



FOR PENNSYLVANIA YOUNG
LAWYERS, HERE'S WHAT'S...



AT ISSUE

A PUBLICATION BY AND FOR THE YOUNG LAWYERS DIVISION
OF THE PENNSYLVANIA BAR ASSOCIATION

TO CLERK OR NOT TO CLERK: THERE REALLY IS NO QUESTION

By Sheila M. Flanagan

Most law students and new lawyers who decide to apply for judicial clerkships do so for obvious reasons. We all know that a clerkship looks great on a resume and that it can provide a chance to further develop legal research and writing skills. But, clerkships provide many additional opportunities that if taken advantage of will allow new attorneys to hit the ground running when they make the transition to the practice of law. A clerkship also can be an excellent way to take a break from the practice of law and return with a renewed sense of purpose.

Mentoring

A clerkship will provide you with the opportunity to build a one-on-one mentoring relationship with a judge. This opportunity is one that your law school classmates who start out as one of many new associates at a large firm will not have. If you are as fortunate as I was, and you end up clerking for a judge who loves to analyze the law and is willing to maintain an ongoing dialogue with you about the application of the law, you will learn how to be an effective lawyer much more quickly than you would sifting through a pile of books in a law firm library every day. Further, in making recommendations to a judge who may ultimately incorporate your thoughts into his or her final decision, you will have

the chance to participate in the process of shaping the law at a much earlier stage in your legal career than you would otherwise.

Networking and Legal Skills Development

If you choose to clerk in a division of a trial court in which you ultimately plan to practice, you will have the chance to meet a variety of practitioners. This

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opportunity is important primarily because the lawyers will get to know you, which will be helpful if you ultimately decide to begin interviewing for a law firm job. Perhaps even more important from your perspective, however, is that you will have the chance to observe which lawyers are effective at what they do and which are not. You will see both impeccable and abominable writing in pleadings and briefs. If you sit in on hearings and trials, you will observe that zealous advocacy does not necessarily mean yelling and pounding the table when making an argument, but that often an attorney who is more subdued and chooses his or her words carefully is far more persuasive. Also, you will have a chance to observe personalities and interactions between attorneys from somewhat of a distance so that you will

have some idea of who you might actually like to work with and who you will want to avoid like the plague!

Because most clerkships involve standard 8:30 a.m. to 4:30 p.m. workdays, you most likely will have more time to get involved in bar-related and community service activities than you would if you begin your legal career with a law firm. These activities are another way to network and maybe even have a little fun. But, for those of you who miss law school, participation in bar-related activities will give you the chance to learn about specific areas of the law in greater detail and to learn from other more experienced lawyers about how to practice law.

For example, during my clerkship, I joined the Pittsburgh Matrimonial Inn of Court. Members of the Inn include attorneys with varying levels of experience who practice family law either exclusively or as some portion of their entire practice. The Inn also is fortunate to have several judges and hearing officers of the Family Division of the Allegheny County Court of Common Pleas who actively participate in the group. We meet once per month from September to April for an hour-long CLE program on a family law topic, followed by a cocktail reception and dinner at The Common Plea, a restaurant in Pittsburgh. We are encouraged to make the CLE presentations light, and therefore we often have a good laugh while learning more about a particular area of family law and gaining invaluable practice tips. As a law clerk, the cocktail reception and dinner portion

**YLD SUMMER MEETING PHOTOS:
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WHAT'S AT ISSUE

I am pleased to announce that the 2006-07 bar year is off to a wonderful start. With the YLD Summer Meeting now in the books, the plans are underway for a successful year. Our committee plans of action are being finalized and implemented as we speak and there are still plenty of volunteer opportunities for you to take advantage of the benefits of participation and membership. Log on to the PBA Web site (www.pabar.org) and click on the Young Lawyers Division link — from there you can sign up for a committee electronically.



Goldstein

Justin Goldstein is the current chair of the PBA Young Lawyers Division.

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LAWFORKIDS.ORG: HELP SHAPE THE LAWYERS OF TOMORROW!

