

# AT ISSUE

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

## STRESS TIPS FOR THE BEGINNER DEPOSITION TAKER

By Michael J. Davey

I remember being handed the file. A rather nondescript, chocolate-brown expandable file, filled with manila folders, bearing neatly-typed labels. There were no moving parts or pointy objects; nothing but a common stack of wrinkled tree by-product and cheap ink.

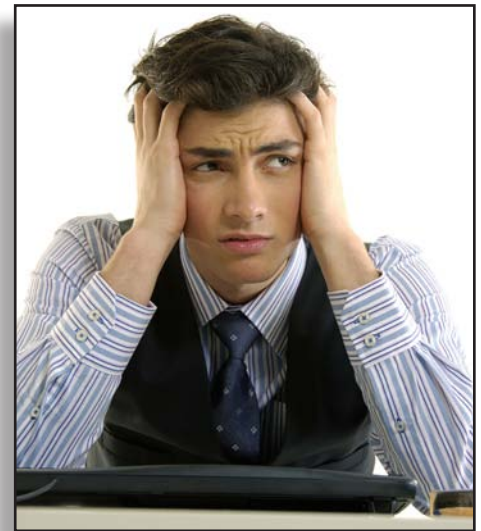
And yet, it made me queasy.

I suddenly found myself dealing with more butterflies than a Japanese flower garden, because I was approximately 2.5 seconds into my first post-bar-exam law job and was being handed my first file to "work up." I owned it. Like a child. I had also just received a call from the defense lawyer's secretary who wanted to schedule depositions.

Cue the stomach.

Now, I was a pretty good student in law school, on law review and moot court and got decent grades. The problem was that my only exposure to a deposition had been one I took in a law school class of one of my classmates, which was, in a word, fake. After resigning myself to the fact that this real deposition was, like death, inevitable and unavoidable, I committed to preparing like any good lawyer. I read about depositions, memorized the facts of my case and readied myself the best I knew how.

On the date of the deposition, I felt like a new kid on my first day at a new school – I was nervous, wasn't sure what was going to happen, but I was aware of



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## NEW ADMITTEES AT THE YLD SUMMER MEETING IN SEVEN SPRINGS



*New admittees, with PBA President Gretchen Mundorff (second row, second from right) and PBA YLD Chair Lisa Woodburn (second row, right), gather at the 2010 Summer Meeting/New Admittee Conference, held July 30-Aug. 1 at the Seven Springs Mountain Resort in Seven Springs, Pa. For a recap of the event and for more photos, see Pages 12-15.*

# YLD CHARGING FULL STEAM AHEAD

By Lisa M. B. Woodburn

And we're off ... a new YLD council with new energy, direction and enthusiasm. Whether your interest is social or substantive, I challenge you to become active in the Pennsylvania Bar Association Young Lawyers Division. From social caravans, special project and PBI seminars to pro bono work and involvement in the Pennsylvania Bar Foundation and the PBA political action committee, the PABAR-PAC, we have something for you! The PBA's sections and committees are the lifeblood of the organization and will ensure your ongoing involvement in the PBA. You will find the best network of lawyers in Pennsylvania and keep up-to-date in your substantive area of practice. So, be sure to take advantage of free membership in most committees and first-year free membership for young lawyers in the section of your choice.

Please mark your calendar for two special upcoming YLD events. First, join us at the PBA Committee/Section Day on Thursday, Nov. 18, at the Holiday Inn East in Harrisburg. We will begin with a business meeting, followed by an introduction to Pennsylvania's young legislators. Come to the YLD

Business Meeting and meet your peers in the Pennsylvania State House of Representatives, then have a chance to network at a wine and cheese reception with your fellow PBA young lawyers and legislators. Second, the United States Supreme Court swearing-in ceremony is Monday, March 7, 2011. Spaces are limited, so be sure to claim your spot now! ■



*Lisa M. B. Woodburn of the Harrisburg law firm of Angino & Rovner is the chair of the PBA Young Lawyers Division.*

## AT ISSUE

Editors

**William J. Higgins Jr.**  
**Robert T. Datorre**

*At Issue* is published by the PBA Young Lawyers Division. Editorial items, news material and correspondence should be sent to the PBA Communications Department, P.O. Box 186, Harrisburg, Pa. 17108-0186.

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## NEW YLD EXECUTIVE COUNCIL APPOINTMENTS

As a result of some recent departures, the YLD Executive Council held a meeting to discuss and vote on appointments to fill the vacancies. The Executive Council voted to approve Kevin Skjoldal (Zone 3) to serve as the YLD treasurer. Skjoldal was serving as the Zone 3 co-chair.

Kevin Taccino (Zone 3) was appointed to serve as Zone 3 co-chair and fill the seat previously held by Skjoldal. Philip Yoon (Zone 1) was appointed to serve as an at-large chair. Please join us in congratulating Taccino, Skjoldal and Yoon on their new positions. A recent list

of the YLD Executive Council members is available on the PBA website. If you would like more information about serving on the YLD Executive Council, please feel free to talk to a current Executive Council member or check the PBA website.

Find the PBA YLD on **facebook**

To become a fan of the PBA YLD's Facebook page, go to [www.facebook.com](http://www.facebook.com) and find "PBA Young Lawyers Division."

You must have a Facebook profile to become a fan. Follow the prompts to sign up.

# STRESS TIPS FOR THE BEGINNER DEPOSITION TAKER

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the significant possibility that someone older might beat me up. Sitting down at the conference table, I unpacked all of the stuff I had brought with me – obligatory legal pad, highlighter and the entire file, which I had just schlepped six blocks, stuffed with more paper than I would possibly need.

I suddenly became acutely aware of the tension of my tie and the pressure of the knot on my neck when I realized that everyone was staring at me. Why wasn't that court reporter typing away on her little machine? Because you need to open your mouth first, dummy. Say *something*. *Anything*.

"What is your full name?" I mumbled, and listened with relief as the witness answered and the court-reporter tapped away. The rest is a blur. I only know it happened because I eventually saw a transcript.

This is for those young lawyers out there that may experience similar (or worse) anxiety and nervousness when taking depositions. Having taken numerous depositions since my first, I offer a few tips that should make your next experience less stomach-churning:

## **Write an Outline, Not Questions.**

Don't write a list of specific questions you need to ask, or you will inevitably become preoccupied with asking all of the questions you prepared, instead of listening to what the witness is actually saying. You may miss some important point or avoid a line of questioning lest you be wrenched from your script and will surely spend many awkward moments flipping through pages of questions, trying to determine where to go next. Instead, prepare a bullet-point outline listing all of the facts you need to extract, organized by topic, so the facts are easier to distinguish. In my deposition, for example, I might have a topic called "Auto Accident," with sub-points like "weather" and "time of day," which reminds me to ask questions about the weather conditions on the day of the accident and what time of day the accident occurred. It is also easy to cross out the topic or bullet-point once you've covered it.

