In fact, lawyers often represent very powerful people, from CEOs to business tycoons to politicians to sports or entertainment stars. I submit that any inequality in those relationships is likely to be in favor of the client. More often than not, however, there is likely to be little or no inequality in the relationship — at least not enough to cause a client to submit to a sexual relationship that he or she would otherwise spurn. My point is there should be no blanket rule against a sexual relationship between attorney and client simply on the basis that *sometimes* there might be an inequality in the relationship.

Another rationale for the Rule set forth in the Comment is that “the lawyer’s emotional involvement” with the client might impair his or her independent professional judgment. Keep in mind that the Rule prohibits only sexual relations, and not an emotional relationship with a client. In other words, if a lawyer and a client engage in the proverbial consensual “one-night stand” (as it is known by my generation) or “hooking up” (as it is known by my kids’ generation) with no emotional strings attached (I’ve heard rumors that this kind of thing sometimes occurs), such conduct is prohibited by the Rule. However, if a lawyer and client develop a deeply emotional and romantic relationship but abstain from sexual relations (hey, it could happen), then there is no violation. Clearly, the second scenario, which is *not* prohibited by the Rule, would seem to present the greater danger of the lawyer’s emotional involvement affecting his/her independent professional judgment.

Now let’s have a little fun with the Rules of Professional Conduct. RPC 5.3(c) states “With respect to a non-lawyer employed ... by ... a lawyer, [the] lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if (1) the lawyer ... ratifies the conduct involved; or (2) the lawyer ... knows of the conduct at a time when its conse-

quences can be avoided or mitigated but fails to take reasonable remedial action.” Simply put, this is the vicarious liability Rule under which a lawyer can be held responsible for the conduct of, say, his/her paralegal.

Let’s hypothetically say you assign to your paralegal some task on a Friday afternoon that requires the paralegal to meet with the client. Your paralegal then comes in on Monday morning and tells you that she really hit it off with the client. In fact, she went out with him on Saturday night and ended up having a “sleep-over.” You respond by saying “That’s nice,” or something to that effect. The paralegal has now engaged in conduct which would be a violation of Rule 1.8(j) if *you* did it (the double entendre of “did it” was not intended here, but is nonetheless applicable), and you have (at least arguably) ratified it by saying “That’s nice.” According to the Rules, you can be disciplined for having *vicariously* violated the Rule against having sex with a client. Talk about paying the price without receiving the benefit!

Let’s take this hypothetical one step further. Let’s say you do not respond to your paralegal by stating “That’s nice,” but rather you express your disapproval by saying something like “That’s not very smart,” but then you say and do nothing further. It would appear that you have still engaged in a vicarious violation of the Rule against sex with clients by not taking “reasonable remedial action,” such as ordering the paralegal to cease and desist any such fun and games with the client.

As a final comment, where is the client’s say in this? Let’s say a lawyer-client relationship is formed. The lawyer is not looking for a romantic relationship with the client, but she is single and available. The client likewise is not looking for a romantic relationship with the lawyer, but he is also single and available. Through working closely with each other, they soon discover that they have similar likes and dislikes and are extremely compatible. Although totally unbidden, they develop a healthy and mutual attraction to each other. A romantic relationship develops. Each believes the other might be “the one.” (I know, I’m starting to sound Oprah-like here, but I’m trying to make a point.)

What is this couple to do? Ignore their normal and healthy feelings? Sorry — emotions cannot be turned off and on like a light switch. Have a romantic relationship, but no touching? Not very realistic. Since neither of these options is likely to occur with our hypothetical couple, what probably any jurisdiction’s disciplinary system will tell you should be done is that the attorney-client relationship should be terminated. But what of the client’s wishes? He trusted the attorney enough to retain her in the first place, but now he trusts her even more because of the personal relationship. He wants her, and no one else, to represent him. My opinion is that the disciplinary system should not tell that client that he cannot

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have his attorney of choice represent him in this type of situation.

Yeah, I know. The next question is, what if the relationship goes sour? I submit that as with virtually every other facet of human existence, you deal with that contingency if and when it occurs. *That* would be the time to terminate the attorney-client relationship. Might there be some inconvenience or even adversity to the client as a result of such a termination? Sure. But all personal relationships are fraught

with numerous risks, and the termination of an attorney-client relationship if the personal relationship ends is probably among the least of the risks that two people take when they knowingly and willingly enter into a personal relationship.

As you can surmise from my commentary, it is my opinion that there should not be a Rule of Professional Conduct that imposes a blanket prohibition against a sexual relationship with a client. But, of course, my opinion does not count. What every lawyer in Pennsylvania has to know is that we do in fact have a Rule that imposes such a blanket prohibition, and you should conduct yourself accordingly.

COMPLIANCE DATES APPROACHING ON THREE MORE LAWS AFFECTING GROUP HEALTH PLANS BY JONI LANDY, ESQ.

Aside from the new HIPAA obligations arising under the American Recovery and Reinvestment Act (See <http://www.medlawblog.com/archives/-employee-benefits-hipaa-changes-affecting-group-health-plans-and-business-associates-made-by-the-american-recovery-and-reinvestment-act-of-2009.html>) and obligations arising under the Children's Health Insurance Program Reauthorization Act of 2009 (See <http://www.medlawblog.com/archives/-employee-benefits-april-1-2009-starts-new-compliance-obligations-for-group-health-plans-under-the-childrens-health-insurance-program-reauthorization-act-of-2009.html>), three other laws affecting group health plans, enacted earlier, also have compliance dates beginning in 2009 and 2010. The laws are the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, the Genetic Information Non-Discrimination Act and Michelle's Law. Following is a summary of the key provisions of these laws.

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) amends the existing federal Mental Health Parity Act. Under the existing Mental Health Parity Act, health plans that offer mental health benefits are prohibited from setting lower annual and lifetime limits for mental health benefits than for medical and surgical benefits. This continues under MHPAEA and is expanded to include substance abuse benefits.

Existing law permits plans to limit the number of treatments or impose different cost sharing requirements for men-

tal health benefits. Now under MHPAEA, in addition to the prohibitions on lower annual and lifetime limits, group health plans (or health insurance coverage offered in connection with such plans) are prohibited from imposing financial requirements and treatment limitations for mental health and substance abuse benefits that are more restrictive than those applied to medical and surgical benefits. In general, MHPAEA applies to group health plans maintained by an employer having more than 50 employees during the prior calendar year. Note that the law does not require plans to offer mental health and substance use benefits (although insured plans may be required to do so by state insurance law mandates). But, plans that do offer mental health and substance abuse benefits must comply with MHPAEA. Following is a summary of MHPAEA's key provisions.

- **Financial Restrictions.** Financial requirements (deductibles, co-payments, coinsurance and out-of-pocket

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expenses) for mental health or substance use disorder benefits may be no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan. Plans may not impose cost-sharing requirements that apply only to mental health or substance abuse disorder benefits.

- **Treatment Restrictions.** Treatment limits (limits on frequency of treatment, number of visits, days of coverage or other similar limits on the scope or duration of treatment) applicable to mental health or substance use disorder benefits may be no more restrictive than the predominant treatment limitations applicable to substantially all medical and surgical benefits covered by the plan. Plans may not impose treatment limitations that apply only to mental health or substance abuse disorder benefits.

- **Out-of Network Benefits.** Plans that offer out-of-network coverage for medical and surgical benefits will also be required to offer coverage for mental health and substance use disorder benefits on an out-of-network basis.

- **Increased Cost Exemption.** A group health plan may qualify for an exemption on a year-by-year basis if compliance with MHPAEA results in an increase for a plan year of the total cost of coverage with respect to all benefits under the plan by two percent or more in the first year that MHPAEA applies to the plan (or by one percent or more in subsequent plan years). The exemption applies for the following year. MHPAEA requires plans to comply with the law for at least six months of the plan year involved before the exemption is available. The exemption requires determination and written certification by a qualified actuary of the cost increases and notification to governmental agencies, participants and beneficiaries of the plan's election to use the exemption.

- **Required Disclosures.** Plan administrators (or health insurance issuers) must provide the criteria used for medical necessity determinations with respect to mental health or substance use disorder benefits to any current or potential participant, beneficiary or contracting provider upon request in accordance with regulations to be issued.

