Pennsylvania law traditionally disfavored three little family-law words: Common. Law. Marriage. In *Dugan v. Greco*, No. 1924 EDA 2019 (March 9, 2020) (non-precedential), https://www.courtlistener.com/opinion/4733648/dugan-j-v-greco-j/, the Superior Court appeared to disfavor three more: Same. Sex. Couples. This was over the appellant’s argument, challenging the dismissal of his divorce complaint, that, at the time of the parties’ 1998 union, marriage equality was not law; in the interest of justice, subsequent legal changes should have been applied retroactively, particularly where societal attitudes kept gay couples from fully expressing their commitment, to find that the parties had a common law marriage.

Legal and social history. In 1996, two years before the parties committed, the federal Defense of Marriage Act, Pub.L. 104-199, 110 Stat. 2419 (DOMA), was enacted; §3 amended 1 U.S.C. §7 to define marriage and spouse as one man and one woman, or “person of the opposite sex.”

Perhaps more significantly to the parties, in October 1998, shortly after their commitment, Matthew Shepard, an openly gay young man, was robbed, severely beaten and tied to a fence outside Laramie, Wyoming; he died six days later. The case received significant media coverage and led to the enactment of federal hate crimes legislation. https://www.bbc.com/news/world-us-canada-45968606.


Jan. 1, 2005, almost seven years after the parties’ union, is significant, as the date Pennsylvania’s Marriage Laws, 23 Pa.C.S.A. §1103, were amended to disallow common law marriages, although such marriages validly formed before then would be recognized. Despite its disfavor, Pennsylvania had recognized both ceremonial and common law marriage. The former was easy to see: rings, a white dress, reciting vows, and a certificate naming “husband” and “wife.” The latter was not as visible: often formed between a man and a woman (but not always, as at least two Pennsylvania cases show), without official religious or civil ceremony, often without witnesses, by agreement to live as husband and wife. No ceremony nor certificate, yet equal to its ceremonial counterpart.


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This is my last column as chair of our committee. Reflecting on the issues that we have addressed while chair, I am appreciative of what we have accomplished. From resolutions on marriage equity (under the tenure of Leo Dunn, although I was able to present it to the Board of Governors and the House of Delegates), to the transgender name change resolution, we have done a great deal of work. Perhaps most importantly, I am pleased to have met and become friends with many of you. No matter how geography separates us, we were able to present as a cohesive organization to the Pennsylvania Bar Association. I am proud to leave the committee in the hands of Martricia O’Donnell McLaughlin, who is more than able to steer the ship for the coming future.

The GLBT Rights Committee has discussed for several months the possibility of changing its name in order to better communicate its mission and goals to the community that it serves. These discussions led to a suggested name change to the LGBTQ+ Rights Committee, which signifies a broader scope of inclusion. A vote was held in March 2020, and the committee voted overwhelmingly in favor of the name change.

Our Transgender Name Change Task Force continues to be amazing. They are in the process, with the help of interested law students, of drafting a rule to implement a procedure to minimize the potentially negative impacts on transgender persons in the name change process and procedure. Once that task is completed, they will reach out to various Rules Committees of the Supreme Court to get input, as that bridge-building was specifically permitted with the resolution passed. The task force is headed up by Ellen Fischer and it has many active participants.

Our committee will gain more visibility in the fall, when the PBA will publish the PBA Quarterly, which will be focused solely on issues impacting our community. We have four authors and topics lined up for the publication. Our own Martricia McLaughlin will write on the controversy surrounding religious freedom exemptions from discrimination laws. Professor Lee Carpenter, a professor at Temple Law, will write on living and working as LG-BTQ+ in today’s world, which will include a discussion of the discrimination cases to be handed down by the United States Supreme Court before the end of June. Drexel Law’s Professor Pamela Quinn will lead us through the history and future of the gay panic defense. And last, but certainly not least, the issues of defining family in the 21st century will be tackled by Benjamin Jerner. To have an entire publication dedicated to one topic is a big deal, and we shouldn’t underestimate the hard work these authors have and will put in.