**Folders, Folders, Folders.** Nothing is worse than sitting in a complicated deposition, like a medical malpractice case, and being unable to put your hands on a document when you need it. To have your entire mental process come to a screeching halt while you frantically search for a piece of paper is infuriating. The solution is simple – folders are your

friends. Before the deposition, identify only those documents you may need to refer to or mark during the deposition, and put each into its own separate manila folder, labeled with an easy-to-identify description. If done correctly, you will be organized and able to quickly locate and refer to any document you need, which will make the whole process run more smoothly.

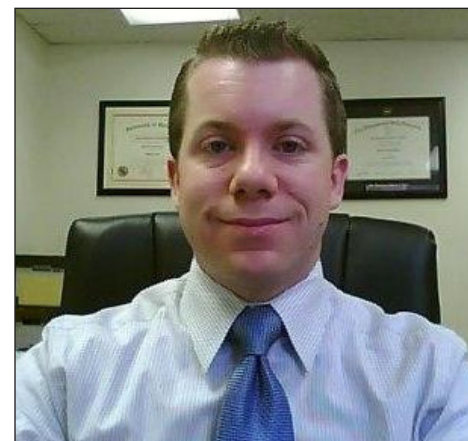
**Be Efficient.** A deposition does not need to be a complicated and convoluted procedure that takes hours to accomplish. At its root, a deposition is rather simple – the deposing party has facts that need to be established and a witness to extract those facts from. When all of the needed facts are established and all relevant topics are covered, the deposition is done. How long this takes depends upon the complexity of the case and the witness. It might take hours, but it might take significantly less. I have taken successful depositions of important witnesses that have lasted 30 minutes or less. Once a witness has testified to a fact once, it is in the record. Reiterating the same fact by asking a similar question 13 different ways does not prove that fact more. It just wastes time and will likely annoy opposing counsel. Get the witness to clearly testify to a fact and move on. Taking efficient depositions will also be appreciated by your clients – court reporters charge by the page, after all.

**Bring Help.** For your run-of-the-mill intersectional automobile accident deposition involving one witness and a few documents, you will probably be fine by yourself. For more complex depositions, bring a paralegal or secretary to handle, pull, mark and pass out exhibits and documents. By having assistance with these tasks, your mind will be free to concentrate on the questions and answers, which will help you stay organized and relaxed.

**Avoid Constant Note-Taking.** I am always amused when I see a deposing attorney take more notes than I did in my first-year contracts class. Haven't they realized that it is being transcribed? Don't get me wrong, I am all for taking notes and jotting random thoughts down during a deposition. I also realize that some people are just note-takers and that even note-takers take notes in different ways. However, I advise against excessive note-taking during a deposition for two reasons. First, it is difficult to write and listen at the same time, and while jotting down a thought or point, you might miss the really important stuff – what

is coming out of the witness's mouth. Second, I don't know many attorneys who are able to take notes and look at the witness at the same time. That means that when writing, you lose eye contact with the witness and are unable to observe the witness's demeanor while testifying. If you need to take notes, then after a series of five or six questions about a specific fact or topic, take a five second break, and jot down notes that will remind you of what the witness just said. Then put your pen down, look at the witness, ask your next series of questions, and repeat. Fight the urge to pick up the pen until your next series of questions is over. This will enable you to develop a rhythm and flow to your questioning and still allow you to take some notes.

Most importantly, *relax* and try to enjoy the experience. ■



*Michael J. Davey is an associate in the litigation department of Eckell, Sparks, Levy, Auerbach, Monte, Sloane, Matthews & Auslander, P.C., in Media, where his practice is concentrated in the areas of employment law and personal injury litigation. He can be reached at [mdavey@eckellsparks.com](mailto:mdavey@eckellsparks.com). He publishes a website, [www.paemploymentlaw.blogspot.com](http://www.paemploymentlaw.blogspot.com), that discusses recent developments and trends in employment law in Pennsylvania. Davey also serves as the solicitor to the Delaware County Association of Boroughs. He received his J.D. degree from The Pennsylvania State University Dickinson School of Law, where he was a senior editor of the Pennsylvania State University International Law Review, a member of the law school's award-winning National Moot Court Trial Team, which competed in the 2004-2005 National Finals in San Antonio, Texas, and was inducted into the Order of Barristers. Davey completed his undergraduate studies at the University of Maryland, College Park, where he majored in government and politics.*

# THE FIRST-SALE DOCTRINE AND WHY YOU DON'T OWN THE SOFTWARE YOU PURCHASE

By Louis Kroeck

In the highly publicized opinion in *Vernor v. Autodesk*, United States Court of Appeals, Ninth Circuit, Sept. 10, 2010, the Ninth Circuit has effectively destroyed any hope for the continuation of the age-old first-sale doctrine and opened the door to a myriad of horrifying possibilities for the future of software, entertainment and other copyright-use restrictions.

Mr. Vernor was an eBay re-seller who was generating income by purchasing authentic, used software from individuals and institutions and then re-selling the software on eBay. Vernor purchased several copies of Autodesk's AutoCAD software. Autodesk tried multiple times to halt Vernor's sales by sending Digital Millennium Copyright Act ("DMCA") notice to eBay, claiming these sales infringed their copyrights. Vernor would in turn respond with a DMCA counter notice, claiming his sales were lawful. Although Vernor was allowed to proceed with several of the sales, his eBay account was eventually suspended due to Autodesk's repeated claims of copyright infringement.

Vernor sought summary judgment in United States District Court in the Western District of Washington that his sales activities were protected by the first-sale doctrine. The Western District granted Vernor's motion and held that the first-sale doctrine immunized Vernor from liability resulting from the re-sale of AutoCAD software.

## The First-Sale Doctrine

The first-sale doctrine allows legitimate owners of copyrighted materials to re-sell those materials at their leisure. For example, after purchasing a hard-bound book, most people would assume that they would be able to later re-sell that book; however, these expectations might be unfounded according to the Ninth Circuit.

The first-sale doctrine, codified at 17 U.S.C. § 109, states that: "Notwithstanding the provisions of section 106(3), the owner of a particular copy or phonorecord lawfully made under this title, or any person authorized by such owner, is entitled, without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord."

The Western District of Washington held that Vernor's sale of AutoCAD software was protected because the Autodesk software license agreement was more akin to a sale than a license because nothing in the license obligated the licensee to actually return the software. See *Vernor v. Autodesk*, 555 F.Supp.2d 1164 (W.D.Wash. 2008) Essentially, the court created an interesting precedent which would have drastically changed the terms of most traditional software licenses and given ownership of software back to consumers.

The Ninth Circuit disagreed and held that: "CTA was a licensee rather than an 'owner of a particular copy' of Release 14, and it was not entitled to resell its Release 14 copies to Vernor under the first sale doctrine. 17 U.S.C. § 109(a). Therefore, Vernor did not receive title to the copies from CTA and accordingly could not pass ownership on to others. Both CTA's and Vernor's sales infringed Autodesk's exclusive right to distribute copies of its work. *Id.* § 106(3)." See *Vernor v. Autodesk* United States Court of Appeals, Ninth Circuit, Sept. 10, 2010.

