From the Chair

It is that time of year again when memberships in the PBA Government Lawyers Committee (GLC) and other committees are set to expire. I would like to take this opportunity to encourage each of you to renew your membership in the Government Lawyers Committee and to take an active role in both this committee and the PBA.

Since the committee was formed five years ago, we have significantly raised the visibility of government lawyers within the PBA. From holding the distinction as one of the PBA’s largest committees to our commitment to professional development and charitable causes, the Government Lawyers Committee is each day proving that it is an important and viable part of the PBA.

In addition to encouraging you to renew your membership, I also encourage each of you to join other committees of the PBA in order that we might make further progress in extending the voice of government lawyers to other areas of practice. Several GLC members have already set an example of what can be accomplished if you get involved. Your colleagues currently serve or have served as chairs of various committees and sections including the Young Lawyers Division, the Administrative Law Section and the Minority Bar Committee. In each case, they have been able to offer a government lawyer’s perspective on the issues that come before these groups’ memberships. Without the participation of government lawyers in other parts of the PBA, it is difficult for us to stay up-to-date on new developments and to have a voice in discussions and the decision-making process.

I look forward to seeing all of you at the Committee/Section Day Meeting in Harrisburg on June 6.

Worth Reading: Tri-County Industries, Inc. v. PA DEP

By Greg Dunlap, Deputy General Counsel, Governor’s Office of General Counsel


The petitioners — three applicants for permits under the Solid Waste Management Act (SWMA) and the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) — each challenged on statutory and constitutional grounds regulations promulgated by the Environmental Quality Board (EQB) and enforced by Department of Environmental Protection (DEP). The regulations at issue directed DEP to use a “harms/benefits test” when making permitting decisions under the two statutes. “In general the regulations require applicants for permits to construct and to operate waste disposal facilities for residual or municipal waste to identify potential and real environmental harms from the proposed activity and to identify social and economic benefits. DEP [may] approve projects only if it determines that the benefits clearly outweigh the harms.” Slip op. at 2. In all three cases, the Environmental Hearing Board (EHB) rejected the petitioners’ challenges to the regulations and DEP’s application of them to the applicants. Commonwealth Court granted the petitioners the opportunity to appeal interlocutory orders by permission.

The petitioners made four arguments on appeal:
1. Lack of Statutory Authority

The petitioners claimed that neither the SWMA nor Act 101 authorized the EQB’s “harms/benefits test.” The court disagreed, citing the legislative findings and declarations of policy made in the SWMA and Act 101 and general rulemaking power granted to the EQB in both statutes. Both statutes, (Continued on Page 3)
As you know, the Public Relations Subcommittee is committed to producing a high-quality, informative newsletter of interest to government lawyers. Our goal is to update you and keep you connected to the law and other items of interest. In addition to articles from committee members, whenever possible, we solicit articles from colleagues in the bar who have expertise in particular areas of the law. Based on our quarterly publication schedule, we strive to bring you timely information about the issues government lawyers face in their daily practice.

We would like to take this opportunity to thank the subcommittee members who have assisted us in producing the newsletter. Their hard work and dedication make this publication possible. If you would like to join this select group of committed contributors, simply send either of us an e-mail. We also invite you to submit ideas for stories, suggestions for possible guest authors, and the names of individuals you would like to see profiled in the newsletter. Getting involved does not require a major commitment of time. We can use as little or as much time as you have to offer.

Being a member of the subcommittee gives you an opportunity to meet interesting lawyers featured in the newsletter and learn more about recent developments in the law. All of that, and you get to collaborate with other committee members as well as enjoy a free lunch!

We look forward to hearing from you. You can e-mail Doreen at dmccall@state.pa.us and Susan at shenseljar@state.pa.us.

---

2003 Short Story Fiction Writing Contest

Lawyer-writers wanted to enter the 2003 Fiction Writing Contest sponsored by The Pennsylvania Lawyer magazine. Simply submit a “fictional short story relating to the law or lawyers in some fashion” before the Aug. 1 deadline. The magazine will publish the top three entries with the authors’ photos in the November/December issue.

To learn more about the contest or to obtain an entry form, see the back inside cover of the March/April issue of The Pennsylvania Lawyer or visit the PBA Web site at www.pabar.org.
Worth Reading: *Tri-County Industries, Inc. v. PA DEP*  
(Continued from Page 1)

the court observed, state purposes of establishing and maintaining a cooperative state and local program of planning for comprehensive solid waste management; protecting the public health, safety and welfare from short-term and long-term dangers of transportation, processing, treatment, storage and disposal of wastes; providing a flexible and effective means to implement and enforce the provision of each Act; and implementing Article I, Section 27 of the constitution.

