WIP 2021 Fall Retreat

Empowerment, Celebrating Success and Overcoming Obstacles

Friday and Saturday, Nov. 5-6, 2021 at The Hotel Hershey

Mark your calendar now for the 2021 PBA Commission on Women in the Profession’s Fall Retreat! We’re looking forward to being back together and in-person for this year’s event, which will be bigger and better than ever. Additional programming has been added, as well as a unique public service outreach opportunity. Here’s a quick snapshot of the activities:

Friday
The retreat will kick off with a featured program discussing how the pandemic has affected the lives and careers of female attorneys. We will discuss the recent ABA survey “Practicing Law In the Pandemic and Moving Forward.” Authors Roberta Liebenberg and Stephanie Scharf will join us to further explore the results of the survey, and we will hear first-hand experiences from our own PBA members on how their lives were shaped and altered by the pandemic. The book group will meet later in the afternoon to discuss “Equal Justice Under the Law: An Autobiography by Constance Baker Motley.” The speaker at the traditional welcome reception and dinner is Maggie McGrath, editor of ForbesWomen.

Saturday
Saturday morning will begin with the WIP Full Commission Business Meeting, followed by a special interview with Hon. Debra Todd of the Pennsylvania Supreme Court. PBA President Kathleen Wilkinson will interview Justice Todd, who will share her experience in “Overcoming Barriers and Thriving in the Legal Profession.” Then, a panel discussion on “Women in Social Movements: History and Present Day” will feature special guests Professor Cathleen Cahill and Dean Danielle Conway. Later in the day, WIP members will partner with students from the Milton Hershey School for an afternoon of mentoring and coaching—click here to see how you can be part of this exciting opportunity. An optional group dinner on Saturday is planned at Tröegs Brewery in downtown Hershey (dinner is on your own).
New WIP Special Achievement Award

By Judge Anne Lazarus and Sara Austin, Esq.

On May 18, 2021, the PBA Board of Governors unanimously approved a request by the Pennsylvania Bar Associations Commission on Women in the Profession to establish the “Commission on Women in the Profession Special Achievement Award.”

Over the years, the WIP Awards Committee has come to realize that several worthy candidates really did not fit into the description of either the Anne X. Alpern Award or the Lynette Norton award. This award will recognize those achievements by a female member of the legal profession whose actions and work have promoted the betterment of women in the law and have enhanced services to women in general.

The Special Achievement Award will be given sparingly and need not be given on an annual basis; however more than one award may be given in a calendar year. The recipient must be a member of the Pennsylvania Bar Association but not necessarily a member of WIP; the awards committee may take that fact into consideration when evaluating nominations.

As award co-chairs, we urge you to nominate someone you feel is deserving of this award. The consideration of nominations is on a rolling basis. We hope to recommend a recipient in the near future.

Get the nomination form.
An Interview with PBA President Kathleen D. Wilkinson

By Jennifer Ellis, Esq. and Nicole O’Hara, Esq.

Kathleen D. Wilkinson is a partner at Wilson Elser Edelman & Dicker LLP, a national law firm with over 800 attorneys, in the Philadelphia office, focusing on complex matters in employment and labor defense. She has a far-reaching and multi-faceted background in trying toxic tort, asbestos, and medical device and pharmaceutical cases, as well as matters involving product, construction, premises and professional liability. She also serves as a Judge Pro Tem, handling mediations and serving as a discovery master. Her commitment to public service, community involvement and professional organizations is equally impressive, with her leadership roles in multiple bar associations and inns of court, appointments to governmental and judicial task forces and initiatives, and management and governance positions within her firm and at her alma mater, Villanova University School of Law, quite literally too numerous and distinguished to catalogue here. (For a more comprehensive list, you can click here.)

Kathleen currently serves as president of the Pennsylvania Bar Association and has been a long-standing and committed presence in the Commission on Women in the Profession. She most recently earned the Anne X. Alpern Award for her indisputable positive professional impact in Pennsylvania, steady professional, personal and civic leadership and unwavering support of not only the women in the WIP but of those in our profession more broadly. We asked her a few questions to try to understand (and absorb some of) her fearless optimism in the face of the unprecedented challenges facing our organization and its members.