## Implications for other Copyrighted Works

Additionally, the Ninth Circuit handed down guidelines for how software companies should go about protecting their property.

"We hold today that a software user is a licensee rather than an owner of a copy where the copyright owner (1) specifies that the user is granted a license; (2) significantly restricts the user's ability to transfer the software; and (3) imposes notable use restrictions." *Vernor v. Autodesk United States Court of Appeals, Ninth Circuit*. Sept. 10, 2010

Software licenses could be likened to adhesion contracts. Most consumers simply check a little box stating that they assent to the software license without taking any steps to actually review the license or determine what rights they have under the terms of the agreement. Further, these agreements tend to be non-negotiable and the terms are dictated

entirely by the software companies they favor. Increasingly, software is being distributed in a license-only format, giving consumers fewer options in terms of software ownership.

Vernor's attorney correctly stated, "There is no obvious reason why other publishing industries couldn't begin imposing the same terms. If they do, it may be the end of ownership of books and music." The decision by the Ninth Circuit could mean that the next book you purchase will be shrink-wrapped in cellophane and that after you finish reading the last page, it will simply turn to ash and fall to the floor. (Of course, this will be in accordance with the license you assented to by opening the books wrapping, or marking a little check box if you use an e-reader such as the Amazon Kindle.) If traditional media outlets are paying attention to the Ninth Circuit's decision, media ownership may become a vestige of the past.

Of even greater interest is how restricted licenses will affect the general availability of media and other goods. As distribution channels become increasingly digitized and monopolized, the number of smaller traditional establishments will continue to dwindle.



*Louis Kroeck practices civil litigation at Anstandig, McDyer, and Yurcon in downtown Pittsburgh. He is a member of the Allegheny County Bar Association's Arts and Law committee and received his B.S. in Information Science and Technology from The Pennsylvania State University and his J.D. with a concentration in Technology and Law from Case Western Reserve University.*

# YLD MEMBERS IN THE NEWS

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## ANNOUNCEMENTS

**Joshua Gayl** (Zone 9) joined Fox Rothschild L.L.P. in Warrington, Bucks County.

**Alyson M. Oswald** (Zone 1) has joined the U.S. Attorney's Office in Camden, N.J., in its criminal division.

**Lars Anderson** (Zone 5) has joined Hourigan, Kluger & Quinn P.C. in Kingston.

**Megan E. Anderson** (Zone 5) has joined North Penn Legal Services in Wilkes-Barre.

## BIRTHS

**Joel Seelye** of Grabill & Grabill, Altoona, and **Amanda Seelye** of McQuaide Blasko Fleming & Faulkner Inc, State College, (both of Zone 8) welcomed a baby boy, Henry, in August.

**Jocelyn Hill** of McCarter & English L.L.P., Philadelphia, and **Josh Hill** of Eckert Seamans, Philadelphia, (both of Zone 1) welcomed a baby girl, Caroline, in June.

**Jen Coatsworth** of Margolis Edelstein, Philadelphia, (Zone 1) welcomed a baby boy, Drew, in June.

**Kristin McKenna**, Stradley Ronon L.L.P., Philadelphia, and **Dan McKenna**, Ballard Spahr L.L.P., (both of Zone 1) welcomed a baby boy, Mason, in March.

*At Issue welcomes submissions from YLD members regarding firm changes or promotions. Members are also encouraged to submit announcements of weddings and births. Please send your news to Maria Engles ([Maria.Engles@pabar.org](mailto:Maria.Engles@pabar.org)).*



**Shake off the northern chill and head south to the Casa Marina Resort in sunny Key West, Fla., for the PBA's 2011 Midyear Meeting, Feb. 2-6. Attendees can earn up to nine CLE credits for courses covering current legal trends. Local amenities include the Casa Marina's pristine, private beach, golf, water sports and the historic charm and nightlife of tropical Key West! [Click here](#) for the brochure and registration form.**

# GOING THROUGH THE MOTIONS: HOW TO SUCCEED IN DISCOVERY COURT

*By Drew M. Rothman*

The life of a young lawyer often involves the presentation or defense of discovery motions. Although discovery court is different in each county, one thing remains constant: Judges will remember you and your firm based on how you argue and handle yourself.

Due to the volume of cases, counties such as Philadelphia often have extremely long lists of discovery motions to be presented on a particular date, with multiple discovery motion dates scheduled throughout the week. Though a judge may not give less attention or thought to your motion, a lawyer, young or old, will have a very small window of time within which to make it clear to the court why the motion at issue should be granted or denied. This may seem simple enough, but any attorney can recount an experience where the presentation or defense of a discovery motion was doomed from the start because the arguing attorney did not present his or her argument with brevity and a sense of urgency. Though never advisable, a long-winded argument containing more than just a brief, factual history could possibly lead to defeat before the main issues of a motion are even addressed. Think about it: If a judge is going to hear arguments on 75 motions in one morning, it makes sense to get right to the crux of the matter.

Discovery court in counties outside of the state's major cities often presents a different scenario for the argument of a discovery motion. This does not mean that a judge in Northumberland County, for example, cares more about the law and the Rules of Civil Procedure than a judge in Philadelphia. Often, it simply comes down to a matter of time and practicality. With that said, a young lawyer presenting a discovery motion in one of the outlying counties may have an opportunity to delve deeper into the facts of the case and even get into discussions of case law. Any attorney presenting an argument which contains a legal citation should certainly understand and be prepared to discuss all issues, as well as the holding of each case cited. One may also find that while having a deep knowledge of all of his or her cases is helpful, it also may be useful and appreciated by the court if the attorney has available copies of all cases cited and copies of the motion

and memorandum of law when arguing a discovery motion in a smaller county. Oftentimes, a discovery motion in a county such as Wyoming County may be at a set time, where the judge is able to focus on your motion and your motion only, for up to 30 minutes. Thus, by the very nature of such an atmosphere, there will be more discussion about the motion than there would be in a busier venue.

Judges respect a prepared attorney. Being ready when called upon to present your specific issue and argue the cases gives you an advantage over lawyers who fumble through their paperwork and stumble through their argument. This may seem obvious, but time and again you see many unprepared lawyers in discovery court getting shot down quickly. One thing I have noticed recently is that judges, whether in an extremely busy or smaller county, will remember you, your firm and arguments you have set forth in prior motions or pleadings. Building trust with the court is an important goal to focus upon and can be done by focusing upon the points of law at issue in which you know you have the best argument. Thus, at times, it may be advisable to consider withdrawing a motion scheduled for hearing if that same exact issue has recently been ruled upon negatively by the court, whether it was a motion you presented or one presented by your colleagues, unless you have some distinguishing facts. Of course the client's interests are paramount, and even if an issue has been previously decided, you may have to press forward to protect the appellate record. Most judges understand this, and you can make it clear, even if an issue has been decided in a previous case, that you have a good faith basis to move forward to defend your client.