Slip op. at 9-10. Consequently, the court agreed with DEP and the EHB that the acts “clearly conferred broad supervisory power on the Environmental Quality Board over health, safety and welfare concerns beyond a narrow interpretation of simple protection of the environment from harm, and that the power conferred was broad enough to encompass the adoption of the harms/benefits test.” *Id.* at 11.


The court also agreed with DEP that the EHB had properly applied the test prescribed by *Payne v. Kassab*, 312 A.2d 86 (Pa. Commw. Ct. 1973), *aff'd*, 468 Pa. 226, 361 A.2d 263 (1976), for applying Article I, § 27 of the constitution. The court so concluded because the Legislature in both statutes expressly declared that it intended the EQB and DEP to balance “environmental concerns against social and economic ones.” Slip op. at 12-13. Consequently, EQB was empowered to promulgate regulations under the acts “balancing environmental harms against social and economic benefits,” just as contemplated by Article I, § 27. *Id.*, at 13.

3. Improper Delegation

The petitioners also argued that the Legislature had improperly delegated legislative power to the EQB, in violation of Pa. Const. art. II, § 1. Again, the court disagreed. Remarking that the Supreme Court has upheld “many less than precise standards” than those prescribed by the SWMA and Act 101, Commonwealth Court concluded that “the statutory provisions … provide adequate guidelines to withstand a non-delegation challenge.” *Id.* at 14.

4. Vagueness

The petitioners claimed that the EQB’s harms/benefits test was void for vagueness. To the contrary, the court agreed with DEP that “economic regulation is subject to a less strict vagueness test because its subject matter is often more narrow and business may be expected to consult relevant legislation in advance and to clarify meaning through inquiry or through administrative process.” *Id.*, at 15 (footnote omitted). Businesses are particularly familiar, the court concluded, with “the concept of weighing benefits against harms.” *Id.*, at 15-16.

Friedman Dissent

Judge Friedman dissented, arguing that the Legislature had not “clearly and unambiguously confer[ed] on the [EQB] the authority to promulgate a harms/benefits environmental assessment test which, under the guidelines published by [DEP], considers ‘establishing schools’ and ‘charitable contributions’ as possible ‘social and economic benefits’ of a municipal or residual waste landfill.” Slip op. at 20 (Friedman, J., dissenting)(emphasis added; footnote omitted). Consequently, Judge Friedman said that the harms/benefits environmental assessment test “is invalid to the extent that it permits the DEP to consider establishing schools and charitable contributions as possible social and economic benefits of the municipal or residual waste landfill.” *Id.*, at 24 (footnote omitted).

**Subcommittee Reports**

**What’s Going On**

**Membership Subcommittee:**

The subcommittee is pleased to announce the winner of our first membership recruitment campaign giveaway contest. Congratulations to Tracy McCurdy, assistant counsel, Governor’s Office of General Counsel assigned to the Department of State. Tracy’s recruitment efforts paid off and she won a weekend for two at the Harrisburg Hilton and Towers. Thanks to everyone who participated in the contest.

With the change of Administration, there are many new faces in agency legal offices. We encourage current Government Lawyer Committee members to invite their new colleagues to join the committee. An online registration form can be found on the PBA Web site at www.pabar.org. You can also print the form and fax it to Sabrena Jutzi at the PBA at (717) 238-7182.

Important reminder: Your committee membership expires on April 30. You must renew your membership by checking the appropriate box on the Committee/Section Day notice that you received in the mail, or by following the steps for new members listed above. Failure to renew your membership will result in your name being purged from the committee membership list.

**Important E-mail Notice to All Committee Members:**

As a method of cutting expenditures and reserving funds for use at committee events, all notices of committee events, including lunch/learn programs and subcommittee meetings, will no longer be sent via mail. Instead, these notices will be sent by e-mail only. It is crucial that you supply the PBA with your e-mail address (Use the form on the PBA home page at www.pabar.org.). Any time your address changes, please notify Jodi Wilbert at the PBA at jodi.wilbert@pabar.org.
The Pennsylvania Bar Institute presents its 7th Annual Administrative Law Symposium, created especially for administrative attorneys, legislators and legislative and judicial staff. This year’s session will feature more of the timely, fresh subjects you’ve come to expect from this popular seminar. Register now for a day of informative topics, stimulating discussion and productive networking. Don’t miss it!