Please tell us a little bit about your family and personal history and how they have influenced you as a lawyer and leader.

Although I grew up without any lawyers in my family, I loved how Katherine Hepburn played a woman lawyer in the classic movie “Adams Rib” and litigated a case with her husband played by Spencer Tracy on the other side. My family was very supportive and emphasized that I could set out to do whatever career I chose. Today, my husband Tom continues to support me, with both of us having served as bar leaders and the first husband, and later wife to be president of the PBA.

You have been at the forefront of helping PBA leadership address the challenges faced by our profession by women and younger attorneys, particularly millennials, and to advance diversity efforts. What have we been doing that’s been working? Do you have plans to continue any specific efforts or initiatives during your time as president?

The Commission on Women in the Profession is very important to our members. Despite the great progress that has been made, the number of the women equity partners remains the same and, during the pandemic, many women lawyers chose to leave the profession. Women lawyers need to be able to support our families, significant others and our elderly parents, while balancing their legal careers. We will be doing a program at the retreat in November at Hotel Hershey to focus on these issues.

The past year has highlighted the struggles of poor and underserved communities in Pennsylvania and also magnified some of the limitations of our justice system in resolving the matters and serving the people in various stages in the system. What can we as a bar do create more efficient and equal access to justice?

As president I have assigned to the Judicial Administration Committee, the task force that studied the impact the pandemic had on litigants who do not have legal representation and lack the tools and resources to do so. We will be making recommendations on what we do to help resolve litigation issues, hearings, trials and other matters more quickly via the use of remote technology. We will review whether there should be statewide electronic filing. Additionally, we must continue to do pro bono work. Some examples are work with the PBA on Wills for Heroes. The Real Property, Probate and Trust Law Section is also worked with the Senior Law Center to hold an inaugural Pro Bono Life Planning Clinic.

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A common theme in professional and social circle discussion has been the independence of the legal profession and the judiciary. How would you characterize today’s political climate when it comes to the judiciary and the legal profession, and how can leaders in our profession help make a positive impact?

Civility in the legal profession has always been one of my core values. I always conduct myself professionally and courteously and hope that by example, that all members of the legal profession do so as well. I am very pleased that the Civility in the Profession Committee will become a standing committee. We also are emphasizing wellness in the legal profession through the Quality of Life/Balance Committee, with a number of programs and plans on how we can develop PBA policy in this regard. Thank you for giving me this opportunity to share my thoughts.

Welcome New Commission Members!

The PBA Commission on Women in the Profession extends a warm welcome to new commission members who joined November 2020 through August 2021. We hope the new members enjoy their membership and experience the many benefits of serving on the Commission on Women in the Profession.

- Andrea Bapst, London
- Christine BienAime, Harrisburg
- Jennifer Bruce, Nauman Smith Shissler & Hall LLP, Harrisburg
- Courtney Buechler, Carlisle
- Abigail Bukowski, Doylestown
- Susannah Bultron, HiHFirm, Tampa
- Kristine Calalang, Law Office of Kristine L, Calalang, Philadelphia
- Lindsay Casadei, Lancaster
- McCall Chafin, Westmoreland County Courts, Greensburg
- Kelly Dell, New Oxford
- Yvette Donaldson, Piscataway
- Morgan Dowd, Lehighton
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- Meaghan Geatens, Philadelphia
- Sabine Glocker, Philadelphia
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- Angelica Matias, Sinking Spring
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- Roxann Steelman, Scherline & Associates, Northampton
- Misty Toothman, Birdsboro
- Ashley Trimble, Seven Fields
- Melanie Vanderau, Mette Evans & Woodside PC, Camp Hill
- Su Ming Yeh, Pennsylvania Institutional Law Project, Philadelphia
Outsourcing Legal Research and Brief Writing

Five useful things to know about hiring a freelance lawyer

By Lisa Solomon, Esq.