As with everything, there is much to gain with keeping in touch with other attorneys within your office and your fellow colleagues, as it may be to your advantage the next time you are in front of a judge. At the same time, it may be the case that a judge lets you know that he has seen the same or a similar argument from one of your peers, with or without you having been aware of such a fact. In these instances, it is advisable to be delicate in the way you address the court, arguing that the rights of your client need to be protected, you cannot

allow certain issues to be waived under the Rules of Civil Procedure, and that you feel passionate about the particular issue.

A lot of things discussed in this article may seem simple, or even obvious. Though this may be the case, ask your colleagues, and you will see that these basic concepts are often overlooked and may cost you or your client the next time an important discovery motion is heard. How do you want to be remembered by a judge? ■



*Drew M. Rothman is an associate at McCumber Daniels and practices at the firm's Philadelphia area office. He is a graduate of Goucher College in Towson, Md., where he was a political science major. He earned his juris doctorate from the Rutgers University School of Law in 2005. While there, Rothman was the marketing editor for the Rutgers Journal of Law and Urban Policy. Rothman concentrates his practice in professional and general liability defense, along with medical malpractice and long-term care defense. Before entering private practice, Rothman was the law clerk to Judge Mark J. Fleming of the New Jersey Superior Court, Family Division. Rothman has practiced in the areas of product and premises liability defense, worked extensively on a major commercial litigation contract dispute and also has experience in the areas of workers' compensation and real estate law.*



## The Pennsylvania Bar Association Young Lawyers Division

*proudly presents the second biennial*

# Supreme Court of the United States Admissions Ceremony for PBA Young Lawyers

**Monday, March 7, 2011**

Breakfast: 8:00 a.m.

Ceremony: 10:00 a.m.

- Eligible applicants must be admitted to the practice of law for a minimum of three (3) years with a certificate of good standing from the Pennsylvania Supreme Court and be a YLD member of the PBA. Only the first 50 members who submit completed applications and fees will be accepted.
- Interested applicants must submit a SCOTUS Application for Admission to Practice\* along with a \$215\*\* deposit to the Pennsylvania Bar Association (send to Maria Engles, YLD Coordinator, Pennsylvania Bar Association, 100 South St., Harrisburg, PA 17108) by **January 14, 2011**.
- Transportation is not provided to Washington, D.C.
- Hotel rooms are available for Sunday, March 6, at the Phoenix Park Hotel in Washington, D.C. The YLD rate is \$199 single or double occupancy, \$229 triple rate or \$259 quad rate. Room rates are subject to state and local taxes, and valet parking is \$40 per night. Self-parking is available for \$19 per night at the Union Station Garage, located one block from the hotel. To make reservations, call 1-800-824-5419 and identify yourself as a PBA member, or visit [www.phoenixparkhotel.com](http://www.phoenixparkhotel.com) and enter the group code 15009 to obtain the special rate.
- Applicants may bring one guest (age 16 or older) to the swearing-in ceremony. Guests may attend the breakfast at SCOTUS on the morning of the ceremony for a fee of \$15, which may be paid with the applicant's fee of \$215.
- To obtain a certificate of good standing, an active attorney may request the certificate from the Supreme Court of Pennsylvania Prothonotary's Office. Send a letter to your local office (phone numbers listed below) and include your name, PA Bar ID number and a \$25 check payable to the Supreme Court of Pennsylvania. For more information call:
  - (215) 560-6370 (Philadelphia)
  - (717) 787-6181 (Harrisburg)
  - (412) 565-2816 (Pittsburgh)
- Questions? Please contact Maria Engles at [maria.engles@pabar.org](mailto:maria.engles@pabar.org).

\*Available at <http://www.supremecourtus.gov/bar/baradmissions.html>

\*\* \$200 SCOTUS Admission Fee, \$15 for Breakfast at SCOTUS - Please make checks payable to PA Bar Association

# E-DISCOVERY: GOLDEN OPPORTUNITY FOR NEW ATTORNEYS

By Philip K. Miles III

The world of electronic discovery, or e-discovery, is still in its infancy but rapidly maturing. The federal rules of civil procedure governing e-discovery are only a few years old, and the case law analyzing the issues that arise under those rules is just now emerging. Just a few years ago, the technologies that are the subject of e-discovery, from smart phones to social media, didn't even exist. What does all of this mean for young attorneys? Opportunity. Young lawyers are perfectly positioned to have an immediate impact in e-discovery, because so much of it is new.

## Amendments to the Federal Rules of Civil Procedure

On Dec. 1, 2006, amendments to the Federal Rules of Civil Procedure concerning the discovery of "electronically stored information" (ESI) took effect. For example, amendments to Rule 26 added ESI to the required initial disclosures but specifically limited e-discovery to exclude ESI that was "not reasonably accessible because of undue burden or cost." Rule 34 addresses the format in which ESI must be provided by allowing the requesting party to specify a desired format. The answering party may object to the requested format, or if none is specified, may produce the ESI as it is "ordinarily maintained" or in a "reasonably usable form." The amendments also included a safe harbor provision in Rule 37, prohibiting court-imposed sanctions where ESI is "lost as a result of the routine, good-faith operation of an electronic information system."

All of these amendments have one thing in common: They took effect less than four years ago. That means that there are exactly zero attorneys who have even four years of experience in applying these rules in actual practice. In fact, young attorneys may hold the distinct advantage of having learned the amended rules as part of their law school curriculum. However, a word of caution is in order. E-discovery is, at its heart, discovery. And while the e-discovery rules are new, discovery is not. Furthermore, computers predate the specific e-discovery amendments, and discovery issues involving electronic records arose well before 2006.

## Emerging Case Law

To the extent such a young field of law can have a "landmark" case, the *Zubulake* decisions from 2003 and 2004 are the landmark decisions of e-discovery.<sup>1</sup> The series of decisions provided in-depth analysis of e-discovery issues that remain important today. For example, Judge Shira Scheindlin enumerated seven factors to determine when the costs of discovery requests should be shifted to the requesting party. The decisions also addressed spoliation and appropriate sanctions, including the possibility of an adverse inference instruction.

One notable aspect of the *Zubulake* decisions, was the court's emphasis on a litigant's affirmative duty to preserve relevant evidence when the party "reasonably anticipates" litigation. Also important, the court addressed an attorney's duty to initiate a "litigation hold" and the attorney's corresponding duties to locate, preserve and produce ESI. Although the decisions pre-date the amendments to the federal rules, the careful analysis remains relevant and is frequently cited by other courts. But even the *Zubulake* decisions, a clear precursor to the federal rules on ESI, date back to only 2003 and 2004.