The reasons for denial of payment for mental health and substance abuse benefits must be provided by the plan administrator (or health insurance issuer) to participants or beneficiaries upon request in accordance with regulations to be issued.

Effective Dates. For non-collectively bargained plans, the effective date is the plan year beginning after Oct. 3, 2009. For calendar year plans this means Jan. 1, 2010. For non-calendar year plans beginning Nov. 1 or Dec. 1, the effective date is in 2009. For example, Nov. 1, 2009 is the effective date for a plan with a plan year running from Nov. 1 – Oct. 31.

For group health plans maintained pursuant to a collective bargaining agreement, MHPAEA will be effective on the later of: (a) the date on which the last of the collective bargaining agreements relating to the plan terminates (without regard to any extension agreed to after Oct. 3, 2008), or (b) Jan. 1, 2010.

Genetic Information Nondiscrimination Act

In general, the Genetic Information Nondiscrimination Act (GINA) prohibits discrimination by group health plans, health insurance issuers and employers against an individual based on the individual's genetic information. The term "genetic information" includes information about an individual's genetic tests, the genetic tests of family members (including first through fourth-degree relatives), and the manifestation of a disease or disorder in a family member (including any request for or receipt of genetic services or participation by the individual or family member in clinical research that includes genetic services). The public policy behind GINA is to protect the public from concerns about discrimination based on genetic information allowing individuals to take advantage of genetic testing and advances in treatment. Following is a summary of GINA's key provisions.

GINA's Group Health Plan Provisions

GINA applies to all group health plans; there are no exceptions for small plans.

- **Underwriting.** Group health plans and health insurance issuers generally may not request, require or purchase genetic information for underwriting purposes and may not collect genetic information about an individual before the individual is enrolled or covered. Underwriting purposes means: (a) rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the plan or coverage; (b) the computation of premium or contribution amounts under the plan or coverage; (c) the application of any preexisting condition exclusion under the plan; and (d) other activities related to the creation, renewal or replacement of a contract for health insurance or health benefits.

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- **Group Health Plan Premiums.** Under existing law (HIPAA non-discrimination rules), group health plans and insurers are prohibited from establishing eligibility rules or imposing higher premiums or contributions on an individual on the basis of his or her health factors (including genetic information). However, the HIPAA nondiscrimination rules do not prohibit plans and insurers from establishing rates for the entire group based on health factors (including genetic information) of an individual enrolled in the plan. Now, under GINA, group health plans and insurers are prohibited from setting premium and contributions for the employer group on the basis of genetic information of an individual enrolled in the plan. GINA does not prohibit plans and insurers from increasing premiums for the group based on manifestation of a disease or disorder in any individual enrolled in a health plan. However, the *manifestation* of a disease or disorder in one individual cannot also be used as genetic information about other group members to further increase the premium for the employer group. For example, where there are several family members covered by a plan, manifestation of a disease or disorder in one covered family member cannot be used as genetic information about other covered family members to further increase the premium for the group.

- **Genetic Testing.** Group health plans and health insurance issuers offering health insurance coverage in connection with group health plans may not request or require an individual or a family member of such the individual to undergo a genetic test. This rule does not limit the authority of a health care professional to request that an individual undergo a genetic test. And it does not preclude a group health plan or health insurance issuer from obtaining and using the results of a genetic test in making a determination regarding payment (as defined by HIPAA) subject to a minimum necessary standard. There is also an exception for research purposes under certain conditions. “**Genetic test**” means an analysis of human DNA, RNA, chromosomes, proteins or metabolites that detects genotypes, mutations or chromosomal changes. Genetic test does not include an analysis of proteins or metabolites that does not detect genotypes, mutations or chromosomal changes, or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved.

- **Relationship to HIPAA Regulations.** GINA does not prohibit a covered entity from making any use or disclosure of health information that is authorized for the covered enti-

ty under the HIPAA regulations. Also, GINA requires the HIPAA Privacy regulations to be amended, *effective May 21, 2009*, to treat genetic information as protected health information, prohibit use of genetic information for underwriting purposes and make the definitions of genetic information and underwriting consistent with GINA.

Effective Date for Group Health Plan Provisions. The group health plan provisions are effective for plan years beginning after May 21, 2009. For calendar year plans, this means Jan. 1, 2010. For non-calendar year plans with plan years beginning June 1 – Dec. 1, the effective date occurs in 2009. For example, the effective date will be June 1, 2009 for a plan with a plan year running from June 1 – May 31.

GINA’s Employment Discrimination Provisions

GINA makes it an unlawful employment practice for an employer (in general, an employer with 15 or more employees), employment agency, labor organization, or training program to:

- Fail or refuse to hire or discharge any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions or privileges of employment of the employee, because of the individual’s genetic information; limit, segregate or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee because of the employee’s genetic information.

- Request, require or purchase genetic information with respect to an employee or a family member of the employee. Six limited exceptions apply.

- **Treatment of Information as Part of Confidential Medical Record.** If an employer, employment agency, labor organization or joint labor-management committee possesses genetic information about an employee or member, the information is required to be treated as a confidential medical record of the employee or member. The entity holding the information will be considered in compliance if the information is treated as a confidential medical record under the Americans with Disabilities Act.

- **Limitation on Disclosure.** An employer, employment agency, labor organization or joint labor-management committee may not disclose genetic information concerning an employee or member. Limited exceptions apply.

Proposed Regulations. On March 2, 2009, the EEOC issued proposed regulations for public comment.

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Effective Date of Employer Provisions. The employment provisions of GINA are effective Nov. 21, 2009.

Michelle's Law

Michelle's Law applies to group health plans covering dependent children on the basis of being enrolled in a post-secondary educational institution. The law was enacted to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage. Following is a summary of the key provisions of Michelle's Law.

- **Extended Coverage.** The law requires group health plans to extend the coverage of a dependent child who is on a medically necessary leave of absence if the child is enrolled in the plan on the basis of being a student at a postsecondary educational institution immediately before the first day of the leave of absence. Coverage must be extended until the sooner of: (1) one year from the start of a medically necessary leave of absence or (2) the date coverage would otherwise terminate under the terms of the plan. A "medically necessary leave of absence" means a leave of absence from a post-secondary educational institution or any other change in

enrollment that: (1) commences while the child is suffering from a serious illness or injury; (2) is medically necessary; and (3) causes the child to lose student status for purposes of coverage under the terms of the plan. The extended coverage must provide the same benefits as if the child was not on a medically necessary leave of absence.

- **Certification by Physician Required.** Written certification must be provided by a treating physician of the child certifying that the child is suffering from a serious illness or injury requiring a medically necessary leave of absence.

- **Notice of Michelle's Law.** A group health plan (and health insurance issuer providing health insurance coverage in connection with the plan) must include with any notice regarding a requirement for certification of student status for coverage, notice of the terms for continued coverage during medically necessary leaves of absence under Michelle's law. The description must be in language understandable to the typical plan participant.

Effective Date. Michelle's law is effective for plan years beginning on or after Oct. 9, 2009. For calendar year plans this means Jan. 1, 2010. For non-calendar year plans with plan years beginning Nov. 1 or Dec. 1, the law is effective in 2009. For example, the law is effective on Nov. 1, 2009 for a plan with a plan year running from Nov. 1 – Oct. 31.

HOW TO DETERMINE A QDRO AWARD UNDER ACT 175 BY MARK K. ALTSCHULER, ESQ.

The pension section of many property settlement agreements award the non-employee spouse (Alternate Payee) either 50 percent of the marital portion or a fixed dollar amount, based upon a pension valuation, for purpose of a QDRO of a defined benefit pension. Often, the 50 percent award is based on having no other assets for an offset. Since

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a buyout is not possible, counsel for non-employee spouse may argue for a 50-50 split of the pension. Similarly, the fixed dollar QDRO award is based upon not having assets for a buyout. For example, consider the simplified equitable distribution scheme below. The scheme assumes the marital present value of Wife's PSERS pension is worth \$112,307 and also marital value of husband's 401(k) is \$50,000.

Offset Scheme

Wife PSERS	Husband's 401(k)
\$112,307	\$30,000

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\$112,307 (W)
\$30,000 (H)
 \$142,307 (Total)
÷2
 \$71,154 (for each party to receive assuming 50:50 split)
- \$30,000 [H keeps his 401(k)]
 \$41,154 (Owed H)

If the Wife has insufficient funds for a buyout, the property settlement agreement (psa) may award Husband \$41,154 under a QDRO. However, this award does not conform to Act 175 and undervalues Husband's entitlement under Act 175, based upon the valuation below.