In relation to the gay panic defense, many states have outlawed this as a viable defense to the commission of a crime. Along these lines, Sen. Lawrence M. Farnese has introduced legislation similarly toban this defense in Pennsylvania. While it is unlikely to gain traction, it may be a time for us to draft a new resolution supporting the legislation. I don’t imagine such a resolution to be controversial before either the PBA Board of Governors or in the House of Delegates.

We are actively looking for someone to serve as educational liaison to the PBA. This is a new function now that the PBI and PBA are one. The person would be tasked with identifying and producing continuing legal education pertinent to our committee. This is a perfect opportunity to get your name out there and to produce some great quality CLE content for PBA.

Thank you for permitting me to serve you and our shared interests and goals over the preceding five years. It has truly been an honor. I will remain involved and active in the committee. Let us continue our good work!
Common Law Marriage in Pennsylvania, Under A Hidden Rainbow
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U.S. Supreme Court, in Obergefell v. Hodges, 576 U.S. ___, 135 S.Ct. 2584 (2015), https://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf, held that the refusal of same-sex marriage violated equal protection under the Fourteenth Amendment, i.e., marriage equality. The LGBTQ+ community rejoiced, with many promptly journeying to the courthouse for marriage licenses. Left open was the question of same-sex couples who might be deemed married by common law before these decisions and, in Pennsylvania, before 2005.

John Dugan and Joseph Greco, a doctor, had their first date on May 16, 1998. During an August vacation in Cancun, Mexico, each bought himself a ring, worn on their right hands because, as Dugan testified, “we’re different, we are not recognized . . . .” The rings were a “symbol of circle-ism ... a ring of togetherness . . . braided so we were intertwined.” Dr. Greco showed his ring to a coworker and friend and said “we did it ... exchanged rings,” but did not tell her they were married, spouses or husbands. His mother saw their rings at Thanksgiving dinner and asked, “does this mean what I think it does?” He replied in the affirmative, but did not say that they were married, spouses or husbands. They celebrated their anniversary on May 16, not the August date of the rings purchases. Dugan also testified, “we were never – we weren’t married ... we weren’t allowed to get married.”

Over time, they shared vacations, holidays with family, pets, vehicles and investment accounts, naming each other beneficiary on retirement and insurance documents. With family and friends, they exchanged greeting cards, which relatives and friends addressed to both, but not as married, spouses or husbands. Dr. Greco described his “angst” at seeing “husband” cards and his reluctance to buy them due to legal and societal norms and “because we weren’t married.” The parties opted for cards to “partner,” “something that recognized who we were.” In 2013, the year of Windsor, Dr. Greco bought the couple rings from Tiffany and Company, inscribed with their May 16 anniversary date and the infinity symbol.

Unfortunately, infinity ended: they separated in June 2018. Dugan filed a complaint in divorce, seeking alimony and equitable distribution; Dr. Greco sought declaratory judgment that there was no common law marriage. Dugan v. Greco, No 2019-00302-DI (Chester Co., Order and Opinion file June 6, 2019).

Common Pleas and Superior Court Opinions. The trial court reviewed the parties’ testimony, regarding their first date, rings purchases, how they described their relationship, their shared family, social and financial activities, their discussion of ceremonial marriage and their separation. It noted that neither recalled specifics of their discussion upon the 1998 rings purchases, nor testified to words in praesenti, that they were then married. Slip op. at 1-5, 7-9. The court cited In re Manfredi’s Estate, 399 Pa. 285, 159 A.2d 697 (1960), for the rule that words of present intent to enter a husband-wife relationship, “in praesenti,” are needed to show a common law marriage. Id. at 291, 159 A.2d at 700 (no opposite-sex common law marriage shown), and that our Supreme Court reiterated this 20 years later: specific, particular words are not required, but proof of present intent to enter marriage is. Estate of Gavula, 490 Pa. 535, 540, 417 A.2d 168, 171 (1980) (no common law, opposite-sex marriage). Dugan, Slip op. at 6-7. See also In re Estate of Tito, 2016 PA Super. 245, 150 A.3d 464, 468 (2016) (affirming no opposite-sex common law marriage).