**Why Attend:**
Explore ethical issues in the conduct of administrative law
Hear discussion of the New Federalism
Get a status report on what’s new in the law
Choose breakout sessions that are right for you including:
the Right to Know Act, property tax appeals, and new workers’ compensation procedures

**Schedule:**

<table>
<thead>
<tr>
<th>Time</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:30 a.m. – 8:35 a.m.</td>
<td>Welcome</td>
</tr>
</tbody>
</table>
| 8:35 a.m. – 9:35 a.m. | **Standard of Review after Wintermyer**
John Moyer, Esq., Burke McLemore, Esq. & James Holtzman, Esq. |
| 9:35 a.m. – 9:45 a.m. | Break                                                  |
| 9:45 a.m. – 10:45 a.m. | **Property Tax Appeals**
Bert Goodman, Esq.
Kevin McKeegan, Esq.
Carl Wass, Esq.
Chet Karas, Esq. (moderator) |
| 10:45 a.m. – 10:55 a.m. | Break                                                  |
| 10:55 a.m. – 11:55 a.m. | **Potpourri**
*De novo:* Fran Grabowski, Esq.
*Hearings at the Discretion of the Agency:* James Kutz, Esq.
*Lyness Update:* Grainger Bowman, Esq.
*Case Law Update:* Fran Grabowski, Esq.
Amy Putnam, Esq. (moderator) |
| 11:55 a.m. – 1:15 p.m. | Lunch                                                  |
| 1:15 p.m. – 2:15 p.m. | **Right to Know**
Leonard Crumb, Esq.
Teri Henning, Esq.
Bob Shea, Esq. (moderator) |
| 2:15 p.m. – 2:25 p.m. | Break                                                  |
| 2:25 p.m. – 4:30 p.m. | **New Federalism**
Randy Lee, Esq.
John Knorr, Esq.
John Kane, Esq.
Daniel Schuckers, Esq. (moderator) |

**Credits and Costs:**
6 CLE Credits (5 substantive/1 ethics)
$189 Bar Members
$159 Government Lawyers
$149 Government Employees

Register online at [www.pbi.org](http://www.pbi.org) or call (800) 247-4724.
Government Lawyers Committee Meeting

By Erin Verano, Assistant Counsel, Governor’s Office of General Counsel assigned to the Department of State

One of the main focuses of PBA Committee/Section Day is to bring the membership of the various committees and sections up-to-date on what their group has been doing and where it plans to go. The Government Lawyers Committee meeting on Nov. 24, was no exception, with much to report to its members.

As each subcommittee gave its report, it was clear that the Government Lawyers Committee remains committed to providing services to government lawyers and the community. The Career Enhancement Subcommittee reported on its quarterly “Lunch and Learn” speaker series and on its presentations at Pennsylvania law schools. Those presentations are designed to educate future lawyers about the opportunities and benefits of government service.

With Government Lawyers Committee membership standing at more than 350, the Membership Subcommittee kicked off its recruiting drive with the announcement of an incentive program. Members who recruited new members were eligible for a drawing to win a weekend stay at the Harrisburg Hilton. We are pleased to announce that the winner of the contest is Tracy McCurdy, assistant counsel, Governor’s Office of General Counsel assigned to the Department of State.

The Public Relations Subcommittee continues to keep members informed of recent developments in the law, Committee activities, and other topics of interest to government attorneys through the quarterly publication of News & Views. In addition, the subcommittee reported on its recent coordination of the Government Lawyer of the Year award.

The announcement of the completion and full implementation of the Government Lawyers Career Information Center by the Services to Members Subcommittee was a great moment for the committee. A huge amount of time and effort was expended by several hard-working subcommittee members to develop this amazing resource for both practicing lawyers and law students who are looking for opportunities in government service.

Of course, the crowning moment came during the luncheon with the announcement of the recipient of the Government Lawyer of the Year award. It was with great pride that the committee recognized before all our colleagues in the PBA the efforts and accomplishments of Jessie L. Smith, chief deputy attorney general of the Pennsylvania Office of Attorney General.

Lunch and Learn Series

There’s No Better Time Than Now to Fulfill Your Ethical Obligations

By Judith Gilroy, Assistant Counsel, Governor’s Office of General Counsel assigned to the Department of Labor & Industry

With the continuing downturn in the economy, we are all challenged to do more with less. Nowhere is this more true than for those who provide legal services to the needy. It is against this backdrop that the Government Lawyers Committee Career Enhancement Subcommittee sponsored a recent “Lunch and Learn” focusing on lawyers’ obligations to provide pro bono services.