PENSION VALUATION REPORT

Jan. 8, 2008

PREPARED FOR:

Name:
 Plan: PSERS
 Employer: Cumberland Valley School District
 Birth Date: 3/27/1963 Retirement Age: 62
 Entry Date: 1/16/1993 Retirement Date: 4/1/2025
 Marriage Date: 7/22/1989 Status: Active
 Cut-off Date: 12/10/2007 Sex: Female
 Valuation Date: 1/8/2008 Age: 45

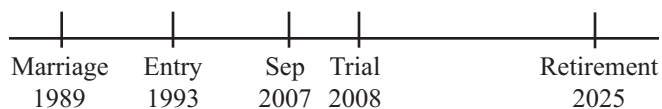
- 1) Accrued monthly pension at valuation date
 \$1,651
- 2) Annuity Factor (present value of \$1 per year annuity)
 5.69863
- 3) Present Value (12 x Item 1 x Item 2) \$112,905
- 4) Length of plan service while married 14.89665
- 5) Length of plan service to valuation date 14.97604
- 6) Coverture Fraction (Item 4 ÷ Item 5) 0.99470
- 7) Marital present value (Item 3 x Item 6) \$112,307
- 8) Marital employee contributions/account \$29,010
- 9) **Marital present value as of 1/8/2008**
 (greater of Item 7 or Item 8) \$112,307

Pension form: Life Annuity
 IRC interest rate 4.60% for 5 years; 4.82% for 15 years; then 4.91%
 Mortality table: RP-2000 '08

Marital portion contingent on current accrued benefit and the coverture fraction in accordance with Act 175 (Senate Bill 95). Calculations in accordance with generally accepted actuarial standards.

Since PSERS cannot immediately distribute \$41,154 as a lump sum, the language in the property settlement agreement translates into an award with a present value of \$41,154. Even if the award to Husband was less than the contributions and interest, and a lump sum award was possible, PSERS would only distribute the lump sum withdrawal of contributions and interest at retirement, not immediately. However, in this case, the award to Husband is greater than contributions and interest, and the award to Husband has to be based on the present value of the benefit.

Based upon the valuation, this means the PSERS ADRO award is \$41,154/112,307, which equals 36.64 percent of the coverture portion of the benefit accrued as of Jan. 8, 2008. Thus, the ADRO award is the benefit accrued as of Jan. 8, 2009, times the coverture fraction as of valuation date (.9947), times 36.64 percent (\$602 per month). Thus, the benefit under the ADRO is fixed, under the settlement agreement award of \$41,154. However, under Act 175 the marital portion under a QDRO is defined by the coverture fraction at retirement and should continue to grow, as shown in the chart below:



Benefit at Trial (1,651) x C.F. (.9947) = 1,642 = Act 175 trial date marital portion
 Benefit at Ret. (5,400) x C.F. (.4375) = 2,363 = Act 175 marital portion under QDRO

The growth is due to the fact that under Act 175, the marital portion is the benefit at retirement times the coverture fraction at retirement. The coverture fraction is defined as marital service divided by total service, and thus decreases with time. However, the benefit increases with time, and the product of the two, which is the marital portion, increases with time.

Thus, by inserting the dollar award, the Husband will only receive a fixed benefit, which is \$602 per month. Under Act 175, 36.64 percent of the marital portion is (.3664) times \$2,363 (marital portion at retirement), or \$866 per month. Thus, the dollar award shortchanges Husband. The solution, then, is to *not* insert the dollar award in the property settlement agreement. If Husband is to receive \$41,154 as a buyout, that is what he should receive, in cash or other assets. In this case, it would have to be in cash, since the equitable distribution scheme assumes there are only the two pensions. If Wife has insufficient cash, the property settlement should award Husband 36.64 percent of the marital portion, as determined under Act 175. Since the award to Husband is \$41,154

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and the marital present value is \$112,307, Husband is owed \$41,154/\$112,307, or 36.64 percent of the marital portion under Act 175.

A perfect example of this scenario is the *Borkovic* case (Sup. Ct. No. 822 WDA 2007). The parties stipulated to the marital present value of Wife's Mellon pension plan. The trial court ordered that Husband receive one half of the marital portion, using the stipulated present value. But there was no need to quote the present value; if Husband was to receive 50 percent of the marital portion, those words alone are sufficient. Quoting the marital present value creates ambiguity. Indeed, in *Borkovic*, Wife submitted a QDRO that limited Husband's award to 50 percent of the stipulated present

value. Husband objected to this, and the trial court found that in determining the marital portion, coverture was to be applied as defined under Section 3501(c) of the Divorce Code (Act 175).

The *Borkovic* case shows a percentage should be used in any settlement agreement for QDRO purposes, not a dollar figure. Once the percentage is determined, there is no need to also insert the dollar figure of the marital present value even if this value was used to determine the percentage, as shown above. On the other hand, just because there are insufficient assets for a cash buyout there is no need to award 50 percent of the marital portion. This may award the non-employee spouse too much, as the dollar figure awards the non-employee too little. Thus, a correct pension valuation, along with valuation of the other assets, can be used to determine the proper percentage awarded to the non-employee spouse under a QDRO.

Technology Corner: *Joel B. Bernbaum, Esq.*

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SUGGESTIONS FOR HEALTHIER E-MAILING

BY JOEL B. BERNBAUM, ESQ.

There has been an increase in e-mail-related problems on listservs and direct e-mail. For whatever reason, it is important to take the time to review these suggestions for healthier e-mailing!

Beware "Reply All."

No e-mail oops has claimed more victims than hitting Reply All when you really meant to reply to one person.

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Before you belittle your opponent, discuss your undying love/utter hatred for a client or reveal any cross-dressing secrets, check the "To" and "CC" lines carefully.

Type not in anger.

The temptation to flame someone on e-mail can be overpowering, but it's you who usually gets burned in the end. Before you deliver a serving of e-mail flambé, save the message to your drafts folder. Go for a walk around the block, take a Valium or show it to someone whose judgment and confidentiality you trust — then decide if you really want to send it.

CC? No no.

If you're sending a message to a large group of unrelated people, don't put all their names in the CC (carbon copy)

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field where everyone can read them. Most people don't want to share their e-mail address with strangers. Use the BCC (blind carbon copy) field instead.

CC? Oui oui.

Got an important question that needs to be answered? Don't put a million addresses in the To field; if you do, nobody will feel responsible for responding. Address it to one person and CC anyone else who needs to be in the loop.

Gossip on your dime.

If you must get catty about your coworkers or friends (especially your Senior Partner), use a private e-mail account, not the firm's. Legally, if you typed a message on your computer at work, your boss may still have the right to read it — communications in the workplace are the property of whoever owns the equipment being used — so send it on your private e-mail account, not from your work computer.

File be damned.

So your managing partner asks you to e-mail your brief and instead you send photos from your vacation at the nudist colony. Could be worse, right? Wrong. Sending the wrong file attachment can cause all kinds of heartache. Double-check that you've attached the right file before you hit the Send button.

Filter that spam.

Maybe you're one of the lucky few whose inbox isn't overrun by ads for pills, porn or personal enhancements. For the rest of us, a spam filter is essential equipment. Some Web-based e-mail services (like Yahoo Mail and Hotmail) and tools (like Microsoft Outlook) come with spam filters built in. For the rest, you need software that installs itself inside your e-mail client and separates the gold from the garbage, programs like Sunbelt Software's IHateSpam, Network Associates' McAfee SpamKiller or Symantec's Norton AntiSpam.

Keep your inbox clean.

Being an e-mail pack rat can be a good thing — you never know when you'll want a copy of that memo the senior partner sent three months ago. But leave too many messages in your inbox and your e-mail software will take forever to load; it may even crash. The solution? Delete the stuff you don't need and save the important messages to folders organized by sender or topic. And remember to empty the trash periodically — your mother doesn't work here.

Use rules.

Any e-mail client worth a darn lets you create rules or filters that scan messages as they come in, move them into folders, send automated responses and so on. Microsoft Outlook and Outlook Express go one better and let you apply any rule to messages already in your inbox — so it's a snap to create a rule to look for e-mail from your managing partner and automatically file it in a folder named Big Cheese.