The court reviewed the flagship case of Staudenmayer, supra, involving an opposite-sex couple. Our Supreme Court there again stated the need for evidence of words “in praesenti, uttered with a view and for the purpose of establishing

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the relationship of husband and wife,’” 552 Pa. at 262, 714 A.2d at 1020, or, if such evidence is unavailable, of a broad and general reputation of marriage. Id. at 263-265, 714 A.2d at 1020-1021, quoting and citing Manfredi, supra at 291, 159 A.2d at 700. “The common law marriage contract does not require any specific form of words,” only “proof of an agreement to enter into the legal relationship of marriage at the present time.” Id., citing Gavula, supra at 540, 417 A.2d at 171. Noting the heavy burden and great scrutiny applied in common law marriage claims, the trial court in Dugan noted that the parties never referred to each other as “spouse” or “husband,” but as “forever partners.” Slip op. at 7-8.

The court contrasted In re Estate of Carter, 2017 PA Super. 104, 159 A.3d 970 (2017). The same-sex couple there met in 1996. That Christmas, with marriage equality not law, Michael Hunter presented a diamond ring to Stephen Carter and asked, “Will you marry me?” Carter said yes; on Feb. 18, 1998, he gave Hunter a ring engraved with that date, which they thereafter celebrated as their anniversary. They bought a house together, with both on the mortgage, and had mutual wills and powers of attorney. In 2013, Carter died in an accident. Hunter sought an unopposed declaratory judgment of common law marriage, which the Beaver County court denied. Reversing, the Superior Court noted the proposal and rings exchange, and Hunter’s testimony that the couple referred to themselves as “spouses” after Feb. 18, 1997. Evidence from relatives and friends showed that they held themselves out as married, but wanted a ceremony if Pennsylvania recognized same-sex marriage. Hunter thus proved common law marriage. Dugan, Slip op. at 10-12. (Judge C. Theodore Fritsch, of the Court of Common Pleas of Bucks County, recognized a same-sex common law marriage in Estate of Underwood, 2015 WL 5052382 (2015), where the parties had a commitment ceremony in church in New Jersey in 2001, then moved to Pennsylvania.)

The Chester County court in Dugan noted that Dr. Greco proposed several times after marriage equality became law, but Dugan did not believe a certificate would “fix” their problems. The parties celebrated the day they met as their anniversary, not the date of the completed rings exchange. Cards were to “partner” or “friend,” not “husband,” “spouse” nor reference to marriage. The court recognized a committed relationship of almost 20 years, and was “not insensitive” that before 2005 opposite-sex couples could enter ceremonial or common law marriage. Nonetheless, the latter required clear and convincing evidence and words of present intent or reputation, not of record before here. The court dismissed Dugan’s divorce complaint and granted Dr. Greco’s declaratory judgment complaint. Dugan, Slip op. at 5, 12-14.

Affirming, the Superior Court, relying on Staudenmayer, noted the need for clear and convincing evidence of express agreement and words in praesenti or, lacking such, a broad, general reputation of marriage; this latter method of proof was unavailable where Dugan and Dr. Greco were living and testified. Slip op. at 8, 17-18. The court reviewed Pennsylvania’s 1996 Marriage Laws amendment and the changes brought by Windsor, Whitewood and Obergefell. Id. at 8-9. It distinguished Carter, noting, again, that no specific form of words was required for common law marriage, nor was a different standard applied between same- and opposite-sex couples. Id. at 10-12. Unlike Carter, Dugan lacked evidence of present intent to marry during the 1998 Cancun trip; each bought his own ring, and they celebrated their first date as their anniversary. Family’s and friends’ presumptions about the rings were not proof of present intent.

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**Conclusion.** Unfortunately for Dugan, the courts did not give more consideration to the legal and social environments when he and Dr. Greco made their union, nor act upon the inherent differences between opposite- and same-sex couples and the legal and societal adversity same-sex couples faced before *Whitewood and Obergefell*. Proving common law marriage is burdensome and fact-specific, but same-sex couples arguably face more difficulty to prove words of present intent, or broad, general reputation, before 2005, long before these cases were decided, when being “out” risked emotional, even physical, harm.