Small firms and solo practitioners outsource legal research and brief writing to freelance (aka contract) lawyers for a variety of reasons. One primary reason is time: Unfortunately, lawyers aren't always in control of their own schedules. Deadlines — whether set by statute, court rule or judicial fiat — are ever-present. Frequently, it seems that everything must be done at once. Outsourcing enables you to weather particularly busy periods without having to hire an employee or face time pressures that lead to stress and burnout.

Here are five useful things to know about outsourcing legal research and brief writing.

1. Legal research and writing outsourcing can help your firm’s bottom line.

With one exception, all of the bar associations that have addressed the issue (including, most notably, the American Bar Association) have determined that a lawyer may add a surcharge to a freelance lawyer’s fees — in other words, make a profit on work performed by a freelance lawyer — as long as the total charges to the client are reasonable. See:
- ABA Formal Opinion 08-451 (Lawyer’s Obligations When Outsourcing Legal and Nonlegal Support Services)
- ABA Formal Opinion 00-420 (Surcharge to Client for Use of a Contract Lawyer)
- ABA Formal Opinion 88-356 (Temporary Lawyers)

2. If you are making a profit on work performed by a freelance lawyer, to comply with ethics requirements, you must bill the freelance lawyer’s services as a fee (i.e., in the same manner as you would bill for your own time), rather than as a disbursement (i.e., in the section of the bill detailing expenses incurred for such items as court reporters).

As long as payment of the freelance lawyer’s fee isn’t contingent on the outcome of the litigation, you’re not required to disclose how much you’re paying the freelance lawyer; in other words, you don’t have to reveal the amount of your profit. This position makes sense: After all, if an associate (i.e., your employee) was working on a client’s matter, you wouldn’t be obliged to reveal the associate’s salary to your client.

3. The defining characteristic of the relationship between a hiring firm and a freelance attorney is the hiring firm’s continued responsibility for rendering competent legal services to the client.

The hiring firm must ensure that it delegates work to freelance lawyers who are competent to perform the work and oversee the performance of the work adequately and appropriately. As with an attorney employed by your firm, the degree of supervision required depends on the freelance lawyer’s skills and experience. If you prefer not to maintain supervisory responsibility, you may want to consider a referral or co-counsel relationship instead of an outsourcing relationship.

4. A freelance lawyer who is performing legal writing services or research need not be admitted in your state.

This is because the freelance lawyer is not a counsel of record and is considered to be working under the hiring attorney’s supervision.

5. You should obtain your client’s informed consent before hiring a freelance lawyer.

Comment 6 to ABA Model Rule 1.1 (Competence) instructs that a hiring attorney should ordinarily obtain the client’s informed consent before hiring a freelance lawyer. Many state and local bar associations have issued ethics opinions requiring disclosure under some circumstances, and others mandate disclosure under all circumstances. The safest route (particularly if you practice in a state that hasn’t yet issued a...Continued on page 6

* The exception is the Professional Ethics Committee for the State Bar of Texas. However, the committee’s reasoning in Opinion 577 (March 2007) is questionable.
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governing ethics opinion) is to disclose and obtain the client’s consent to, your use of a freelance lawyer. If you’ll be billing an experienced freelance lawyer’s services to your client at a rate lower than your own, this process can actually be an opportunity to demonstrate your commitment to achieving the best possible result for the client at the lowest cost.

You may want to add the following paragraph to your retainer agreement:

You are hiring the firm for representation and not any particular individual. The firm may assemble the team of professionals best suited to serve your needs at each stage of your matter. The firm may share with these professionals information about your case as necessary for them to carry out their responsibilities. All non-firm personnel are subject to the firm’s ongoing supervision and applicable ethics regulations. You expressly consent to the firm’s use of these professionals and to the disclosure of information as necessary for them to serve your needs.

The bonus: Hiring freelance help can lead to happy clients

A freelance lawyer who concentrates in legal research and writing can often complete those tasks in less time than a busy practitioner, who may not be as familiar with the available resources or as experienced in searching large databases for sometimes elusive answers. So, outsourcing legal research and writing means you can use your valuable time in a way that’s most cost-efficient for your clients.