David Trevaskis, pro bono coordinator for the Pennsylvania Bar Association, spoke on pro bono activities for government lawyers, and their ethical responsibilities when accepting a pro bono assignment.

Common concerns among government lawyers are the unknown complexity of a pro bono case and the time commitment it could require. Trevaskis acknowledged these concerns and suggested a possible solution. He proposed developing representation agreements up front that explain the parameters of the engagement. Such agreements, he noted, define the lawyers’ responsibilities to the client, thereby avoiding potential misunderstandings and the pitfalls that could follow.

In addition to the formal presentation, “Lunch and Learn” attendees were invited to break into small groups to discuss several hypothetical situations involving the Rules of Professional Responsibility as they apply to pro bono work. The ensuing discussions were both informative and enjoyable.

If you are interested in volunteering for a worthwhile pro bono project and are looking for ideas on how you can help, contact David at (800) 932-0311, Ext. 2236, or Sandy Ballard, public services coordinator for the Dauphin County Bar Association at (717) 232-7536. If you are interested in assisting with the MidPenn Legal Services custody clinic, please contact Sandy or MidPenn at (717) 232-0581.

The next “Lunch and Learn” is scheduled for May 15 at the Dauphin County Bar Association. Jessie L. Smith, chief deputy attorney general of the Pennsylvania Office of Attorney General, and recipient of the 2002 Government Lawyer of the Year Award, will speak on techniques to advance your career as a government lawyer.
Close Up

The Governor’s Lawyer Builds on an Already Distinguished Career

A Profile of Leslie Anne Miller, Governor’s General Counsel

By Susan Hensel, Assistant General Counsel, Governor’s Office of General Counsel

For Leslie Anne Miller, it has not really sunk in yet that her desk sits only a few feet outside Gov. Ed Rendell’s capitol office door. Even though she did not seek out the position as his general counsel, Miller was tapped for the job by Rendell in what turned out to be his first appointment after winning the November election. She describes having been selected as “a huge honor and a huge responsibility.”

As the governor’s top legal advisor, Miller not only counsels the governor on matters coming before him, she also manages a staff of more than 500 commonwealth attorneys in 32 executive agencies. In addition to serving as the governor’s lawyer, it is Miller’s job to supervise, coordinate and administer all legal services provided to each executive agency under the governor’s jurisdiction. She comes to the job well prepared with more than 25 years of private sector legal experience in civil litigation, trial practice and mediation. Most recently, she was a partner in the Philadelphia law firm McKissock & Hoffman, P.C.

Being general counsel is not, however, Miller’s first public sector challenge. In February 2001, she was chosen to be president of Philadelphia’s new Kimmel Center for the Performing Arts. From ensuring that the $265 million building was completed in time for its December opening to negotiating contracts with performers who would make use of the center, she says being president was an “extraordinary experience.” She remains committed to the Kimmel Center and currently serves as vice-chair of its board of directors.

It was shortly after the Kimmel Center grand opening that then-candidate Rendell suggested he would be interested in taking advantage of Miller’s skills should he be elected. After winning the primary, he again spoke with her about a possible future in his administration and, although Miller initially laughed at the idea, the governor made good on his promise shortly after the election.

Her selection as general counsel makes her the first woman ever to serve in the position. She thinks her being picked is more a reflection of her “staying power” than of anything specific about herself but hopes that her “being the first female general counsel is one more indication that women are moving up in the legal community and are occupying positions of power and influence. My presence here demonstrates that there is a slow but steady rise of women,” Miller said.

Miller is no stranger to firsts or to government lawyers. From 1998 to 1999, she served as the first female president of the Pennsylvania Bar Association (PBA). In that capacity she worked closely with former General Counsel Paul Tufano to ensure that the PBA’s just-formed Government Lawyers Committee would grow into a viable, important part of the overall organization. Miller said she did not feel the PBA could be truly representative without the presence of government lawyers.

Today, a large segment of the Government Lawyers Committee membership call Miller their boss. Although she has only served as general counsel a short time, Miller says she is “enormously impressed by the high level of professionalism of the commonwealth’s attorneys.” According to Miller, they are “highly-skilled, competent and committed people who really love what they are doing.” She sees working with government attorneys as a “refreshing change from private practice where there is often job dissatisfaction.”

