As the summer of COVID-19 is winding down, I hope that you and your loved ones are safe and healthy and have adjusted to this “next normal” way of life. While I am optimistically looking ahead to a time when we can gather together in person for PBA meetings, I have been putting on the fewest miles while still trying to stay in touch and reach out to lawyers and others across the commonwealth.

Since the start of my term in May, I have addressed various PBA sections at their virtual summer meetings and retreats and joined county bars from Philadelphia, Montgomery and Chester to Erie; from Washington to York, Lancaster and Berks; and from Monroe to Lycoming and Centre (just to name a few). Please invite me to join you in your county. I’d love to share with you what the PBA has been doing on behalf of the lawyers of Pennsylvania.

Over the summer, our Diversity Team, under the leadership of Co-chair Nancy Conrad, Melinda Ghilardi and Phil Yoon, held a “Conversation on Racism in the Country and in the Profession,” planned by team members Jennifer Ellis and PBA Past President Sharon López. The conversation featured a panel of PBA lawyers, Samantha Jallah, Wesley Payne IV and PBA Past President Mike Reed, facilitated by moderator Juliana Mosley, Ph.D., chief diversity, inclusion and community relations officer at Chestnut Hill College. The panelists shared poignant and emotional experiences with racism in their personal and professional lives. You can view a recording of that conversation at https://www.youtube.com/watch?v=I8H-eWoeKnw&feature=youtu.be. I would like to think that racism is a relic of dark times in history, but the discussion and recent experiences across the country make clear that racism is still with us. It requires vigilance and action to bring it to an end. The Diversity Team and the PBA will continue the conversation in future programming. Stay tuned.

The summer also marked the 125th anniversary of the incorporation of the Pennsylvania Bar Association on July 9, 1895. Unfortunately, no in-person celebrations were able to be held, but I hope we can make up for that in the near future. Another milestone that we were unable to mark appropriately due to the impact of the pandemic was the 100th anniversary of the ratification of the 19th amendment on Aug. 18. The Commission on Women in the Profession did recognize the occasion at its fall retreat in Hershey last year. We had hoped to be able to do more and hope to do more once the pandemic has subsided.

What did continue relatively unscathed during the pandemic were the sessions of the General Assembly of Pennsylvania. July marked the enactment of a longtime priority piece of legislation of the PBA and its Real Property, Probate and Trust Law (RPPT) Section: the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), Senate Bill 320, now Act 72 of 2020. The passage of SB 320 was due in large measure to the hard work of our legislative staff, Fred Cabell and Ashley Murphy, as well as Eric Strauss, a past RPPT chair (a role I had many years ago), and the rest of the section. I thank them for their important work. Here is Eric’s summary of this significant piece of PBA-sponsored legislation:

“The enactment of SB 320 (closely modeled after the RUFADAA) into law is an important development in Pennsylvania trust and estates law and represents a major victory for the PBA. The RUFADAA was originally published in a 2015 Report of the Uniform Law Commission, the year I was chair of RPPT and the year that an earlier version of the bill was introduced. The PBA adopted the RPPT Report and Recommendation supporting the RUFADAA and we have been prodding and pushing ever since. Many of our members don’t realize how much hard work the sections and PBA staff put into legislative review and comment, or the influence that we have on the development of the law. It is rewarding to see our efforts come to fruition.

“The need for this legislation is clear. We live in an increasingly digital world. We bank, shop, communicate, store media, play games, create art and manage information online. How many of us have contemplated what will happen to our digital presence when we die or become disabled? In the good old days, when a person died, their assets and information were left behind when they died. Today we have digital assets. Various digital accounts must be addressed in an estate plan. Today, many people have a will, but few have a digital estate plan. The Revised Uniform Fiduciary Access to Digital Assets Act provides a safe and secure way for a personal representative or a fiduciary to access your digital assets.

“The act provides a way for fiduciaries to access your digital assets if you die or become disabled. The fiduciary is the person appointed in your will to handle your affairs if you die or become disabled. The fiduciary can access your digital assets if you do not have instructions.”
PEOPLE TO PEOPLE

If you’re a PBA member and you want the legal community to know about your appointment, promotion, recent speaking event or other law-related news, why not submit your announcement to run as a “People” item?

The most frequent types of “People” announcements we run are for appointments/elections, awards/honors, being published, firm moves and speaking engagements. We run items on recipients of county bar awards, but we do not list county bar committee and section appointments. We do not run prospective notices, particularly for speaking or meeting events, as these are subject to change, and we do not include lawyer and law-firm “best of” announcements. Given the PBA’s large member base, we also monitor for how frequently individuals are listed in the column.

Photos are welcome, black and white or color. If provided electronically, photos should be high resolution. Most electronic photos we receive are as JPEG files.

The editors reserve the right to reject “People” submissions and to edit for style and length of announcement. Accepted announcements will appear in either the PBA’s Pennsylvania Lawyer magazine or Pennsylvania Bar News tabloid, depending on when notices are received in the editorial cycle.

Email “People” column notices to editor@pabar.org or mail to the Pennsylvania Bar Association, Attn. People Column, 100 South St., P.O. Box 186, Harrisburg, Pa. 17108-0186.

David E. Schwager
PBA President

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executors are more likely to encounter a solitary laptop. Think about it. I could have millions of dollars in a brokerage account that I manage online and there may not be one scrap of paper in my house that alerts my executor as to the existence of that account. More and more, fiduciaries will need access to digital assets in order to effectively discharge their duties.

“Citing state and federal electronic communications and privacy laws, industry leaders have been reluctant to grant, or simply didn’t want to be burdened by, requests by fiduciaries to access the digital assets of the underlying owner. Among other things, the RUFADAA creates a much-needed structure that addresses the circumstances under which fiduciaries can be granted access to various types of digital assets, and grants online account users the ability to incorporate their wishes into estate planning documents such as wills, trusts and powers of attorney.

“I should add that SB 320 contains one major departure from RUFADAA that was the direct result of PBA’s efforts and which, to my knowledge, is unique to Pennsylvania. The provision prevents a custodian (i.e., Google, Yahoo, etc.) from requiring a court order as a condition to the release of a catalog of a deceased user’s emails (i.e., date, time, sender and recipient), which in many instances will alert an executor of the existence of an underlying account. We fought hard for this against industry opposition as we were concerned by the additional expense and delay this would have created.”

Again, our sincerest thanks and appreciation to Eric, the RPPT Section, our legislative staff and our friends and supporters in the General Assembly for their roles in the passage of this landmark legislation, pushed for these past five years by the PBA.

Speaking of friends in the Legislature, the PBA has not only a friend, but a PBA member who has risen to the third-highest constitutional office in the commonwealth. Rep. Bryan Cutler of Lancaster, a loyal PBA member and attorney at Nikolaus & Hohenadel LLP, has been elected Speaker of the House of Representatives of the Commonwealth of Pennsylvania. We wish Bryan much success in his new role and thank him for his service to the people of Pennsylvania.

As you read this column, I am already one-third through my term as PBA president. I hope that at some point during my term, I will preside in person over something. Until then, I wish that you and your family stay safe and healthy and that we will see each other in your county, or at least “virtually,” very soon.

David E. Schwager
PBA President

DEATHS

Lackawanna County
Thomas E. Lucas Jr., 48, Clarks Green

Montgomery County
Thomas A. Cunningham, 69, Rockledge
Gerald S. Segal, 79, Blue Bell

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