Lisa Solomon is a freelance attorney based in New York who assists solos and small firms nationwide with all of their legal research and writing needs. You can find out more about her background and contact her through her website at www.Question0-flaw.net.


By Whitney S. Graham, Esq.

As parents, we make dozens of small and large decisions for our children every day. Many of these choices are safety-driven. We determine what they eat, who they play with, where they are allowed to go. However, some of the most seemingly mundane decisions have potentially enormous consequences for our kids. Enter the family auto insurance policy.

Search for information about teen drivers, and you will find plenty of advice for saving money on your policy. But, as with many things in life, cheaper is not necessarily better. While it is always prudent to have the right insurance coverage, if you have teens who are new behind the wheel, or young passengers, there are additional considerations when you renew your policy.

In Pennsylvania, when choosing auto coverage for your family, you need to contend with tort selection. There are two options; full tort and limited tort. Simply put, limited tort allows you to seek compensation from an at-fault driver’s insurance carrier for economic damages only. This most commonly includes medical bills, copays, lost wages. Full tort allows compensation for non-economic damages, importantly claims for pain and suffering.

Here is the piece that many parents fail to consider: your tort selection follows your children. This is due to their status as resident relatives, meaning they 1) live with you, 2) are related to you, 3) do not own their own vehicle, and 4) do not

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have their own insurance policy. Resident relative status also applies to spouses or other family members who meet those four criteria. Under this framework, if you choose the limited tort option, your children will also be restricted to compensation for economic damages only, whether they are injured in your vehicle, or while riding with a friend or a grandparent.

There are some exceptions to limited tort status, for example being a pedestrian or in a commercial vehicle, among others. But when it comes to your family, you don’t want to rely on an exception. Loopholes are not a good plan A.

Another “optional” item of coverage that I consider anything but optional, is uninsured and underinsured motorists’ coverage. These coverages are aptly named because they provide a place to make a claim — your own policy — if you or your child is injured in a crash caused by someone without insurance or with limited auto insurance. Remember that in Pennsylvania, drivers are required to carry only $15,000 in bodily injury coverage to cover any one person they may harm in a crash. Medical bills, ambulance rides and assistive devices for recovery can add up quickly even for a somewhat minor collision.

Another way to mitigate financial strain following injury in a crash is to have enough coverage for medical benefits on your own auto policy. Personal injury protection, or PIP, covers your own medical bills from a crash. Everyone in Pennsylvania is required to have $5,000 in PIP coverage, but you can and should have more. Any bills covered by PIP do not need to be reimbursed out of a settlement, unlike many health insurance plans.

You have likely noticed a theme in this article — plan to use your own auto policy to ensure full compensation. Ideally the person who drove under the influence, was texting or missed the stop sign would pay for the damage they have wrought. However, that does not always happen. It is worth paying a little extra to know that your loved ones are protected.

These topics are not relegated to personal injury only. If you practice divorce law, does your client share custody of a teen driver? If your focus is trusts and estates, have you counseled clients on insurance options in the event of a tragedy? Conversely, if you handle personal injury, do your clients have wills and advance directives in place?

It is parents’ responsibility to make good decisions for their families, both to avoid disaster and to be prepared if disaster comes anyway. As lawyers, we should aim to assist clients so that these decisions are well informed. It does nobody any good to question the auto coverage a client has after they have been rear-ended. As a personal injury attorney, I am always willing to review a client’s or community member’s auto policy to promote their understanding of the coverage options they have purchased.

Whitney S. Grahman is a partner at Graham & Mauer PC, a personal injury firm with offices in Valley Forge and Harrisburg. She is a graduate with honors of Bryn Mawr College, and earned her J.D. from Temple University Beasley School of Law.
A Warning for Law Firms

The first of the quarterly 2021 surveys appeared during April – and the news isn’t good for small and midsized law firms. Note these ominous words from Coveware, a highly regarded aggregator of global ransomware and cyber extortion data, which published the Coveware Quarterly Ransomware Report (Q1 2021):

“The most notable change in industries impacted by ransomware attacks in Q1 was the Professional Services industry, specifically law firms. Small and medium sized law firms continue to succumb to encryption ransomware and data exfiltration extortion attacks. Unfortunately, the economics of many small professional service firms do not encourage or enable adequate cyber security.”