In addition to inheriting a solid team of attorneys, Miller says her predecessors laid a strong foundation for the office on which she can build. “My biggest challenge will be maintaining momentum in the face of the state’s very serious budget crisis, which cannot help but have an impact on the office,” said Miller.

One area that will not be affected is Miller’s commitment to mentoring. As a young lawyer, Miller had no mentor outside the person she still looks to today, her father, a former Dauphin County Common Pleas judge who, at 80, continues to practice law. Miller, who has received numerous awards and honors throughout her career, says she strongly believes in her responsibility as a mentor and “hopes to help all less experienced lawyers develop professionally.”

“I am impressed by skills but revere nothing more than someone with a strong set of ethical principles.”

Along with mentoring, Miller says she also plans to emphasize how important ethics are to her. “I am impressed by skills but revere nothing more than someone with a strong set of ethical principles. If I can set an example of that, I will leave the job satisfied.”

In terms of specific goals, Miller says she has no delusions about having goals of her own. “In the end, I want to be the strongest and wisest counsel I can be to my client, the governor. What is most important is advancing his goals.” Miller said.
Jones led the board to record profitability and established a landmark alcohol education program creating 100 coalitions on college campuses across Pennsylvania. This stellar record was one reason Jones was mentioned as the “dark horse” candidate for the 2002 Republican nomination for governor.

In the year 2001, however, Jones turned his attention away from state government service to consider a possible appointment to one of two vacancies on the U.S. District Court for the Middle District of Pennsylvania. In February of 2002, Jones was nominated by President George W. Bush to the United States District Court and he was later unanimously confirmed by the U.S. Senate.

Jones states that he is enjoying immensely the task of presiding over trials in federal court in spite of the fact that the position requires a great deal of long-distance commuting. He continues to reside in Pottsville with his wife, Beth Ann, and their two children, Meghan and John.

For Kids’ Sake

On March 29, several members — as well as family and friends — of the Department of Environmental Protection (DEP) participated in the Bowling for Kids’ Sake event, sponsored by the Capital Region Big Brothers/Big Sisters.

The DEP Office of Chief Counsel team included attorneys Judy Rivera, Marty Siegel and Patrick Bair; support staff members Jackie Borda, Patti Doyle, Brooke Weaver, Bob Clark, Jeanette Hulse; the director of the Office of Chief Counsel Bureau of Investigations Gary Niland; DEP Human Resource member Mark Schmelz; and Office of Chief Counsel family members Beryl Kuhr, Zach Martick and Marti Kuhr-Bair.

Everyone had a great time bowling, and the team raised over $1,300 in pledges for the Capital Region Big Brothers/Big Sisters. Thanks to all who participated or who pledged to support the DEP team!
Government Attorneys Hold Food Drive to Benefit Local Shelter

By Suzanne N. Hueston, Assistant General Counsel, Governor’s Office of General Counsel

On Dec. 12, the PBA Government Lawyers Committee held its fifth annual Holiday Reception and Food Drive at the PBA headquarters in Harrisburg. The event was a huge success — with more than 75 government lawyers enjoying the festivities. The reception served two important purposes. First, it allowed all of us to take time out of our hectic schedules to socialize with one another. Second, it served as a terrific opportunity to donate canned goods to an extremely worthwhile charity — the Bethesda Mission.

Every government lawyer who attended the reception was asked to bring at least one canned food item. The government attorneys rose to the challenge and in the spirit of the season donated hundreds of food and personal care items. The event meant a happier Christmas for those who depend on the Bethesda Mission.

At the hors d’oeuvre and cocktail reception, PBA President-elect Thomas M. Golden addressed the group. Golden thanked the government lawyers for their hard work in representing the commonwealth and for their unwavering commitment to the committee.

After socializing with their peers and having donated to a good cause, those in attendance left the reception with the true holiday spirit. The Government Lawyers Social Subcommittee will continue to make every effort to plan events, such as this one, which directly help people in our community in need.

The losers, most of whom are too embarrassed to even show their faces, console themselves with food and drink.

In the big smiles contest it’s (from left) Mike Farnan, Jodi Zucco-Flitton and Bob DeSousa ...

... followed by (from left) Roger Caffier, Cathy McCormack and Sam Miller ...

... but the winners are (from left) Jane Pomerantz, George Parr (husband of Jessie Smith), Jessie Smith and Tom Golden.
In the Spotlight

By Erin Verano, Assistant Counsel, Governor’s Office of General Counsel assigned to the Department of State.