By Daniel McKenna

The 2006-07 school year should be an interesting one for students throughout the Commonwealth of Pennsylvania. In addition to the resources generally provided by the school systems, students will now be able to access the PBA YLD's www.lawforkids.org Web site. Lawforkids.org is a totally interactive research and guidance Web site that provides students throughout the commonwealth with information about the laws that affect them. Not only does the site include general information about laws that are important to students, it also provides students with the opportunity to play games, read stories and share

Daniel McKenna is a PBA Young Lawyers Division At-Large Zone chair and chair of the Lawforkids.org project.

Also, we are beginning to assign substantive committee young lawyer liaisons. If you are a committee member and would like to serve the young lawyers by keeping us up-to-date with what is going on with your PBA committee, please consider serving as a liaison. You can e-mail YLD Coordinator Maria Engles to learn more at maria.engles@pabar.org.

The Young Lawyers Summit held at the YLD Summer Meeting was the beginning of a dialogue about where the legal profession is heading and what young lawyers face as we begin our career. In order to build off what was learned and discussed at Rocky Gap, we plan on continuing the Young Lawyers Summit at the Young Lawyers business meeting Nov. 16 in Harrisburg. Please plan on attending this important discussion and participate to help change the future practice of law.

We are still in the process of implementing the lawforkids.org Web site and volunteers are still needed to help formulate content and answer questions submitted from kids. Please contact Dan McKenna (see below) for more information or to become a volunteer. Also, don't forget to check out the Web site and provide comments.

As always, if you have any specific questions or comments, you can reach me at justin.goldstein@nationalcity.com.

experiences all while learning about the laws of our commonwealth.

Students can quickly and easily learn about curfews, helmet requirements and various other topics that they want to know about. Students are also encouraged to speak up about the laws that they like or don't like. In addition to learning about laws they care about, students are given information about things that they need to know about.

The dangers of drugs, alcohol and violence (among others) are discussed in detail as are the consequences students face if they get involved in any of these things. But the lawforkids.org Web site is not simply one-sided; students are encouraged to submit questions about the law which are reviewed and answered by attorneys practicing

AT ISSUE

Editor
Hope Caldwell

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throughout Pennsylvania. Students are also encouraged to share their experiences to help and guide their peers.

Once the site is up and running (which we hope to be soon), lawforkids.org will be an invaluable asset to the students in Pennsylvania. The success of the Web site is contingent upon the continued assistance of the young lawyers throughout our commonwealth who are dedicated to our children's success. While the volunteer numbers are continually growing, we are always looking for people to assist with the content of the site. If interested, please contact Daniel McKenna at mckennad@ballardspahr.com and provide your name, contact information and area of law in which you practice. Thank you for helping us shape the lawyers of tomorrow.

RECOGNIZING AND PRESERVING YOUR CLIENTS' AUTOMOBILE DEFECT CLAIMS

By Jim Wells

Six months ago, you handled one of the most significant cases of your career. Your client's wife was killed in an auto accident and you skillfully negotiated a prompt settlement for the limits of the other driver's liability policy. Today, you received a call from an attorney representing your client in a claim against the manufacturer of the wife's vehicle. The attorney wanted to know if you investigated a possible products liability claim and whether or not such a claim was preserved when you advised your client to sign the release. Tomorrow, you will place a call to your professional malpractice carrier.

There are many instances where a client or a client's family member is killed or catastrophically injured and it is mistakenly assumed that the damages recoverable are limited to the policy limits of any applicable liability insurance policy. In order to adequately represent such a client and to maximize the damages recoverable, every personal injury attorney should know how to recognize potential claims against automobile manufacturers for vehicle defects. It is critical that efforts be made at the inception of the case to preserve any such claims.

Automobile defect claims are typically pursued under the "crashworthiness doctrine." The crashworthiness doctrine is a subset of a products liability action and provides that a manufacturer or seller of an automobile is liable in "situations in which the defect did not cause the accident or initial impact, but rather increased the severity of the injury over that which would have occurred absent the design defect." *Kupetz v. Deere & Co.*, 644 A.2d 1213, 1218 (Pa.Super. 1994). The principle behind a crashworthiness claim is that the vehicle's defective design causes a person's injuries to be aggravated unnecessarily. Auto manufacturers must therefore anticipate that their vehicles will be involved in accidents and must incorporate reasonable safety features available when a vehicle is designed.