Subsequent cases provide evidence of the ever-changing, fast-paced character of the world of e-discovery. Earlier this year, the same judge who authored the *Zubulake* decisions, Scheindlin, issued another e-discovery opinion in *Pension Committee*.<sup>2</sup> In a rather unconventional move, she actually gave the opinion a title, dubbing it "*Zubulake* Revisited: Six Years Later." In a lengthy opinion, she addressed numerous e-discovery rule infractions and the appropriate remedy for each. Of particular importance for attorneys was her explicit statement that "the failure to issue a *written* litigation hold constitutes gross negligence because that failure is likely to result in the destruction of relevant information."<sup>3</sup>

One easily discernible lesson from *Pension Committee* is that the application of the e-discovery rules has become stricter, because emerging case law and the rules' amendments have made the litigants' duties more clear. What may have been designated simply as negligence a few years ago may now be

considered gross negligence. Accordingly, a harsher sanction, such as an adverse inference, may attach. After only six years, Scheindlin felt the need to revisit *Zubulake*, and while those decisions remain good law, to some extent, they are outdated. With e-discovery issues, less-experienced lawyers have an opportunity to become knowledgeable in an area of litigation that is itself still developing. In e-discovery, the "old" cases are six or seven years old, and the new cases emphasize the constantly evolving nature of the issues.

## New Technologies

Of course, it is not just the e-discovery law that is constantly evolving but also the technologies associated with e-discovery. For example, as social networking sites (SNS), or social media, continue to grow, they will play a larger role in e-discovery. Earlier this year, a federal judge in Indiana issued an order directing two individual litigants to produce information from their Facebook and MySpace accounts.<sup>4</sup> The order directed the litigants to produce:

[A]ny profiles, postings, or messages (including status updates, wall comments, causes joined, groups joined, activity streams, blog entries) and SNS applications [from 2007 to the present] that reveal, refer, or relate to any emotion, feeling, or mental state, as well as communications that reveal, refer, or relate to events that could reasonably be expected to produce a significant emotion, feeling, or mental state.

Terms such as "status updates" and "wall postings" have very specific meanings in Facebook, and it helps to understand them when conducting discovery. An attorney with an understanding of the operating details of various social media is a valuable resource when conducting e-discovery.

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## E-DISCOVERY: GOLDEN OPPORTUNITY

*Continued from Page 8*

Clearly, individual computer usage has evolved beyond the days when individuals only had e-mail accounts. Facebook launched in 2004 and in its infancy was limited to colleges and universities. The limited user-base underscores the youth-oriented origins of the site. Today, Facebook is open to everyone over the age of 13 and is the second most popular site in the world.<sup>5</sup> Facebook is only one example of a social media site built on user-created content. The world rankings show YouTube at No. 3, Blogger at No. 8, Twitter at No. 11, MySpace at No. 25, and LinkedIn at No. 29.<sup>6</sup> All of these sites carry the potential for discoverable information, and an attorney who knows where to look can greatly contribute to a litigation team.

Knowing where to look for discoverable information involves more than just knowing the right web sites. Today, information is disseminated across all kinds of platforms, ranging across PCs, laptops, smart phones and flash drives. Even office copy machines have data-storing hard drives on them now. These issues are now working their way into the federal courts. For example, a federal judge issued an adverse inference instruction after a party wiped its BlackBerry smart phones of all "e-mails, text messages, calendar items, telephone records, contacts, attachments, [and] applications."<sup>7</sup> Again, it is about knowing where to look, but here it is in the context of gadgets instead of web platforms.

Cell phones themselves are fairly new. Cell phones that browse the web, record video, and download applications are cutting edge. Young lawyers are on even ground, or perhaps at an advantage, with their more-experienced counterparts when it comes to the latest technological gadgets. For example, some tech-savvy bloggers delighted in the Supreme Court's apparent ignorance of how texting works as exposed in a recent oral argument.<sup>8</sup> Understanding the basics of the technological gadgets that have invaded our day-to-day lives can supply yet another asset to the young lawyer's tool set.

### Conclusion

E-discovery affords new or young attorneys an opportunity to have an immediate impact in an emerging field. While veteran attorneys will have

the advantage of more experience in discovery generally, several unique aspects of e-discovery allow young attorneys to meaningfully contribute. The amendments to the federal rules to account for ESI are only a few years old. The case law addressing e-discovery recently began emerging and is constantly evolving. Additionally, the subject of e-discovery requests, including new gadgets like smart phones and new web tools like social media, are all recent inventions. Given the new and ever-changing nature of e-discovery, young attorneys have tremendous opportunities to become valuable players at the outset of their careers. ■

<sup>1</sup> *Zubulake v. UBS Warburg* ("Zubulake I-V"), 217 F.R.D. 309, 230 F.R.D. 290, 216 F.R.D. 280, 220 F.R.D. 212, 229 F.R.D. 422 (S.D.N.Y. 2003-04).

<sup>2</sup> *Pension Comm. of Univ. of Montreal Pension Plan v. Banc of Am. Sec.*, 685 F. Supp. 2d 456 (S.D.N.Y. 2010).

<sup>3</sup> *Id.* at 465.

<sup>4</sup> *E.E.O.C. v. Simply Storage Mgmt.*, No. 1:09-cv-1223-WTL-DML (S.D. Ind. 5/11/2010).

<sup>5</sup> Based on Alexa.com world traffic ranking on July 11, 2010.

<sup>6</sup> All based on Alexa.com world traffic rankings on July 11, 2010.

<sup>7</sup> *Se. Mech. Services, Inc. v. Brody*, 657 F. Supp. 2d 1293, 1298 (M.D. Fla. 2009).

<sup>8</sup> See for example, *Technical difficulties at the Supreme Court*, DC Dicta available at <http://lawyersusaonline.com/dcdicta/2010/04/19/technical-difficulties-at-the-supreme-court-2/> (April 19, 2010).



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## MARK YOUR CALENDARS!