Honors/Awards

Virginia Spencer Scott, assistant solicitor for the City of Pittsburgh, was honored with induction into the Academy of Trial Lawyers of Allegheny County.

Jonathan W. Kunkel, assistant counsel, Governor’s Office of General Counsel assigned to the Department of Corrections, was recently elected to serve as the first vice president of the Friends of the State Museum. Jonathan has been a member of the board of directors for the past four years.

Eva M. Plaza of the Philadelphia Law Department was bestowed with the Hispanic Bar Association of the District of Columbia’s Equal Justice Award.

Philadephia Mayor John F. Street presented City Solicitor Nelson Diaz with the Judge William F. Hall Award for his demonstrated commitment to the values of Martin Luther King Jr. as reflected in his legal work to promote diversity and uplift communities throughout the city. Audrey Talley was honored with the Woman of Distinction Award.

(From left) Philadelphia City Solicitor Nelson Diaz, Audrey Talley and Mayor John F. Street at the Barrister’s Association Martin Luther King Breakfast.

Appointments

Leo Pandeladis has been appointed assistant general counsel in the Governor’s Office of General Counsel. Leo will be assisting with legislative matters. He was formerly the deputy commissioner of the Bureau of Professional and Occupational Affairs in the Department of State.

Lewis Rosman, deputy city solicitor at the Philadelphia Law Department, was recently appointed to the editorial board of the Philadelphia Bar Association’s quarterly publication, The Philadelphia Lawyer. Rosman will review and make recommendations regarding articles submitted for publication and solicit draft articles from his colleagues in the bar.

David Bricker has been appointed special funds counsel with the state Insurance Department. He returned to the commonwealth after spending six years in private practice with Eckert Seamans, LLC.

Speaking Engagements

Marcia L. Telek DePaula, senior deputy attorney general, Pennsylvania Office of Attorney General, Bureau of Consumer Protection, Pittsburgh Regional Office, participated in the European Union Visitors Programme (EUVP) in Brussels, Belgium, in October. Each year the EUVP selects 26 U.S. citizens who are government officials, journalists, trade unionists, academics or officials of nonprofit organizations and are in their mid-20s to mid-40s and have career related interests in the European Union (EU), to meet with EU policymakers and staff regarding common policy interests. DePaula met with representatives from the EU executive and legislative arms, Belgian government, consumer organizations and private law firms to discuss a consumer policy strategy that would protect consumers from unfair and deceptive trade practices due to the growth of the Internet.

New Additions

Carol Mowery, assistant counsel, Governor’s Office of General Counsel assigned to the Department of Labor and Industry, and her husband, Warren Mowery, assistant counsel to the Pennsylvania Labor Relations Board, welcomed their son Quinn on Dec. 17. To see pictures of the baby, visit Quinn’s Web site at mywebpages.comcast.net/Quinn_M.

Cynthia Fillman, assistant counsel, Governor’s Office of General Counsel assigned to the Department of Public Welfare, and her husband Eric welcomed the sixth member of their family. Elizabeth Sara was born on Jan. 28, weighing 8 lbs., 9 oz. and measuring 20.5 inches long. Elizabeth joins siblings Angela, Adam, and Noah.

Worthy of Special Notice

With the recent release of the movie Gods and Generals, John T. Henderson Jr., hearing examiner for the Department of State, makes his second foray into the Hollywood scene. John and his son Joe, both Civil War re-enactors, were extras in this epic prequel to Gettysburg.

Giving Back at the Holidays

On Thanksgiving Day, Philadelphia Mayor John F. Street, Police Commissioner Sylvester Johnson, the Philadelphia Police Department and Office of the City Solicitor staff members Keith Jones, Wilhelmina Matthews, Karen Randolph, Joaunna Riley and Damon Roberts served dinner to nearly 300 disadvantaged individuals at One Day At A Time (ODAAT). ODAAT is a North Philadelphia shelter that provides a safe haven for persons recovering from drug and alcohol addiction, those living with HIV/AIDS and the homeless.

(Continued on Page 11)
Chasing the Comet

By Diana Sacks, Staff Attorney to the Joint State Government Commission

Sitting in the very last row of a Cathay Pacific Airlines 747 jumbo jet as it roared off the runway at Los Angeles International Airport en route for Hong Kong, I felt as though I was “chasing the tail of a comet.” And, as I and 400 other passengers spent close to 15 hours crossing the Pacific Ocean, I began to question my judgment about joining a small delegation of attorneys on a two-week visit to China. We spent the entire flight in darkness, except for the glow of our individual television sets and overhead lights, chased a morning that never arrived and lost an entire day in the bargain. After our arrival in Beijing, flying in on Dragon Air from Hong Kong, however, the next two weeks can only be described in one word: fabulous.