What Law Firms Should Assume

Ransomware is no game, but if it were, boy, have the rules changed.

The first thing a law firm should assume is that any of its data stolen by attackers will not be destroyed by the cyber criminals even if a ransom is paid. It may well be traded to others, sold – or even held for a second extortion attempt. Those re-extortion attempts are becoming a growing phenomenon.

Also, assume that multiple parties held your data and that the data was not necessarily secured and may have been compromised. Also, any of those parties may have made copies for prospective extortion in the future.

It is increasingly likely that data will be published, often called “naming and shaming,” before you can even respond to the ransom demand. This ups the ante and puts pressure on the law firm to pay.

Where Does the Danger Come From?

The most common ransomware attack vector is compromised remote desktop protocols, which so many lawyers working from home use to connect to the law firm network.

This is followed by phishing emails, which continue to get better and better at fooling your employees. Employee security awareness training should take place at least annually (more often is better) and running phishing simulations periodically is a good idea. Employees simply forget over time so repetitive training is critical.

Why are Small and Midsize Law Firms So Vulnerable?

As the Coveware report notes, 24.9% of ransomware attacks target professional services firms, especially small and midsize law firms.

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Small and Midsized Law Firms Slammed by Ransomware
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So, what are the firms doing wrong? In part, they are hobbled by the modesty of their budgets for cybersecurity. On the other side of the coin, they generally want to maximize profits and distribute income to the partners at the end of the year. Cybersecurity doesn’t make the cut when distributions are discussed.

Their clients tend to be smaller and may not demand security assessments as larger clients are prone to do. Sometimes they get to bask in obscurity because attacks on smaller firms often do not make the headlines.

Smaller firms get in a world of trouble because most of them do not have Incident Response Plans (IRPs) and therefore they have a “headless chicken” response to attacks, which they generally don’t properly handle. To make matters worse, they don’t properly attend to remediation of the vulnerabilities that caused the attack. And you know what happens then? They get re-attacked.

An example of sheer stupidity from our case files. A firm had an Incident Response Plan (IRP). Good for them, right? Except they didn’t print it out or put it on a device never connected to the network. So, their IRP was encrypted in the ransomware attack. Doh.

Don’t Think Paying the Ransom Will Guarantee You Get All Your Data Back!

Sophos, a highly regarded cybersecurity vendor, issued its “The State of Ransomware in 2021” report. Scary stuff. Their survey found that only 8% of entities get back ALL of their data after paying the ransom. 29% of those who paid the ransom got back no more than half their data. Not only is there no honor among thieves, but there are no refunds for partial performance! In addition, there is no customer service department where you can file a complaint.

There was some good news in the report – sort of. There was a decline of entities hit by ransomware from 51% in 2020 to 37% in 2021. On the face of it, that’s a good thing.

But the report notes a very worrisome trend. Attackers are now moving from automated attacks to highly targeted “hands-on-keyboard” hacking. Why is this causing such alarm? Because the potential damage is much greater from these more complex attacks, with more than double the remediation costs, from approximately $761,000 in 2020 to $1.85 million in 2021.

Oh, and to add to the merriment, remediation costs are now 10 times greater than the average ransom payment.

Final Thoughts

Not much joy in this article, to be sure. One of the things it proves definitively is that the threats from attackers are morphing constantly. As the threats evolve, so must the defenses. Busy attorneys understandably have trouble keeping up with cybersecurity. But when they can, they should try to stay current through reading reputable blogs and articles online and taking cybersecurity CLEs at least once a year — and more is better. Batten down the hatches — we’re in for a bumpy ride for years to come.

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I am writing today about something that has nothing to do with the law but is very personal to me. As some of you know, I had two dogs, one named Curtis and one named Millie. I bought pet insurance for both of my dogs when Curtis had a cancer scare at the age of 7. I used the insurance from time-to-time, but not a lot, and I considered cancelling it as the price increased. I decided not to, though, because I sensed all wasn’t well with Curtis when the insurance renewed in February. Unfortunately, I was right.