It is important to recognize when a vehicle defect claim may exist. Although

vehicle defects should be considered in any auto accident resulting in death or catastrophic injury, the most common types of defects are as follows:

1. *Rollovers* — SUVs have a greater tendency to roll over during foreseeable driving maneuvers. This rollover propensity is caused by the fact that SUVs are designed with a shorter wheelbase but a higher center of gravity.

2. *Roof Crush* — Despite their increased rollover propensity, many SUVs are designed with a weak roof structure. As a result, many passengers are killed or sustain severe head and neck injuries that could be prevented with a sufficiently strong roof.

3. *Seatbelt Failures* — It is often mistakenly determined that a person was not wearing a seatbelt when in fact the seatbelt was worn but failed mechanically. There are also instances where the design of the seatbelt system is defective, resulting in a passenger's total or partial ejection in what would have otherwise been a survivable crash.

4. *Fuel-Fed Fires* — When a collision results in a fuel leak, the likelihood of a fire increases. Defects are often caused by the tank being placed too close to some other part that can puncture the tank or by tanks that are improperly protected or defectively welded.

5. *Child Seat Defects* — Poorly designed or manufactured child seats can cause serious injury or death to children. The most common defects found in child seats are defective belts and latches and the use of flammable materials.

6. *Tire Failures* — These claims technically do not involve the crashworthiness doctrine but are instead standard products liability claims. Rather than merely aggravating an occupant's injuries, tread separation and the resulting loss of control can be the actual cause of an accident.

7. *Seat Back Failures* — A seat that is poorly designed or that fails mechanically can collapse, causing an occupant to "ramp" rearward toward an ejection portal, such as a broken window or an open door.

8. *Airbag Failures* — Some passengers are unnecessarily injured when an airbag mechanically fails by deploying at below-average speed. There are also

instances where an airbag mechanically fails by failing to deploy at the proper speed or angle.

9. *Door Latch Failures* — A fundamental concept in vehicle latch design is that the latch should stay closed in a foreseeable car accident. Latch failure increases the likelihood of occupant ejection.

It is then critical that certain steps be taken to preserve possible vehicle defect claims. The vehicle itself must be safely stored and protected so as to prevent any change in its condition. The vehicle's exterior and interior should be extensively photographed. Finally, any release signed by the client should release the initial tortfeasor *only* and should specifically preserve any claims against the vehicle manufacturer and any manufacturer of any component part of the vehicle.

Vehicle defect cases are very complex, involving voluminous and highly technical discovery as well as expert testimony in areas such as accident reconstruction, biomechanical kinematics and mechanical engineering. For this reason, vehicle defect claims should be investigated by an attorney who specializes in this area. Handling vehicle defect claims in a careful, competent manner will not only avoid the possibility that you will be subjected to a legal malpractice claim, but will also serve your client by maximizing recovery in his or her case.

PBA/YLD UPCOMING EVENTS

Nov. 16 — **PBA Committee/Section Day**, Holiday Inn East, Harrisburg. All PBA committees, sections and the YLD hold meetings at this event, held twice per year. If you'd like to find out more about joining PBA committees or sections, go to www.pabar.org.

Jan. 24-28, 2007 — **PBA Midyear Meeting**, Grand Xcaret, Riviera Maya, Mexico.

Jim Wells is an associate with Eisenberg Rothweiler Winkler Eisenberg and Jeck, P.C., in Philadelphia.

VOLUNTARY CERTIFICATION PROGRAM HELPS ENCOURAGE PRO BONO WORK

By Michael Hayes

The American Bar Association has issued a call for every attorney in the private practice of law to perform, at a minimum, 50 hours of pro bono legal service annually. Similarly, Rule 6.1 of the Pennsylvania Rules of Professional Conduct provides that we, as lawyers “should render public interest legal service,” in the form of pro bono representations persons who cannot afford legal representation and/or “public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession,” and by financial support to public interest legal organizations.

Heeding the ABA’s call to action, and in keeping with our ethical responsibilities as lawyers under Rule 6.1, the Young Lawyers Division of the Philadelphia Bar Association has created a “Program for the Annual Voluntary Certification of Pro Bono Legal Services for Young Lawyers.”