The trip was arranged through the People to People Ambassador Program, and I was part of a delegation of lawyers from Pennsylvania scheduled to meet with lawyers from China. Marvin S. Lieber, a past president of the Pennsylvania Bar Association, was the appointed delegation leader. The program is an international and cultural program developed during the Eisenhower presidency with the support of the U.S. State Department. For this trip, it was anticipated that through a series of meetings, site visits and informal discussions, we would gain an understanding of the private practice of law in China and establish professional relationships for future studies. Furthermore, we would also exchange information about private law practice in China and the United States. Our goal was to focus on practice management and development, current technologies used in law practice, and professional ethics and cultural diversity. During our two weeks, we would visit Beijing (which represents the present face of China), Shanghai (which illustrates China’s goal for the future) and Guiyang (which is the rapidly disappearing old style China).

BEIJING

Beijing was our first stop and was where we met our guide and translator, Louie. Louie accompanied us for the entire trip and was joined in Beijing, Shanghai and Guiyang by other guides and translators. All of our guides were fluent in English as well as Chinese, and all went out of their way to accommodate us.

We spent four days in Beijing, the political and administrative center of the People’s Republic of China. It is one of the largest and fastest growing municipalities in modern China, home to approximately 12 million people. We spent the first day taking in the cultural sites, which included Tian’anmen Square, the largest public square in the world and the heart of modern China. There were many groups of visitors walking around, visiting the tomb of Mao Tse-tung and generally admiring the area. The city was preparing for the 16th Congress of the Chinese Communist Party and banners and flags flew in the stiff breeze. Our next stop was the Summer Palace where the former Dowager Empress of China held court. A visit to the Forbidden City (the former Imperial City) that included 9,999 palaces in the complex was next on the agenda — although we did not examine all of the palaces! The Forbidden City was once the residence of Ming and Qing emperors. Other cultural activities included, of course, a visit to the Great Wall of China, which is 4,000 miles long. Our view of the Great Wall was from Badaling, a rugged area that was cold even in early November. Throughout our trip, we always ate lunch and dinner at different Chinese restaurants. Meals were served family-style, where a number of dishes were brought to the table and placed on a big lazy Susan in the middle of the table.

While we spent the first day in each area visiting cultural sites, the primary reason for our trip was to meet with law firms. In Beijing, we met with members of the All China Lawyers Association. The association was founded in 1986 and membership is compulsory for the current 110,000 lawyers in China. The association has 11 law committees, which include civil, criminal, intellectual, financial and securities, American and international law. During this visit, we learned that foreign lawyers are not allowed to practice in China or give legal opinions on Chinese law but they can represent their foreign clients in China on anything but Chinese Law. All judges, lawyers and prosecutors must take a unified qualifying examination. We also met with a representative of the Chinese Ministry of Justice; visited the Lehman, Lee and Xu Law Firm, where Edward Lehman, an American citizen, is a founding member of the firm; and the Center for Women’s Law Studies and Legal Services at Peking University. The Center addresses issues of concern to women, including family, labor and property issues. Approximately a third of law students and lawyers in China are women.

(Continued on Page 11)
Chasing the Comet

(Continued from Page 10)

SHANGHAI

Shanghai is situated on the east coast and is the country’s biggest and busiest port. It is China’s most important industrial and commercial center and is home to 14 million people. We stayed in a fabulous new hotel, the Pudong Shangri-la, one of many hotels that have been constructed during the past decade. Ten or 15 years ago, the entire Pudong District consisted of rice fields. It is now a futuristic landscape of enormous skyscrapers of varying heights, designs and materials. These skyscrapers sparkle in the sunshine during the day and dazzle in artificial light at night. They really have to be seen to be believed. China is experiencing a huge growth in development as the Chinese government gambles on its status and membership in the World Trade Organization.

Our agenda in Shanghai followed the same format as that for Beijing. Culturally, there were not as many important ancient sites in Shanghai. Shanghai had been an important area in the 19th century when European and American powers saw China as a potential market for their manufactured goods. Trade in those days was as important as it is today; however, China was not the force to be reckoned with that it is today. China is rapidly moving into the 21st century, culturally and socially. Interestingly, extended families no longer live together as they once did, and men and women today mingle freely in society.