As is common with some dogs, Curtis went from fine to not well very quickly. At the age of 13, he needed two surgeries, and it looked like he had treatable lung cancer as well. Unfortunately, there were surgical complications, and I had to put Curtis to sleep in May.

The two surgeries and resulting complications cost over $12,000 in veterinary fees. I was able to get a substantial amount of those fees back through my pet insurance. When I added the numbers up, it turned out that I probably paid less for insurance than I did for the amount that I received back over the years. Especially given the final few months.

One common recommendation is to put the money you would have spent on insurance aside instead of buying insurance. And that is certainly an option. But in my case, I felt the insurance gave me enough peace of mind to be worth it. Also, had Curtis survived, his bills would have continued to increase. Most importantly, the insurance gave me freedom for concern about the cost of veterinary care. I never had to stop and think, this is too much money. This freedom from worry was what made a huge difference to me. in the end. Caring for Curtis at the end of his life was very stressful and physically difficult. The last thing I needed to do was be worried about money.

The pet insurance I use is called Pet Plan. I am not recommending Pet Plan over other policies. Rather, I suggest you do research and find out what works for you and your pets. There are numerous factors that will impact the cost of your insurance. Some breeds, such as Labrador retrievers, like Curtis, are expensive to insure because they often develop expensive problems. Millie is a mixed breed, and her insurance costs much less.

You also want to be very careful about pre-existing conditions. Pet Plan allows pre-existing conditions to be treated as new conditions if enough time goes by between the original condition and its recurrence. Also, Pet Plan has a 6-month exclusionary period for certain types of injuries related to joints and ligaments. However, that exclusionary period is cancelled if you have your dog examined within a short period of time of implementation of the insurance.

In the end, all I can tell you is that having pet insurance for my pets made a very big difference when it came to the expensive bills that can come at any time with a beloved pet. You might want to consider looking into insurance for your pets based on my own experience.

On a side note, I brought Millie to be with Curtis when I had him put to sleep. I can tell you it made all the difference. Millie was happy to see Curtis and he was happy to see her. After Curtis died, Millie walked over to him, sniffed him, and then walked away. Most dogs will look for their companions once they are gone. Millie did not do this because she already knew. I think it shortened her grieving tremendously. If you have to put a pet to sleep and you can bring your other pet(s) to the vet or have it done at home by a mobile unit, I highly recommend it.

Co-editor Jennifer Ellis is an attorney and law practice management consultant. Her legal practice focuses on ethics, and her law practice management consulting business focuses on helping lawyers with their law firm technology and online presence. Her website is Jellis.net.
PBA Commission on Women in the Profession Leadership 2021-22

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Pennsylvania Bar Association
Commission on Women in the Profession
Communications Committee

Editorial Policy
Voices & Views is a publication of the Pennsylvania Bar Association (PBA) Commission on Women in the Profession and is published by the Communications Committee three times per year. The purpose of the publication is to facilitate communication among the membership of the commission on topics and events of general interest to women lawyers. The editors of Voices & Views reserve the right to accept or reject any submission and to edit any submission to ensure its suitability for publication, its adherence to the Mission Statement of the Communications Committee and its furtherance of the objectives of the Commission on Women in the Profession.

The articles and reports contained in Voices & Views reflect the views of the writer and do not necessarily represent the position of the commission, the editors of Voices & Views or the Pennsylvania Bar Association.

Mission Statement
It is the mission of the PBA WIP Communications Committee to foster improved communication among its members in the furtherance of the goals of the commission. To this end, the publication, Voices & Views, provides a forum for professional and open exchange among the WIP membership on all issues related to women and the law. Voices & Views shall be utilized for the following purposes:

- To publicize opportunities and events that may be of interest to the WIP membership;
- To provide information to the membership on topics that may be of general interest to women lawyers;
- To reach a wider audience and increase the visibility of the commission;
- To inform the WIP membership of the projects and goals of the commission; and
- To share information with the WIP membership regarding accomplishments of the members, other women lawyers and public figures.

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