Create a list.

Do you find yourself sending messages over and over to the same six people? Instead of typing e-mail addresses for Ross, Rachel, Chandler, Joey, Monica and Phoebe each time, put them into a group or list so you can type just one word ("Friends") to reach all six. To start the process in Outlook or Outlook Express, open the address book and select File, New, Group (in Outlook it's called a Distribution List); in Netscape Mail it's Window, Address Book, New List.

Get with the group.

I hate to be the one to tell you, but most of your friends and coworkers don't want to read that hysterical joke you just heard, the plea for donations to save abandoned pigeon, or your Aunt Edna's recipe for turnip casserole. If you must share these things with the world, set up a mailing list on Yahoo Groups and invite potentially interested parties to sign up. This way, they can decline without hurting your or Aunt Edna's feelings.

— Joel B. Bernbaum

Photos from the PBA Family Law Section 2009 Winter Meeting start on page 75!

See **MANY** more past and present photos by visiting the Family Law Section area of the PBA Web site! Just go to: www.pabar.org/public/sections/famco/meetings.

Legislative Update: *Steve Rehrer, Esq.*

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This article updates the legislative history of the bills summarized in the March 2009 Legislative Update. In addition, this article summarizes several other domestic relations bills introduced in the 2009-10 legislative session of the Pennsylvania General Assembly since the previous Legislative Update. Status of the bills is provided as of April 3, 2009. The full text of the bills, as well as their legislative history, may be found by following the link "Session Info" at www.legis.state.pa.us.

Updates

The following bills, summarized in the March 2009 Legislative Update, have not advanced further in the legislative process:

House Bills 90 (child abduction prevention), **120** (death during a divorce proceeding) and **305** (support).

Senate Bills 49 (alimony) and **53** (death during a divorce proceeding).

MARRIAGE

House Bill 270 (Printer's No. 914; Prior Printer's No. 289) was approved by the House on March 11, 2009 by a vote of 187-5 and referred to the Senate Judiciary Committee on March 12, 2009. The bill amends Section 1503 (persons qualified to solemnize marriages) of the Domestic Relations Code by specifying that a former or retired justice, judge or magisterial district judge may solemnize marriages if he or she (1) has served, whether or not continuously or on the same court, by election or appointment for an aggregate period equaling a full term of office; (2) has not been defeated for reelection or retention; (3) has not been convicted of, pleaded nolo contendere to or agreed to an accelerated rehabilitative disposition or other probation without verdict program relative to any misdemeanor or felony offense; (4) has not resigned a judicial commission to avoid having charges filed or to avoid prosecution by law enforcement agencies or by the Judicial Conduct Board; (5) has not been removed from office by the Court of Judicial Discipline; and (6) is a resident of Pennsylvania. The bill also provides in new subsection (a)(5.1) that a former Pennsylvania mayor may solemnize marriages if he or she (1) has not been defeated for reelection; (2) has not been convicted of, pleaded nolo con-

tendere to or agreed to an accelerated rehabilitative disposition or other probation without verdict program relative to any misdemeanor or felony offense; (3) has not resigned as mayor to avoid having charges filed or to avoid prosecution by law enforcement agencies; (4) has served as mayor, whether continuously or not, by election for an aggregate of a full term in office; and (5) is a resident of Pennsylvania. Finally, the bill provides in new subsection (a)(7) that a representative or officer of a recognized Indian nation or tribe may solemnize marriages if ordained or authorized to do so in accordance with the rules and customs of the Indian nation or tribe.

SIBLING VISITATION

House Bill 295 (Printer's No. 318) was approved by the House on March 16, 2009 by a vote of 195-0 and referred to the Senate Judiciary Committee on March 19, 2009. The bill adds a new Section 5316 to the Domestic Relations Code concerning sibling visitation and amends Section 5301 (declaration of policy) of the Domestic Relations Code to "[a]ssure reasonable and continuing contact of the child with a sibling from whom the child has been separated as a result of divorce, separation, death or court order." Under the bill, the court may grant reasonable visitation rights to a sibling of a child if continuing contact or visitation is in the best interest of the child and the visitation will not interfere with the parent-child relationship. In determining the best interest of the child, the court must consider the relationship between the child and the petitioner, including the amount of personal contact prior to the filing of the petition, and the relationship among the petitioner and other individuals with whom the child resides. In addition, the bill amends Section 5314 of the Domestic Relations Code to specify that Section 5316 does not apply if the child has been adopted by a person other than a stepparent or grandparent, and any visitation rights previously granted are automatically terminated upon the adoption. This bill is identical to Senate Bill 410 of 2009 (Printer's No. 411), discussed subsequently in this column .

Newly Introduced Legislation

ADOPTION

House Bill 433 (Printer's No. 477), in the House Children and Youth Committee, is identical, with the exception of only minor technical changes, to House Bill 403 of

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Stephen F. Rehrer is Counsel with the Joint State Government Commission in Harrisburg and the Legislative Editor of the Pennsylvania Family Lawyer.

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2007 (Printer's No. 467), which was introduced in the 2007-08 legislative session but not enacted. House Bill 433 amends the definition of "intermediary" under Section 2102 of the Adoption Act as follows: "Any person or persons employed by an agency or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement. *The term also includes a licensed attorney or a licensed social worker acting in that capacity.*" The bill also removes the reference to payments made by the adoptive parents to a third party under Section 2533(d) regarding permissible reimbursement of expenses accounted for in the report of the intermediary.

House Bill 434 (Printer's No. 478), in the House Children and Youth Committee, is identical, with the exception of only minor technical changes, to House Bill 402 of 2007 (Printer's No. 466), which was introduced in the 2007-08 legislative session but not enacted. House Bill 434 amends the Adoption Act by repealing Section 2503 regarding hearings under the voluntary relinquishment provisions and Section 2504(b) regarding hearings under the alternative procedure for relinquishment. The bill also amends Section 2504(a) to create one procedure for relinquishment based on a petition to confirm the consent to adoption: "If the parent or parents of the child have executed consents to an adoption, upon petition by the intermediary or, where there is no intermediary, by the adoptive parent, the court shall [hold a hearing for the purpose of confirming a] *confirm the consent to an adoption upon expiration of the time periods under Section 2711 (relating to consents necessary to adoption)[.] and, in the case of relinquishment of parental rights to an adult, the court may enter a decree of termination of parental rights or, in the case of relinquishment of parental rights to an agency, a decree of termination of parental rights and duties, including the obligation of support.* The original consent or consents to the adoption shall be attached to the petition." Finally, the bill amends Section 2504(c) (putative father) to change the references to the hearing and decree of termination of parental rights.

House Bill 435 (Printer's No. 479), in the House Children and Youth Committee, is identical, with the exception of only minor technical changes, to House Bill 401 of 2007 (Printer's No. 465), which was introduced in the 2007-08 legislative session but not enacted. House Bill 435 repeals Section 2505 (counseling) of the Adoption Act and replaces it with new Section 2505.1 (adoption-related counseling services). The purpose of adoption-related counseling services is to provide a birth parent with assistance in understanding the adoption process, the birth parent's rights and obligations, the consequences of a decision to relinquish parental

rights and the alternatives to relinquishment and adoption. Under the bill, each county must compile and distribute a list of local qualified counselors and counseling service providers. The bill also provides a statutory framework for counseling referrals, county counseling funds and filing fees. House Bill 437 (Printer's No. 481), in the House Children and Youth Committee, is identical, with the exception of only minor technical changes, to House Bill 400 of 2007 (Printer's No. 464), which was introduced in the 2007-08 legislative session but not enacted. House Bill 437 adds the following to the list of expenses that may be reimbursed under Section 2533(d) of the Adoption Act: "[r]easonable living expenses incurred by the natural mother three months prior to the due date of the child and 60 days after the birth of the child." Such expenses "include food, rent, utilities, maternity clothing and an amount not to exceed \$300 for expenses and transportation costs associated with prenatal, maternity and postmaternity care."