### Upcoming PBA YLD Events

Nov. 18, 2010

**PBA Committee/Section Day**  
Holiday Inn East, Harrisburg, Pa.

Nov. 19, 2010

**PBA House of Delegates**  
Sheraton Harrisburg-Hershey,  
Harrisburg, Pa.

Jan. 14 – 16, 2011

**PBA Family Law Section  
Winter Meeting**  
Marriott Lancaster at Penn Square,  
Lancaster, Pa.

Feb. 2 – 6, 2011

**PBA Midyear Meeting**  
Casa Marina Resort, Key West, Fla.

Feb. 24 – 26, 2011

**PBA Conference of  
County Bar Leaders**  
The Nittany Lion Inn,  
State College, Pa.

March 7, 2011

**Supreme Court  
Swearing In Ceremony**  
Supreme Court, Washington, D.C.

March 25 – 26, 2011

**Statewide Mock Trial  
Championship**  
Dauphin County Courthouse  
Harrisburg, Pa.

April 1, 2011

**PBA Committee/Section Day**  
Holiday Inn East, Harrisburg, Pa.

May 4 – 6, 2011

**PBA Annual Meeting**  
Sheraton Philadelphia City Center  
Hotel, Philadelphia, Pa.

May 6, 2011

**PBA House of Delegates**  
Sheraton Philadelphia City Center  
Hotel, Philadelphia, Pa.

# DEVELOPING RULE OF LAW AND MAINTAINING STABILITY IN A FLUID ENVIRONMENT

*By Capt. Michael G. Botelho*

*Editor's note: This is the first in a three-part series.*

## Introduction

This article is a brief historical account of events that transpired during a special forces battalion's deployment<sup>1</sup>, and it provides insight into issues faced by a special forces (SF) battalion judge advocate. Specifically, this article discusses the novel use of video teleconference (VTC) capability within the Iraqi judiciary to conduct probable cause hearings and how expanded VTC use led to unprecedented cooperation between Iraqi and American forces with national-level implications in support of the security and stability of Iraq. The article also discusses United States special forces (USSF) decentralized operational structure<sup>2</sup> and the operational adaptability<sup>3</sup> concept and how that concept is applied in a fluid combat environment. Success in this fluid environment was made possible by the assignment of a judge advocate at the battalion level, which is a fairly new concept implemented around 2006. Due to its unique force structure and the decentralized manner in which SF operates across the entire battlefield, the primary Army units really requiring a judge advocate at the battalion level are the various SF groups. Lastly, the article will touch upon some changes, both procedurally and substantively, that occurred at the Central Criminal Court of Iraq-Karkh (CCCI-K),<sup>4</sup> located in Baghdad, and how those changes impacted operations in a SF battalion. The CCCI-K is a creation of the Coalition Provisional Authority (CPA); however, the CPA was dissolved in 2004. The CPA promoted "the development of a judicial system in Iraq that warrants the trust, respect and continued confidence in Iraqi people."<sup>5</sup> The Iraqi judicial system is historically based upon a local and provincial construct, but the CCCI-K uniquely has nationwide jurisdiction to investigate and try crimes committed in Iraq. The primary focus of the CCCI-K is terrorism.<sup>6</sup>

The U.S. and Iraq security agreement (SA) was implemented on Jan. 1, 2009, and with the execution of its "out of cities" provision occurring later the

same year on June 30, SF battalion judge advocates found themselves dealing directly with the full spectrum of the Iraqi criminal system – from the SF team level to the national court level. However, notwithstanding the provisions of SA<sup>7</sup> that provide structure to operations, the operational environment in Iraq remains extremely fluid. A unit's success and relevancy within this ever-changing environment depends on its ability to operationally adapt. The decentralized manner in which USSF operate was one of the keys to a SF battalion's successful execution of the operational adaptability concept as it directly relates to the warranted-target process to capture insurgents with full respect for Iraqi law. Since the Rule of Law (ROL)<sup>8</sup> model is still developing in Iraq, and as a general doctrinal concept, inconsistency within the judiciary will present significant ROL challenges for all U.S. forces for the foreseeable future. This judicial inconsistency — which directly impacts combat operations — requires units to craft flexible solutions and be aware that tactics, techniques and procedures (TTPs) accepted as standard practice one month may not be an option the next.<sup>9</sup>

## Operational Adaptability

Upon deployment, Special Operations Task Force – North (SOTF-N) personnel immediately faced ROL challenges resulting from the implementation of the "out of cities" provision of the SA just one month prior to their arrival. One of the major challenges was inconsistent application of the SA in the provinces throughout SOTF-N's area of operation. Specifically, some local/provincial Iraqi authorities interpreted the SA "out of cities" provision to prohibit all U.S. forces from entering cities entirely and, more importantly, engaging in any way whatsoever with the judiciary at the local/provincial level. In Mosul, for example, because of its association with U.S. forces, USSF's foreign internal defense (FID)<sup>10</sup> partner had extremely limited or no access to the provincial judiciary and were thus forced to rely upon the national CCCI-K for its warrants. With no ability for local Iraqis to use the provincial court system for prosecution of cases, national-level CCCI-K warrants allowed them to overcome the lack of judicial

access at the provincial level and also offered complaining witnesses an added level of protection.<sup>11</sup> The use of CCCI-K warrants also permitted prosecution of cases in a neutral and detached forum. Additionally, case prosecution at the CCCI-K offered protection for provincial judges fearing reprisal.<sup>12</sup> In the past, a mobile judicial team or judge run was used to acquire CCCI-K warrants. A judge would travel to the various provinces to hear witness testimony and issue a warrant for ultimate prosecution at the CCCI-K.<sup>13</sup>

As was the TTP at the time, SOTF-N personnel began coordination for a CCCI-K judge to travel to Mosul and Baqubah, which are areas with intermittent judicial access.<sup>14</sup> The last successful judge run, however, was completed in April 2009 and resulted in the issuance of 129 total CCCI-K warrants for Mosul and Baqubah. Knowing this, members of SOTF-N legal team, consisting of a battalion judge advocate and a paralegal noncommissioned officer<sup>15</sup>, immediately contacted the CJSOTF-AP liaison officer to CCCI-K or CCCI-K LNO/Prosecutor<sup>16</sup> in order to schedule a "judge run" at the earliest possible opportunity. By early September, a judge run had yet to be accomplished based upon uncontrollable circumstances at the CCCI-K and the inability to acquire warrants locally. The failure to secure warrants was having a direct impact on the ability of three SF operational detachment-alpha (ODA)<sup>17</sup> teams to conduct combined, offensive, warrant-based operations with their Iraqi FID force. Specifically, two ODAs located in Baqubah and one in Mosul lacked the ability to execute combined offensive operations<sup>18</sup> due to an inability to acquire warrants at the local level.

Additionally, the CCCI-K judges were reluctant to travel due to security concerns and their observation of Ramadan during the month of September. In late September 2009, the SOTF-N legal team suggested using a VTC for the issuance of warrants. VTCs had been previously used for other aspects of the process in Iraq; however, the fluidity of the environment and the constant change in personnel required procedures to be re-invented and re-implemented.

*Continued on Page 11*

## DEVELOPING RULE OF LAW

*Continued from Page 10*

The possibility to extend VTCs for use in warrant hearings was unfamiliar to any members of SOTF-N, CCCI-K, CJSOTF-AP or Multi National Division-North (MND-N)<sup>19</sup> at the time of its recommended implementation, and no one could tell if the Iraqi judiciary would support VTC use in this manner. SOTF-N legal suggested that the VTC would allay security concerns of both the judges and witnesses as well as present an alternative to the judges' reluctance to travel during their holy holiday. Additionally, since travel to the courthouse was no longer necessary, the VTC decreased the time it took to acquire warrants. ■

<sup>1</sup> Members of 1st Battalion, 5th Special Forces Group (Airborne), which is known as Special Operations Task Force – North (SOTF-N) when deployed, was a subordinate unit of Combined Joint Special Operations Task Force – Arabian Peninsula or CJSOTF-AP. 1st Battalion deployed in July 2009 for Operation Iraqi Freedom and was responsible for a large area of operation in northern Iraq.

<sup>2</sup> An SF battalion can cover an entire third of the Iraq Area of Operation, but they don't "own" any battle space; therefore, in order to conduct operations, they have to coordinate with the various operational environment owners.