Our Philadelphia YLD Voluntary Certification Program has dual, interrelated purposes. First, we hope to encourage more young lawyers to provide pro

bono legal services to our community. Second, we wish to publicly recognize the often-unheralded volunteer efforts of our members who work behind the scenes, using their legal acumen to represent those who cannot afford legal services, educate the public about the law and our profession, and provide assistance to charitable organizations.

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Commencing in January 2007, the Executive Committee of the Young Lawyers Division of the Philadelphia Bar Association shall make an annual, formal invitation to our members to submit online forms certifying their provision of at least 50 hours of pro bono legal serv-

ices during the previous calendar year. We will then compile all of the online certifications and provide public recognition, in the *Philadelphia Bar Reporter* and elsewhere, to each of our members who heeds the call to give back to our community through the provision of pro bono legal services.

For purposes of our Voluntary Certification Program, “pro bono legal services” includes not only the provision of traditional legal services to those who are unable to pay, but also the provision of any other volunteer services to the community requiring the use of one’s legal acumen. This definition is purposely intended to include the provision of volunteer services (as counsel or board member) to charitable organizations, as well as education of the public regarding the law and/or our profession. Not coincidentally, young lawyer volunteer efforts in furtherance of almost all of our Philadelphia YLD public service activities, including the annual John S. Bradway Philadelphia High School Mock Trial Competition, Lawyer in the Classroom sessions, People’s Law School seminars, Legal Line programs and Law Week events fall within the definition of “pro bono legal services” for purposes of our Voluntary Certification Program.

Michael Hayes is chair of the Young Lawyers Division of the Philadelphia Bar Association and is a senior litigation associate at Montgomery, McCracken, Walker & Rhoads, L.L.P. in Philadelphia.

TO CLERK OR NOT TO CLERK

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of the evening provided me with an informal way to get to know the lawyers I will now see sitting on the other side of a negotiation table or courtroom.

Development of Familiarity with Procedural Rules and Court Staff

A benefit of a clerkship that should not be overlooked is that you will become very familiar with procedural rules as a result of advising your judge on a daily basis and answering other attorneys’ questions. This familiarity will save you valuable time when you go out into practice.

Further, you should not discount the importance of getting to know as many of the people who work in the court system and at offices such as the Prothonotary’s Office while you are a law clerk. The benefit is that if you establish a relationship with these people as a law clerk, they will remember you when you go out into practice. As a result, they may be willing to go the extra mile for you when you need assistance. Also, when you make your first court appearance, it will help to ease any anxiety you may feel if you see a few familiar faces around you.

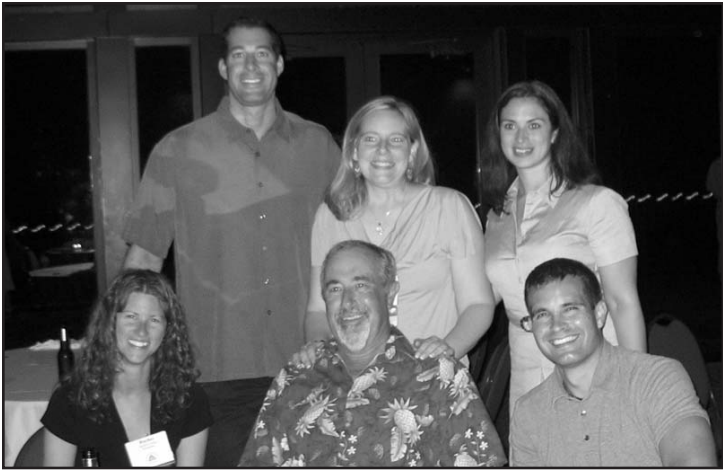
My clerkship experience is something that I will always value because it gave me the opportunity to learn something new everyday without the pressure of billable hours. For those of you out there who are new attorneys considering a clerkship, or attorneys who have been practicing and want to pursue a different path, I hope that you will find a clerkship that suits your needs and that your careers will be enhanced by the experience.



Sheila M. Flanagan is an associate with the matrimonial law firm of Wilder & Mahood, P.C. in Pittsburgh. She served as law clerk to Judge David N. Wecht in the Family Division of the Allegheny County Court of Common Pleas from April 2003 through May 2006. She has been an associate member of the Pittsburgh Matrimonial Inn of Court since 2003 and currently serves as a member of its Executive Committee.