House Bill 438 (Printer's No. 482), in the House Children and Youth Committee, is identical, with the exception of only minor technical changes, to House Bill 399 of 2007 (Printer's No. 463), which was introduced in the 2007-08 legislative session but not enacted. House Bill 438 amends several sections of the Adoption Act. Under the bill, (1) a consent to an adoption executed by a birth father or putative father is irrevocable after 96 hours (instead of the current 30 days) after the birth of the child or the execution of the consent, whichever occurs later; (2) a consent to an adoption executed by a birth mother is irrevocable after 96 hours (instead of the current 30 days) after the execution of the consent; (3) notice of the adoption hearing under Section 2721 is not required to be given to the putative father if his consent is executed prior to the birth of the child, and such notice to the natural mother or her husband is not required if consent was timely executed; (4) an individual who executed a consent to an adoption may challenge its validity only by filing a petition alleging fraud or duress prior to the termination of parental rights; and (5) once the individual's parental rights are terminated and the individual has executed a consent to an adoption, the individual has no further standing to contest the adoption or revoke his or her consent. In addition, the bill repeals Section 2712 (consents not naming adopting parents) and amends Section 2721 (notice of hearing) as follows: "... Notice to the parent or parents of the adoptee[, if required, may be given by the intermediary or someone acting on his behalf.] *is not required if the parents have consented to the adoption and parental rights have been terminated. ...*"

House Bill 768 (Printer's No. 858), in the House Children and Youth Committee, is identical to House Bill 395 of 2007 (Printer's No. 459), which was introduced in the 2007-08 legislative session but not enacted. House Bill 768

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repeals Sections 2533 (report of intermediary) and 2534 (exhibits) of the Adoption Act and makes technical amendments to Sections 2530 (home study and preplacement report), 2531 (report of intention to adopt) and 2535 (investigation). In addition, the bill amends Sections 2701 (contents of petition for adoption) and 2702 (exhibits) to include several of the items removed from the statute as a result of the repeal of Sections 2533 and 2534.

House Bill 909 (Printer's No. 1028), in the House Judiciary Committee, is identical to House Bill 804 of 2007 (Printer's No. 923), which was introduced in the 2007-08 legislative session but not enacted. House Bill 909 adds another ground for involuntary termination of parental rights under Section 2511 of the Adoption Act: "[t]he child has sustained serious sexual abuse or serious physical abuse caused by the parent's act or failure to act." The bill also defines "serious physical abuse" and "serious sexual abuse."

House Bill 967 (Printer's No. 1104), in the House Judiciary Committee, amends Section 2511(a)(9) of the Adoption Act to specify that parental rights may also be terminated if the parent has been convicted of rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault or indecent assault (or an attempt, solicitation or conspiracy to commit any of these offenses), in which the victim was a child of the parent. The bill also adds a new ground for the involuntary termination of parental rights in Section 2511(a) of the Adoption Act: the child has been and is currently removed from the parent's care under a court order or voluntary agreement with an agency, and the court, in a proceeding under the Juvenile Act, has previously determined that aggravated circumstances exist and reasonable efforts to reunify the child with the parent are not required. This bill is identical to Senate Bill 625 of 2009 (Printer's No. 670).

Senate Bill 625 (Printer's No. 670), in the Senate Judiciary Committee, is identical to House Bill 967 of 2009 (Printer's No. 1104), summarized previously.

CUSTODY

House Bill 463 (Printer's No. 516), in the House Judiciary Committee, is identical, with the exception of only minor technical changes, to House Bill 2685 of 2008 (Printer's No. 4105), which was introduced in the 2007-08 legislative session but not enacted. House Bill 463 amends Chapter 53 (custody) of the Domestic Relations Code. With respect to Section 5302, the bill defines "joint custody," "joint legal custody" and "joint physical custody" and repeals the definition of "shared custody." Current Section

5304 (award of shared custody) is also repealed. The bill specifies that "[a]n award of joint legal and physical custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and, unless allocated, apportioned or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority." Joint physical custody must "be shared by the parents in such a way as to assure a child of frequent and continuing contact with both parents." Under the legislation, the court will order joint custody unless it finds that such is not in the best interest of the child. A rebuttable presumption exists that joint custody is in the best interest of the child. In awarding custody, partial custody or visitation to either parent, the court must also consider the likelihood of the parents to cooperate on child care matters and to make parenting decisions jointly, the ability and intent of each parent to facilitate joint custody access, and the recommendations of the child's representative. The bill adds a new Section 5304.1 to provide that an award of joint custody does not by itself diminish or increase the responsibility of a parent to financially support the child. Joint custody will not be decreed exclusively to affect child support, nor will it by itself constitute sufficient grounds to modify a support order. Current Section 5305(a) is amended to clarify that the court shall require the parents to attend counseling sessions unless they have agreed to a custody award, in which case counseling is at the court's discretion. Current Section 5306 is amended to mandate that the parents submit a parenting plan in cases involving joint custody. The court may order mediation to assist the parents in producing an individual or a joint parenting plan. The parenting plan must include matters concerning the child's education, religious training, health care and personal care and control (including parenting time, holidays, vacations and child care); transportation arrangements; and conflict resolution procedures. New Section 5306(c) provides that one parent may be designated as a public welfare recipient if such aid is deemed necessary and appropriate, and new Section 5309(d) specifies that a parent may not be denied access to the child's records and information for the sole reason that the parent is not a custodial parent of the child. Finally, in addition to technical amendments throughout Chapter 53, the bill amends Section 5310 to specify that subject to the statutory provisions regarding child custody proceedings during military deployment and subject to the jurisdictional requirements of the Uniform Child Custody Jurisdiction and Enforcement Act, any order for the custody of the child of a marriage or adoption may be modified at any time to an order of sole or joint custody to reflect changes in circumstances that make the prior custody order insufficient or ineffective.

House Bill 537 (Printer's No. 586) was reported as committed from the House Judiciary Committee and received

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LEGISLATIVE UPDATE

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first consideration on March 31, 2009. The bill is identical to the last version of House Bill 1548 of 2007 (Printer's No. 2726). (*Note:* the original version of House Bill 1548 of 2007 was Printer's No. 1952.) House Bill 1548 was approved by the House by a vote of 181-11 and subsequently referred to the Senate Judiciary Committee. However, the bill was not enacted during the 2007-08 legislative session. House Bill 537 amends Section 6351 (disposition of dependent child) of the Judicial Code (Title 42 of the Pennsylvania Consolidated Statutes). Under proposed Section 6351(a)(2.2), if the court determines that temporary or permanent physical and legal custody of a dependent child shall be given to an individual or entity other than the child's parents, guardian or other custodian, the court shall consider the child's grandparent who wishes to be given custody. A study would then be done by the probation officer or other person or agency designated by the court. The amendment further states that a grandparent who wishes to be given custody shall have standing in any court proceeding under 42 Pa.C.S. Chapter 63 (juvenile matters) involving the child.

House Bill 564 (Printer's No. 613), in the House Children and Youth Committee, is identical to House Bill 2407 of 2008 (Printer's No. 3510), which was introduced in the 2007-08 legislative session but not enacted. House Bill 564 amends Section 5303(b.2) of the Domestic Relations Code by providing that a court may not award custody, partial custody or visitation to — or allow contact or written or verbal communication, directly or indirectly by — a parent who has been convicted of the murder of the other parent, guardian or other custodian of the child who is the subject of the order. The bill deletes the phrase “unless the child is of suitable age and consents to the order” from the end of current Section 5303(b.2).

CUSTODY; PATERNITY

House Bill 887 (Printer's No. 1006), in the House Judiciary Committee, is identical to House Bill 677 of 2007 (Printer's No. 763), which was introduced in the 2007-08 legislative session but not enacted. House Bill 887 amends Section 5311 of the Domestic Relations Code by adding a new subsection specifying that if a parent of an unmarried child is the victim of criminal homicide perpetrated by the other parent, the court may grant to the siblings of the deceased parent reasonable partial custody and/or visitation rights to the child, if such would be in the best interest of the child and would not interfere with any award of custody, partial custody or visitation. In doing so, the court must “consider the amount of personal contact between the siblings of the

deceased parent and the child prior to the application.” The bill also amends Section 5104 of the Domestic Relations Code to include tests conducted upon deoxyribonucleic acid (DNA) to determine paternity. The bill permits testing to rebut the presumption of paternity if the overall interests of justice, including the best interests of the child, would not be unreasonably harmed and the parties subject to the presumption (1) are divorced or irreconcilably separated, and one or both assert reasonable grounds to believe that application of the presumption is likely to result in an incorrect paternity determination; or (2) mutually agree to submit to and be bound by the testing. The petition for testing in an action in which paternity of the child is an issue must be filed not later than five years after the child's birth.