<sup>3</sup> Operational adaptability: The ability to shape conditions and respond effectively to changing threats and situations with appropriate, flexible and timely actions: TRADOC Pamphlet (Pam) 525-3-0, *The Army Capstone Concept, Operational Adaptability—Operating Under Conditions of Uncertainty and Complexity in an Era of Persistent Conflict*, Dec. 21, 2009.

<sup>4</sup> Coalition Provisional Authority, Order No. 13 (Revised) (Amended), The Central Criminal Court of Iraq (22 Apr. 2004).

<sup>5</sup> *Notes from the Field: Detention Operations in a Counterinsurgency: Pitfalls and the Inevitable Transition*, Captain Matthew Greig, Dec. 2009, at 33.

<sup>6</sup> *Id.*

<sup>7</sup> Agreement between the United States of America and the Republic of Iraq on the withdrawal of United States Forces from Iraq and the organization of their activities during the their temporary presence in Iraq, U.S.-Iraq., Nov. 17, 2008.

<sup>8</sup> *U.S. Agency for International Development, U.S. Dept. of State, U.S. Dept. of Defense, Security Sector Reform 4 (Feb. 2009)* ("Rule of law is a principle under which all

persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights law.")

<sup>9</sup> Application of flexible TTPs to solve ROL issues were required due to inconsistency within the judiciary based on legal interpretations and requirements varying between judges.

<sup>10</sup> Foreign Internal Defense: Participation by civilian and military agencies of a government in any of the action programs taken by another government or other designated organization to free and protect its society from subversion, lawlessness and insurgency. Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms*, 12 April 2001.

<sup>11</sup> Witnesses who lived a substantial distance from Baghdad were reluctant to travel due to security concerns in certain areas of the country.

<sup>12</sup> Although corruption was an issue in some jurisdictions, fear of reprisal was a motivating factor in judges' reluctance to hear cases at the provincial level.

<sup>13</sup> Integrating the Rule of Law with FID in Iraq; by Lieutenant Colonel Daniel A. Tanabe and Major Joseph N. Orenstein, *Special Warfare* November-December 2009.

<sup>14</sup> Notwithstanding exceptions to the rule, warrants were required for most operations, which is why access to the courts was critical.

<sup>15</sup> The Paralegal Noncommissioned Officer assigned to SOTF-N at the time was SSG Matthew A. Wilkerson, whose eight-and-a-half years of Special Operations experience as a paralegal provided a wealth of knowledge and continuity which allowed the Judge Advocate to make informed decisions and provide insightful advice to those he advised. SSG Wilkerson has deployed six times during his five years service with 1st Battalion 5th Special Forces Group and his three-and-a-half years with 1st Battalion 75th Ranger Regiment.

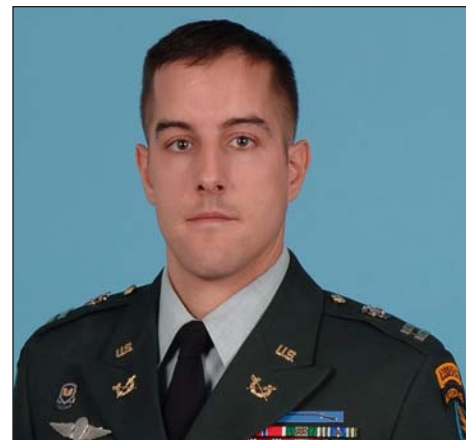
<sup>16</sup> U.S. Air Force Captain Kurt Gerlach was assigned as the CJSOTF-AP Liaison Officer to CCCI-K at the time of the VTC implementation.

<sup>17</sup> The 12-man ODA (Operational Detachment Alpha) or "A-team," is largely made up of NCOs. Each man has a specific function, ranging from operations and intelligence, to weapons, engineering, medical and

communications. The advanced training for each specialty can take six months or longer and includes small-unit tactics; languages; and survival, evasion, resistance and escape. The ODA itself may specialize in an infiltration skill or a particular mission-set, such as military freefall, combat diving, mountain warfare, maritime operations or urban operations. USASOC. "Special Forces – Shooters and Thinkers." <http://www.army.mil/-news/2009/10/26/29315-special-forces---shooters-and-thinkers/>. Special thanks to the members of the ODA teams who assumed great risk on a daily basis and were responsible for the mission success and ROL advancement.

<sup>18</sup> Unilateral operations conducted by coalition forces are no longer allowed because the Security Agreement recognizes the sovereignty of Iraq and requires all operations within the Country be done in accordance with the agreement of the government of Iraq.

<sup>19</sup> Currently United States Division-North.



*Capt. Michael G. Botelho is currently serving as the 1st Battalion 5th Special Forces Group Judge Advocate. From July 2009 to January 2010, he served as the Special Operations Task Force-North legal adviser during the 1st Battalion's deployment to Operation Iraqi Freedom VII. He was previously assigned to the Office of the Staff Judge Advocate, Fort Huachuca, Ariz., where he served in the following duty positions: legal assistance attorney, administrative/operational law attorney, chief of administrative law and trial counsel. He also served five years enlisted as an Airborne Ranger assigned to 1st Battalion 75th Ranger Regiment in Savannah, Ga. He holds a bachelor's in administration of justice from Salve Regina University, Newport, R.I., and a juris doctorate from St. Thomas University School of Law, Miami, Fla.*

# 2010 SUMMER MEETING/NEW ADMITTEE CONFERENCE RECAP



**A**loha! The YLD's 2010 Summer Meeting/New Admittee Conference, held July 30-Aug. 1 at the Seven Springs Mountain Resort in Seven Springs, Pa., was another great success, with more than 200 people in attendance, including 43 new admittees. The Summer Meeting/New Admittee Conference is always one of the most important YLD event of the year, and this year's conference was no exception.

The PBA's Board of Governors met early on Friday, and many of our PBA Governors stayed in Seven Springs for the remainder of the weekend's activities. As in years past, the Summer Meeting/New Admittee Conference included a productive YLD Business Meeting, a great selection of Continuing Legal Education (CLE) courses offered through the Pennsylvania Bar Institute (PBI) and geared toward the practice needs of young lawyers, and social and networking opportunities with members of the bench and bar. We thank Pennsylvania Supreme Court Justice J. Michael Eakin, Pennsylvania Commonwealth Court Judge Robert Simpson, U.S. District Judge for the Eastern District of Pennsylvania Norma Shapiro and Allegheny County Court of Common Pleas Judge Dwayne Woodruff for attending our meeting/conference.

The social and networking activities began Friday with the traditional new admittee welcome and cocktail reception, leading into our ALOHA! speed networking event and a luau-themed barbecue dinner. A disc jockey kept the entertainment going at the after-dinner reception, and a few of our friends graciously grabbed the microphone for some

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## 2010 SUMMER MEETING/NEW ADMITTEE CONFERENCE RECAP

*Continued from Page 12*

spontaneous karaoke. Who can forget the excellent rendition of Jimmy Buffett's "Margaritaville," performed by current and former (and maybe some future) YLD Executive Council members. With almost all of our attendees staying together late into the night, Friday was a great opportunity to meet attorneys from all over Pennsylvania and from various different practice areas.