2006 YLD SUMMER MEETING

The PBA Young Lawyers Division Summer Meeting took place at the Rocky Gap Resort in Rocky Gap, Md. The weekend was packed with CLE, a young lawyer summit, golf and numerous networking opportunities for attorneys from across the state.



*Standing: YLD Zone 1 Co-chair Chuck Eppolito, YLD Immediate Past Chair Jennifer Clark and ABA/YLD District Representative Jessika Rovel
Seated: YLD Law Student Division Committee Chair Rachel Kopp, Pennsylvania Supreme Court Justice J. Michael Eakin and Vince Magyar.*



From left, Tiffany Holland, Tracee Hackett, Kat Engle and David Engle.



From left, YLD Zone 9 Co-chair Eric Smith, Scott Cooper, YLD Zone 1 Co-chair Carina Laguzzi, Sheila Flanagan and YLD Law Student Division Committee Chair Rachel Kopp.



From left, YLD Chair Justin Goldstein, YLD At-large Zone Chair Nikki Gerson, Pennsylvania Supreme Court Justice Thomas Saylor, Philadelphia Court of Common Pleas Judge John Younge, YLD Immediate Past Chair Jennifer Clark.



YLD new admittees with YLD Zone 3/Summer Meeting Chair Nicole Antos (far left) and YLD Chair Justin Goldstein (far right).

DREXEL LAW OPENS WITH CLEAR COMMITMENT TO PRO BONO

By Karen Pearlman

On Aug. 16, Drexel University opened its College of Law — Pennsylvania's first new law school in over 25 years. Its 180 students come from 18 states and three foreign countries, drawn by its innovative legal curricula: six-month internships for all qualifying students, a heavy emphasis on legal research and writing, professors with practice experience, and substantive concentrations in health law, intellectual property and entrepreneurial business — Drexel University's core strengths.

Just as important, Drexel Law will be committed to pro bono. This commitment is reflected in the school's motto: Scientia, Ars, Officium, or "Knowledge, Skill, Duty." Officium means "the duty to the public good owed by a public official." For Drexel Law, that term high-

lights its commitment to teach its students the lawyer's obligation to serve the public good by providing uncompensated legal service to people and organizations that cannot afford to retain lawyers, as well as to act professionally and ethically at all times.

Drexel Law will require all of its students to provide at least 50 hours of pro bono work before graduation. The initial focus of Drexel's mandatory Pro Bono Program will be pro se parties in the Philadelphia Court of Common Pleas, and Drexel Law is already working with court officials to design programs where teams of its law students can help address the unmet need for legal services to the poor. Other alternatives for direct client service will be developed as well. Through this program, Drexel Law will educate students about their ethical

responsibility to provide these services while fostering and promoting an appreciation of the need and importance of continuing to provide assistance and improving equal access to legal services throughout their professional careers. The program will also highlight public service opportunities for students to consider as a career path.

Drexel Law's pro bono requirement complements Drexel University's mandatory public service requirement for all undergraduates, as well as its 100-year tradition of integrating classroom experience with the real-world environment through its Co-Op Program. The Co-Op Program provides an opportunity for students to develop their legal skills and gain practical, hands-on legal experience in a real work setting, under the supervision of an attorney. Direct contact with and responsibility for clients is a vital part of Drexel Law School's curriculum and demonstrates the faculty and administration's commitment to professionalism.

Karen Pearlman is the Co-Op, Career Services and Public Interest coordinator at Drexel University College of Law. She can be reached at (215) 571-4722 or kpearlman@drexel.edu.

CALL ELLEN...

the PBA's Law Practice Management Coordinator, with your questions about equipment purchases, computer technology or human-resources issues.

Call PBA LPM Coordinator Ellen Freedman at the PBA LPM Hotline: Ext. 2228 at 1-800-932-0311

PBA MIDYEAR MEETING

JAN. 24-28, 2007

NETWORK WITH PENNSYLVANIA LAWYERS AND JUDGES AT THE BEAUTIFUL
GRAND XCARET IN RIVIERA MAYA, MEXICO

WATCH THE PBA WEB SITE (WWW.PABAR.ORG) FOR DETAILS COMING SOON!