DOMESTIC RELATIONS COURT JUDGES' COMMISSION

House Bill 541 (Printer's No. 589), in the House Judiciary Committee, creates the Domestic Relations Court Judges Commission in the Office of General Counsel as an administrative agency to (1) advise judges “in all matters pertaining to the proper care and maintenance of adoption, custody, divorce, domestic relations, domestic violence and support”; (2) examine administrative methods and judicial procedure, establish standards and make recommendations; and (3) collect, compile and publish statistical and other data for the reasonable and efficient administration of the domestic relations courts. The bill specifies that “[t]he commission shall consist of nine judges who shall be appointed by the Governor from a list of judges, serving in domestic relations courts, submitted by the Chief Justice of Pennsylvania.”

LIABILITY FOR THE TORTIOUS ACTS OF CHILDREN

Senate Bill 434 (Printer's No. 435) was approved by the Senate on March 16, 2009 by a vote of 48-0 and referred to the House Judiciary Committee on March 17, 2009. The bill is identical to Senate Bill 1013 of 2007 (Printer's No. 1266), which was approved by the Senate by a vote of 50-0 and subsequently referred to the House Judiciary Committee. However, Senate Bill 1013 was not enacted during the 2007-08 legislative session. Senate Bill 434 amends Section 5505 of the Domestic Relations Code by raising the monetary limits of parents' liability for their child's tortious acts. The \$1,000 amount is raised to \$2,000, and the \$2,500 amount is raised to \$4,000.

PATERNITY

House Bill 1140 (Printer's No. 1352), in the House Judiciary Committee, amends Section 5104 of the Domestic

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LEGISLATIVE UPDATE

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Relations Code to include tests conducted upon deoxyribonucleic acid (DNA) to determine paternity. The bill permits testing to rebut the presumption of paternity if the overall interests of justice, including the best interests of the child, would not be unreasonably harmed and the parties subject to the presumption (1) are divorced or irreconcilably separated, and one or both assert reasonable grounds to believe that application of the presumption is likely to result in an incorrect paternity determination; or (2) mutually agree to submit to and be bound by the testing. The petition for testing in an action in which paternity of the child is an issue must be filed not later than five years after the child's birth. This bill is identical to Senate Bill 230 of 2009 (Printer's No. 235).

Senate Bill 230 (Printer's No. 235), in the Senate Judiciary Committee, is identical to House Bill 1140 of 2009 (Printer's No. 1352), summarized previously, and Senate Bill 1525 of 2007 (Printer's No. 2313), which was introduced in the 2007-08 legislative session but not enacted.

SIBLING VISITATION

Senate Bill 410 (Printer's No. 411), in the Senate Judiciary Committee, is identical to the last version of House Bill 895 of 2007 (Printer's No. 2748). (Note: the original version of House Bill 895 of 2007 was Printer's No. 1048.) House Bill 895 was approved by the House by a vote of 195-0 and subsequently referred to the Senate Judiciary Committee. However, the bill was not enacted during the 2007-08 legislative session. Senate Bill 410 is identical to House Bill 295 of 2009 (Printer's No. 318), summarized previously in this column.

SUPPORT

House Bill 690 (Printer's No. 763), in the House Judiciary Committee, is identical to House Bill 2830 of 2008

(Printer's No. 4550), which was introduced in the 2007-08 legislative session but not enacted. House Bill 690 adds new Section 4345.1 to the Domestic Relations Code and specifies that "[t]he domestic relations section or the district attorney may file and prosecute charges of indirect criminal contempt alleging that an obligor has willfully violated a support order." Under the legislation, a sentence for indirect criminal contempt is punishable by one or more of the following: a fine not to exceed \$1,000, imprisonment for a period not to exceed six months, probation for a period not to exceed one year and an order for other relief. The obligor does not have the right to jury trial on a charge of indirect criminal contempt, but he or she is entitled to counsel.

Senate Bill 397 (Printer's No. 400), in the Senate Judiciary Committee, is identical to House Bill 315 of 2007 (Printer's No. 356), which was introduced in the 2007-08 legislative session but not enacted. Senate Bill 397 adds a new Section 4328 to the Domestic Relations Code and provides that unless expressly provided in a support order, provisions in the order for the support of a child terminate when the child is emancipated or attains the age of majority. However, under the bill, support does not terminate by the death of a parent obligated to support the child. In addition, "[w]hen a parent obligated to pay support dies, the amount of support may be modified, revoked or commuted to a lump sum payment, to the extent just

and appropriate in the circumstances."

Senate Bill 571 (Printer's No. 582), in the Senate Judiciary Committee, is identical to Senate Bill 889 of 2007 (Printer's No. 1040), which was introduced in the 2007-08 legislative session but not enacted. Senate Bill 571 amends Section 4321 of the Domestic Relations Code to provide that the liability of parents for support of their children remains unaffected by the death of those parents. Under the bill, any interested party may file a claim against the estate of a parent to determine the liability of the parent to support a surviving child, regardless of whether a support order was in effect for the child on the parent's date of death.



NOMINATING COMMITTEE REPORT BY NED HARK, ESQ.

Under Article V of the PBA Family Law Section bylaws state in part, that the Chair of the Section shall appoint a Nominating Committee composed of the Chair-elect, the First Vice Chair, two members of Council and two Past Section Chairs to be chaired by the Immediate Past Chair. The committee shall make and report nominations to the Section membership for officers and members of Council to succeed those whose terms will expire at the close of the annual meeting and members of Council to fill those vacancies for which there is a non-expired term and that the report shall be made in writing in a manner reasonably calculated to inform the membership, such as its inclusion in any regular publication of the Section.

On April 14, the committee met by conference call and

Nominating Committee Chair Ned Hark is a partner in the Philadelphia law firm of Howard M. Goldsmith, P.C., Immediate Past Chair of the PBA Family Law Section, Past Chair of the Philadelphia Bar Association Family Law Section and Past Chair of the Philadelphia Bar Association Law Referral and Information Service Oversight Committee.

has duly nominated the following individuals for the designated officer and council positions:

Chair: **Jeffrey Williams**
Chair-elect: **Cheryl Young**
First Vice Chair: **Joseph Martone**
Second Vice Chair: **Christine Gale**
Secretary: **Daniel Clifford**
Treasurer: **J. Paul Helvy**

Council positions (terms to end in 2012) are:

Mary Burchik
Sarinia Feinman
Margaret Lucas
Lindsay Gingrich Maclay
Fred Mogel
Jessica Moyer
Pam Purdy

This slate will be voted on at the Section Meeting July 18 during the Section's Summer Meeting in Savannah.

REVISITING THE *GRUBER* TEST : THE WHIMSY OF THE 'MOMENTARY WHIM' BY ADMINISTRATIVE JUDGE DAVID N. WECHT

Nearly 19 years ago, in its storied opinion in the *Gruber* case¹, the Superior Court of Pennsylvania set forth a three-prong test for evaluating petitions for relocation in child custody cases. The test requires trial courts to assess: (1) whether the move would substantially improve the circumstances of the relocating parent and the child, and is not the product of a "momentary whim" on the part of the relocating parent; and (2) the respective motives of each parent in either supporting the move or opposing it; and (3) the availability

Hon. David N. Wecht is the Administrative Judge of Court of Common Pleas of Allegheny County, Family Division. The views expressed herein are those of the author.

of realistic, substitute visitation arrangements that will foster a continuing relationship between the child and the non-relocating parent.

Notwithstanding some critical commentary², and notwithstanding the fact that numerous cases in recent years have emphasized that the *Gruber* prongs are not to be applied in isolation, but are rather to serve as part of an overall best interest analysis³, the *Gruber* test has remained essentially unchallenged by Pennsylvania's courts and has become deeply ensconced in Pennsylvania law.

It is time to carefully analyze these factors and consider whether they still serve the needs of children in the

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REVISITING THE GRUBER TEST

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Commonwealth of Pennsylvania. I confess this little comment is not that careful analysis. I offer this only as an opening salvo, and I hope judges and lawyers will weigh in.