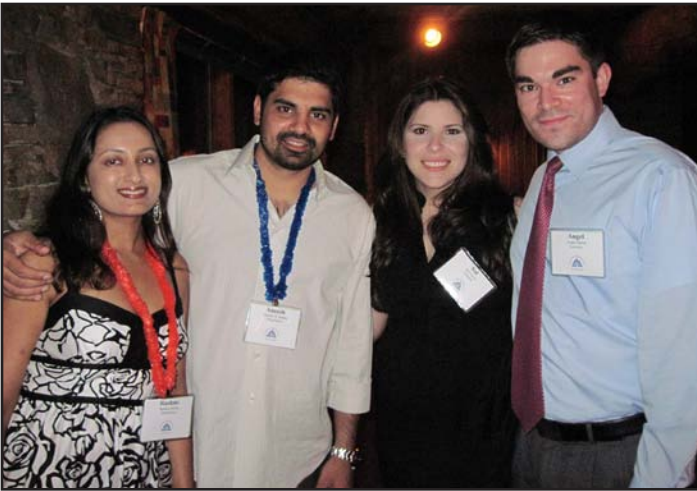
This year's Summer Meeting/New Admittee Conference welcomed the 11 members of the 2010 Bar Leadership Institute (BLI) class. On Saturday, the BLI class and new admittees were able to attend a morning CLE session to hear from panelists that included many of the PBA's leaders, while others attended some of PBI's excellent CLE offerings. Following the morning sessions and lunch, we were able to enjoy some free time to explore the Seven Spring Mountain Resort, participate in our annual golf outing, visit Frank Lloyd Wright's Fallingwater, or stroll around and enjoy the food and music at the resort's first Rib and Wing Festival. In the evening, we gathered again for a delicious dinner and were entertained by Justice Eakin's "Year in Review," and later socialized at the post-dinner reception, on the deck overlooking the resort and in the Matterhorn bar adjacent to where the dinner was held. The resort's pizzeria was open and served pizza and cookies late into the night (and early into morning).

We would like to thank our YLD Chair Lisa Woodburn, the Summer Meeting/New Admittee Conference planning committee (Hope Guy, Michelle Christian and Jacob Gurwitz), the PBA Board of Governors, and the PBA and PBI staff for another great YLD event. We eagerly look forward to the 2011 Summer Meeting/New Admittee Conference planned for July 29-31 at Rocky Gap Lodge & Golf Resort, Cumberland, Md. Please check the PBA website, the YLD Facebook page and *At Issue* for future additional details on the 2011 Summer Meeting/New Admittee Conference. ■



MORE PHOTOS  
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MORE PHOTOS  
FROM THE  
2010  
SUMMER MEETING/  
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CONFERENCE





MORE PHOTOS  
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# ZONE CARAVANS



## ZONE 6

The Zone 6 caravan, with photos at left and above, featured some friendly competition in a softball game between the Washington County Young Lawyers and the Westmoreland County Young Lawyers on Aug. 25 at the PONY field in Washington, Pa.



## ZONE 5

The Zone 5 caravan celebrated Oktoberfest on Sept. 30 at the Arena Bar & Grill in Wilkes-Barre. Photos from the event are above and at right. Traditional German food and the Arena's tremendous selection of beer highlighted the event.



# COURTHOUSE CAFÉ

*Editor's Note: Young lawyers are often sent to the ends of the earth (or at least to Central Pennsylvania) by their firms to appear in court. It is enough worry for these young lawyers to figure out where the courthouse is located in unfamiliar counties, let alone where they are going to eat lunch after their hearings. At Issue is therefore reviving its "Courthouse Café" series to share tips about eateries located close to the courthouse in a featured county. Please feel free to submit your suggestions for future "Courthouse Café" features.*

*By Liz Goldstein*

## **Featured county: Cumberland**

The best part of having a mid-morning argument scheduled is an excuse to have lunch by the courthouse. This is especially the case if you are out of your home jurisdiction. My home jurisdiction is Cumberland County. There are quite a few good lunch choices in Carlisle, and even a great place for dessert. The courthouse is located at the intersection of Hanover and High streets.

Immediately next to the courthouse is Courthouse Common (1 S. Hanover St.), a place with good panini sandwiches named after the local judges.

On High Street, there are a lot of good choices. There is Issei Noodles (54 W. High St.), which has Asian comfort food. There are several types of Pho (Vietnamese thin noodles) and Udon (Japanese fat noodles) dishes. My favorite dish there is the fried spring roll appetizer. The rolls are always flavorful and crispy. They are served with a dipping sauce which is a perfect mixture

of sweet and pungent.

Across the street from Issei Noodles is the Hamilton (55 W. High St.), home of the famous Hatchi Dog. What is a Hatchi dog? It is a grilled hot dog with cheese, Hatchi (chili) sauce, mustard and onions. Dickinson Law School (the ORIGINAL campus) is only a couple blocks from the Hamilton. I have been asked by several Pittsburgh and Philadelphia alumni to bring them a Hatchi dog when I see them. The Hatchi dog, at about \$2.00, is a bargain

to boot. The Hamilton also offers traditional Greek diner fare (gyros and breakfast all day) and even the vanishing "real" vanilla Coke.

If you do not want to battle indigestion on your way home, I can recommend the Market Cross Pub (113 N. Hanover St.), which is a British-themed establishment. They have a wide variety of beers from many countries on tap and in bottles. You can get bangers and mash, fish and chips, and shepherd's pie.

For dessert, I recommend that you walk back toward the courthouse to the Fancy Cake Shop (2 E. Liberty Ave.). If you are lucky, you will be there on a Whoopie Pie Wednesday. No matter what day of the week, you owe it to your loved ones to bring home plenty of their iced brownies. As one spouse of a lawyer says, "Yummo!" ■



## **CALLING ALL WRITERS!**

***The YLD At Issue editors are now accepting article submissions. Criteria are as follows:***

1. The subject matter should be relevant to Pennsylvania young lawyers.
2. Articles should be no longer than 1,200 words in length. Longer articles may be considered to run as a series.
3. All submissions must include a short author biography at the end of the article and must be accompanied by a digital photo (300 dpi resolution preferred) of the author for publication.
4. Electronic submissions (MS Word) are acceptable and preferred. Please transmit electronic submissions to Bill Higgins Jr. at [bhiggins@bedfordcountypa.org](mailto:bhiggins@bedfordcountypa.org) or to Robert Datorre at [rdatorre@state.pa.us](mailto:rdatorre@state.pa.us).
5. If submitting by mail, a copy of the article may be sent to either of the following individuals: Bill Higgins Jr., Bedford County's District Attorneys Office, 200 S. Juliana St., Bedford, Pa., 15522-1713; Robert Datorre, Pa. Department of Health & Welfare, Health & Welfare Bldg., 625 Forster St., Room 825, Harrisburg, Pa., 17120.