In Shanghai we visited several law firms, most of which specialized in investment, securities and real estate. Arbitration, too, is popular in China and the Chinese, despite the growth of the legal profession, are not a litigious people. The firms we visited were the Junshua Law Firm, the Qing Hua Law Firm and the Keemore Law Office. We spent an interesting few hours attending a criminal trial at the 2nd District Intermediate Court. The defendant, a poor farmer, had already confessed to killing his mistress. He was represented by a recently-appointed defense attorney from a legal aid office. She could only ask for mercy for her client on the grounds of no prior records and his confession. The proceedings took place before three judges and the prosecuting attorneys. We were not informed as to a probable verdict.

Our cultural activities consisted of a visit to a silk factory, a museum and a foot massage parlor, which had us all in giggles, cries of pain and, for some of us, a brief nap! We believe that the masseurs were able to touch nerves in our feet, which rendered some of us momentarily unconscious.

GUIYANG

Guiyang is a city situated on the north bank of the Nanming River. It is the political, economic and cultural center of Guizhou Province. Known as the “City of Spring,” Guiyang offers mountains and rivers, lakes and caves. This particular city, and surrounding area, is home to many different nationalities. Interestingly, minorities in China are not subject to the “One Child” policy and often have at least two children.

We were able to drive out to the countryside, past small villages with stone houses, men and women with their water buffalo doing the work in the fields, and conical haystacks. We noticed the lack of forest-type vegetation, due — no doubt — to the village’s need for firewood. Also, the hills had an odd cone shape, possibly due to erosion because of the lack of vegetation. Again, we noticed development underway: old houses being torn down and roads being improved and widened.

While in Guiyang we visited the Guizhou Zhongxiu Law Service Association, which serves some 30 million people in the province and processes some 200,000 cases annually. The association works through approximately 30,000 local representatives who handle matters including rent disputes, domestic problems and disputes over animals. We also visited the Xinhai Law Office, which is a firm providing local services to the large agricultural operations in the province. Guiyang was our last stop in China before boarding a plane from Canton to Hong Kong. In Canton, we had to say goodbye to our efficient and personable guide Louie.

My visit to China and my participation in the People to People Ambassador Program was a wonderful experience. I recently received literature on an upcoming trip to China for November 2003 also arranged by the program. This time the group will not be comprised of just attorneys, but rather anyone who is interested in seeing the Three Gorges Dam Project. The project is highly controversial because it will displace more than a million people, but the Chinese Government believes it will both ameliorate constant flooding by the Yangtze River and provide electricity for China’s future needs. I was so intrigued by everything I saw on this trip that I would gladly “chase the tail of the comet” and visit China again.

In the Spotlight

(Continued from Page 9)

Staff and attorneys with the Department of State have been “adopting families” at the holidays for at least 12 years through Help Ministries, an organization of churches in Dauphin, Cumberland and Perry Counties. The attorneys and staff purchased toys, clothing and games for children in the families adopted by the program. The attorneys and staff also provided gift certificates for groceries and clothing from local retailers for these special families.

Of Interest

The Philadelphia Office of the City Solicitor recently launched a new program to recruit and hire law school graduates with demonstrated leadership qualities and a commitment to public service.
In this Edition

From the Chair ................................................. 1
Worth Reading ............................................. 1
From the Editors’ Desk ................................. 2
What’s Going On .......................................... 3
PBI Administrative Law Symposium ........... 4
Govt. Lawyers Committee Meeting ........... 5
Lunch and Learn Series
  David Trevaskis ......................................... 5
Close Up:
  Leslie Anne Miller ................................. 6
  John E. Jones III ................................. 7
For Kids’ Sake ............................................ 7
Govt. Attorneys Hold Food Drive ............. 8
In the Spotlight ........................................... 9
Chasing the Comet ................................. 10
Stay Tuned .............................................. 12

Stay Tuned

April 23-25, 2003
PBA Annual Meeting
Wyndham Philadelphia
at Franklin Plaza
Philadelphia

April 29, 2003
8:30 a.m. – 4:30 p.m.
Administrative Law Symposium
PBI Conference Center
Mechanicsburg

May 15, 2003
“Lunch and Learn”
with Jessie L. Smith
Dauphin County Bar Association
Harrisburg

June 6, 2003
PBA Committee/Section Day
Holiday Inn – East
Harrisburg

November 20, 2003
PBA Committee/Section Day
Holiday Inn – East
Harrisburg

Non-Profit Org.
U.S. Postage
PAID
Harrisburg, PA
Permit No. 472