The reality is that very few cases involve a momentary whim or caprice on the part of a relocating parent. Frequently, and particularly in the face of employment realities and migration patterns, parents seek to relocate for reasons that often include economic prospects, familial or affection-based needs, or other circumstances that are important to them. Rarely, if ever, does a relocation request arise because a parent wakes up one day and decides in that moment to act in a whimsical fashion. The provenance of the “momentary whim” language is unclear, but it is difficult to believe that it bears any connection whatsoever to the reality of the overwhelming majority of custody cases today. It should be abandoned.

Disposition of most relocation cases turns upon the

availability of realistic substitute visitation arrangements. These arrangements are often very hard to craft. Particularly where a child is proposed to be transported across the country (say, from Pennsylvania to Alaska, California or Hawaii), it is very difficult to develop a visitation arrangement that maintains frequent and / or close contact between a child and a parent.

That is the challenge that confronts judges, lawyers and parents. The “momentary whim” is just a distraction. It is unfortunate. It should go away.

Now, what do you think?

¹ *Gruber v. Gruber*, 583 A.2d 434, 439-40 (Pa. Super. 1990).

² See, e.g., Hon. Thomas A. James Jr., “Custody Relocation Law in Pennsylvania: Time to Revisit and Revise *Gruber v. Gruber*,” 107 Dick. L. Rev. 45 (2002) (advocating replacement of *Gruber* three-prong test with pure best interest of child standard).

³ See, e.g., *Kirkendall v. Kirkendall*, 844 A.2d 1261, 1265 (Pa. Super. 2004).

SIXTH ANNUAL LAWRENCE W. KAPLAN LECTURE IN CONFLICT RESOLUTION: ‘CALM IN THE FACE OF THE STORMING CLIENT’ BY MARY KATE COLEMAN, ESQ.

Nan Waller Burnett, M.A., a founding partner in Dispute Resolution Professionals, Inc. of Golden, Colorado, is this year’s guest lecturer at the Sixth Annual Lawrence W. Kaplan Lecture in Conflict Resolution. She is a mediator who specializes in high conflict disputes. During her lecture, “Calm in the Face of the Storming Client,” she will speak on the challenges of working with high-conflict individuals. She will explore specific high-conflict personality types and how the practitioner can remain focused on solutions and intervene while within the circle of high conflict. Burnett’s lecture will be highly interactive, and topics of discussion will include emotional intelligence in the workplace, high-conflict systems and handling impossible clients.

Burnett was trained in mediation at Harvard Law School’s Program on Negotiation in 1995 and she has mediated over 1,400 cases. She has taught ADR in the undergrad-

uate and graduate programs at Regis University in Denver, Colorado since 1999. In addition to being a mediator and educator, she is a psychotherapist, conflict systems design consultant and author. Her book, *Calm in the Face of the Storm: Spiritual Daily Practice for the Peacemaker*, won the 2008 Gold Medal for Spirituality/Inspiration at the National Independent Book Publishers Awards. Burnett holds the Advanced Practitioner status in the Association for Conflict Resolution’s (ACR) Family Section, is the immediate past Chair of the ACR Spirituality Section, and is involved in ACR’s Workplace and Training Sections. She became part of the founding team to develop the non-profit organization, Mediators Beyond Borders International and serves on the Board of Directors of this organization.

This year’s lecture will take place March 31 at the Omni William Penn Hotel in downtown Pittsburgh. The evening begins at 5:00 p.m. with an opportunity for networking while enjoying hors d’oeuvres and a cash bar. The program begins

Mary Kate Coleman is a Pittsburgh attorney with Riley, Hewitt, Witte & Romano, P.C., and Chair of the ACBA ADR Committee.

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SIXTH ANNUAL LAWRENCE W. KAPLAN LECTURE

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at 6:00 p.m. The cost for attending is \$40 per person. Please RSVP by sending your check payable to The Allegheny County Bar Association to the attention of Marlene Ellis, The Allegheny County Bar Association, 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, PA 15219. The deadline for registering for the lecture is March 23.

It is anticipated that the subject of Burnett's lecture will appeal to many conflict resolution professionals and attorneys. Richard D. Rogow, an attorney and mediator who has served on the Kaplan Lecture Committee since its inception, views attending this year's lecture as "another great opportunity to learn from a nationally known and highly respected mediator." Paula Hopkins, an attorney and immediate past president and founding member of the Collaborative Law Association of Southwestern Pennsylvania (CLASP), attended last year's lecture and served on the committee to plan this year's lecture. Hopkins stated that one of her goals "is to ensure that the 37 members of CLASP will have access to education and training that will enhance our skills as collaborative lawyers. The Kaplan Lecture presented by Nan Burnett will offer techniques to help us work through

impasse and continue the collaborative process in high conflict divorce cases." Ellen DeBenedetti, Training Coordinator with Conflict Resolution, Mediation, and Training Services of CVVC, sees this year's Kaplan Lecture as having the potential to "build on the trainings" offered through her agency. Additionally, for Ann Begler, a mediator and one of the founders of the Kaplan Lecture, one of the purposes of the evening is "to build a closer community of conflict resolution professionals."

If you are interested in ordering Burnett's book, please visit www.calminthefaceofthestorm.com

Given the current economy, this year we are offering a select number of reduced-fee scholarships based on need. To apply for a reduced-fee scholarship, please contact Ellen DeBenedetti at Conflict Resolution, Mediation, and Training Services of CVVC at (412) 482-3240, Ext. 300, or edebenedetti@cvvc.org.

The Sixth Annual Lawrence W. Kaplan Lecture in Conflict Resolution is sponsored by The Allegheny County Bar Association's Alternate Dispute Resolution Committee, The Mediation Council of Western Pennsylvania, and Conflict Resolution, Mediation, and Training Services of CVVC. For further information about the lecture, please contact Mary Kate Coleman at mkcoleman@rhwrlaw.com or Marlene Ellis at mellis@acba.org.

IN LOVING MEMORY BY ABBY DE BLASSIO, ESQ.

"Tiffany"

1996-2009

She was always ready and excited to go to work every day, and she would prance joyfully at the door when she heard my heels clacking on the hardwood floor in my living room as I grabbed her leash and my car keys in the morning. Even when I was not so thrilled about the day ahead of me, her bright-eyed, bushy-tailed attitude got me to the office with a swing in my step. She'd clamber into the back seat of my car, where she would ride nobly and quietly on the way to the office, where she would spend the day happily greeting clients, colleagues, friends and visitors.

Everyone who entered my office knew who was in charge. Of course, she had her own staff to bring her treats,

massage her as she napped under her palm tree, take her for her lunchtime walk and manage her busy calendar. She held many titles: receptionist, therapist, conciliator, marketing executive and bill collector. Yes, many clients would make a personal trip to my office to pay their bills. Not that they didn't trust the mailman. They just needed an excuse to see and cuddle Tiff.

They just didn't appreciate the mail as much as she did. In the afternoon, she'd lie in the sunny spot by the door and wait for John the mailman to knock on the window, to warn her that the mail was about to assault her. Although we never could train her to bring me the mail after it popped through the mail slot and almost landed on her head as she dozed right under it, her competencies were in her interpersonal skills. Up in my loft, I would hear adults and children squeal with delight as they entered the office and saw "her majesty"

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Abby De Blassio is a Greensburg attorney who is Chair of the Westmoreland County Bar Family Law Committee.

IN LOVING MEMORY

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gracing the area rug, and I'd always give them time to coo at her and pet her before I came downstairs to start a meeting. By then, whatever tension and anxiety they had arrived with had diminished substantially. She'd often escort clients to the conference room and lie quietly at their feet as they wept and told me about how their personal lives were disintegrating. She'd look up at them with her big brown eyes and give them solace. Her only fee was a pat on the head or a belly rub, which clients readily doled out.

She was proficient at resolving cases as well. There's something to be said of the look of relief on the face of an opposing party entering my office for a settlement conference, after she greeted them with a gentle sniff and a wag. The kind of look that said, "this isn't going to be so bad after all." She made people calmer, more reasonable, compassionate. She made the process so much more ... human.

Having a busy domestic practice, her daily presence in the office made my own day less stressful and more productive. In between those phone calls ... you know the ones ... the ones that make you want to flee from the office screaming ... she was there to deflect my tension, and after just a few moments of dog love I'd be right back to business, with a clear head. She made the office a fun and relaxing place to



be. Isn't that what work *should* be? Yes, there will be a vacancy at my office for a while, as we give ourselves time to remember her properly. Eventually, whoever takes her place will have large pawprints to fill.

"Tiffany" was a purebred Golden Retriever, adopted by attorney Abby De Blassio from the W.A.G.S. Golden Retriever Rescue in Irwin when she was 8 years old. She warmed hearts at the Law Office of Abby De Blassio for the remainder of her life and was a well-known member of the Greensburg legal landscape.

CHILDREN'S PLAYROOMS IN THE COURTS: NEW DVD AVAILABLE

National Council Of Jewish Women, Pittsburgh Section, (NCJW) has operated child care centers in the Allegheny County Courts for nearly 30 years. These rooms, well known to and supported by the Family Law Division of the Allegheny Bar Association, provide a stress-free and safe environment for children whose families are involved in court proceedings. Most recently, the program has expanded to provide for jurors' children with advance registration.

Now a DVD is available that depicts all three of these bright, cheerful children's playrooms — Family, Municipal and Criminal Courts. Produced through the auspices of the Allegheny County Bar Association's videography department, the purpose of this DVD is threefold:

First, it will be played in the courts and on various organizational Web sites so that caregivers will feel comfortable in leaving their charges in the care of the volunteers and staff.

Second, it will be utilized to inform lawyers and lay people that this service exists. Lastly, the DVD will be used to recruit volunteers.

NCJW urges members of the Family Law Division to assist in distribution of this information by showing the DVD to constituents, clients, organizations and associations, or anyone who might benefit from the services provided in the rooms.

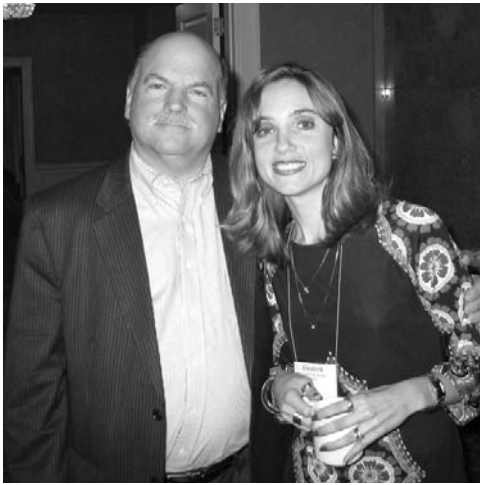
The DVD is available by calling National Council of Jewish Women, Pittsburgh Section, 1620 Murray Avenue, Pittsburgh, PA 15217, (412) 421-6118, or emailing adminasst@ncjwpg.org.

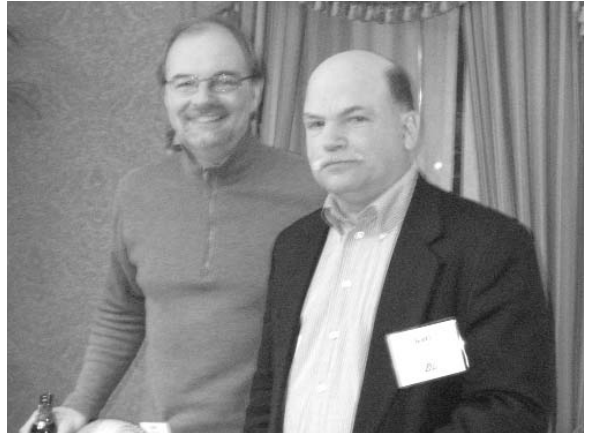
To defray the cost of production and distribution a donation is requested of at least five dollars (\$5.00). Anyone who orders a copy of the DVD is welcome to retain it and distribute it to any interested parties.

PBA Family Law Section 2009 Winter Meeting Photos

Photography by Gail C. Calderwood

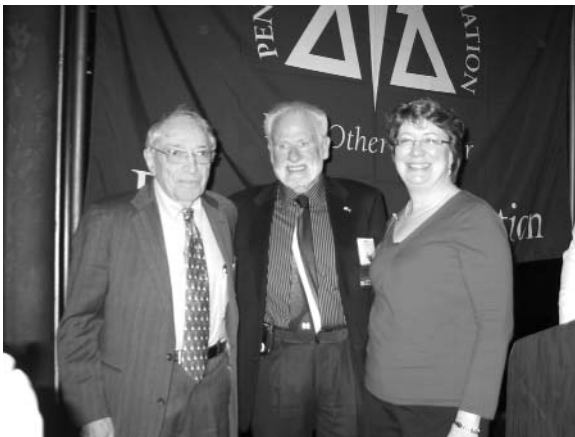


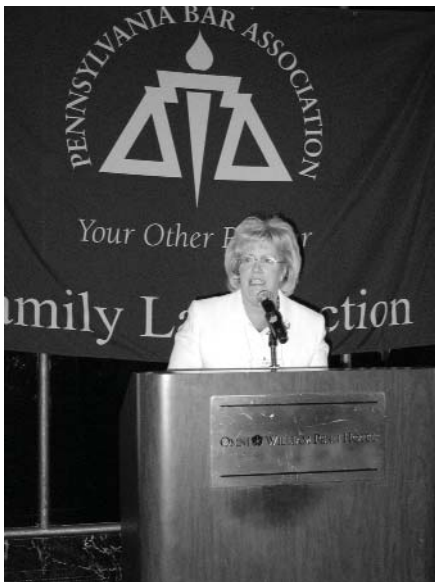


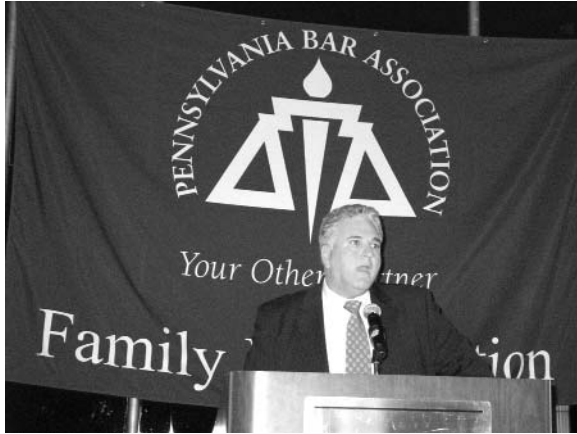












Sidebar: *Gerald L. Shoemaker, Esq.*

gls@hanglely.com

Our condolences go to **Catherine McFadden** of Philadelphia's Schnader, as well as her family, on the recent passing of her 10-month old granddaughter, Vivienne Esme Martin.

Gerald Shoemaker is Sidebar Editor of the Pennsylvania Family Lawyer, and an associate in the Norristown office of Hanglely Aronchick Segal & Pudlin, a past member of the Councils of the PBA and ACBA Family Law Sections and active in the Montgomery County Bar Association Family Law Section.

Heather Trostle has joined the Pittsburgh law firm of **Goldberg, Gruener, Gentile, Horoho & Aвали, P.C.** as an associate.

Michael B. Greenstein has joined Pittsburgh's **Notaro & Associates, P.C.**

Congratulations to **Kelly Barton-Rhea** of Pittsburgh's **Steiner & Blechman** on the birth of her baby, Torin Ethaniel Rhea. Proud father is Zane Rhea.

Hey, gang!

You have kids, christenings, bar/bat mitzvahs ... and your significant others ... and your law practices. Let me know what is going on!!! The "Sidebar" may be at the end of the *Pennsylvania Family Lawyer*, but many read it first.

**So let me know what is going on by mail, fax or e-mail: Gerald L. Shoemaker, Esq.,
2 West Lafayette Street, Suite 275, Norristown, PA 19401.
Telephone: (610) 313-1674/Fax:(610) 313-1689/E-mail: gls@hanglely.com**

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viii, 112p; 8 1/2 x 11; cloth binding

All cases (with proper citations), articles cross-indexed by name and subject matter

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UPCOMING PBA FAMILY LAW SECTION MEETINGS

2009 SUMMER MEETING • JULY 16-19, 2009

Westin Savannah Harbor Golf Resort & Spa, Savannah, Ga.

2010 WINTER MEETING • JAN. 15-17, 2010

The Hotel Hershey, Hershey

2010 SUMMER MEETING • JULY 8-11, 2010

Hyatt Regency Coconut Point, Bonita Springs, Fla.