Dugan did not seek change to the burden or standard of proof, but judicial flexibility to apply retroactively the changes acknowledging the right to marry, to act upon the inequalities same-sex couples faced before then when creating their partnerships, so that they were often not comfortable using the terms “spouse,” “husband” and “wife.”

*Dugan v. Greco* suggests that parties to same-sex, claimed common law marriages entered before 2005 be prepared with evidence of words in prae senti or, if not, of broad, general reputation of marriage. Although marriage is a very personal decision, counsel to gay clients in committed relationships might recommend that they consider ceremonial marriage for its legal advantages and protections. If, like many opposite-sex couples, they choose not to marry, they should consider other formal arrangements, to ameliorate the inevitable pain if their part of the rainbow has no happily-ever-after.

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Brooke Ginty joined Baer Romain & Ginty LLP as an associate in February 2017 and rose to partner in January 2018. She concentrates her practice on family law, personal injury, civil litigation and landlord-tenant matters. Brooke was recently named Mainline Today Top Lawyer 2019. She represented John Dugan in *Dugan v. Greco*.

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**From the Bathroom to the Doctor’s Office: Criminalizing Medical Care for Transgender Youth**

*By Co-editors Martricia O’Donnell McLaughlin and Mária Zulick Nucci*

The rights of and challenges facing transgender young men and women and their families first came to broad public attention in the numerous “bathroom bills” disputes nationwide, where state legislatures and local school boards passed, proposed or implemented bills or policies regarding these students’ access to gender-appropriate restrooms, locker rooms and other sensitive venues. The doctor’s office is the new field of engagement: Rep. Fred Deutsch of South Dakota recently compared providing puberty blockers or hormones to transgender minors to medical experiments in Nazi concentration camps. In the foreseeable resulting furor, he retracted his comment, noting that he is the son of a camp survivor. [https://thehill.com/homenews/state-watch/480546-south-dakota-state-lawmaker-backtracks-after-comparing-transgender](https://thehill.com/homenews/state-watch/480546-south-dakota-state-lawmaker-backtracks-after-comparing-transgender).


However, the South Dakota effort was simply a more publicized attack on transgender children’s health, and

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propelled the wider state legislative strategy to the national public fore. Current bills, in several state legislatures and with several more promised, follow the many, well-known “bathroom bill” disputes and lawsuits regarding transgender youth’s rights. [link]

Media coverage often notes that these bills are supported by conservative organizations such as the Heritage Foundation, Alliance Defending Freedom, Liberty Counsel and Eagle Forum.

These healthcare bills often focus on medical professionals, prohibiting them from providing one or more treatment methodologies, but, and perhaps more significantly, sometimes also or instead criminalize parental decisions. Some bills bear titles which make them appear pro-children and youth, “kid-friendly,” as it were: Colorado’s HB20-1114, Protect Minors from Mutilation and Sterilization Act; Florida’s HB1365, the Vulnerable Child Protection Act; Georgia’s HB1060, the Vulnerable Child Protection Act; Illinois’ HB3515, the Youth Health Protection Act; Kentucky’s HB321, the Youth Health Protection Act; [links]

one of several bills in that state addressing transgender issues; Missouri’s HB2051, amending the criminal statutes; [links]; South Carolina’s H. 4716, [link]; Tennessee’s HB2576 and SB2215, [link]; and West Virginia’s HB4609, [link]. The most extreme bill is Idaho’s HB465, which would provide for a life sentence for a doctor who treated a transgender minor, as “genital mutilation of a child.” [link]. However, after 50 persons gave public testimony, Rep. Greg Chaney, chair of the Idaho House’s Judiciary, Rules and Administration Committee, announced that there would be no vote on the bill. [link].

Proponents of these legislative efforts argue that medical providers are violating the Hippocratic Oath of “First, do no harm,” by treating transgender children. They further argue that the medical care at issue has not been appropriately tested. That Oath does not, in fact, contain that well-known phrase but, depending on its formulation, does state the doctor’s recognition that he or she is not treating a medical chart but a human being, and must apply for the patient’s benefit [link].
Criminalizing Medical Care for Transgender Youth

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The bills’ opponents argue that transgender children and youth have a right to professionally-approved medical care, and that its denial can cause depression and suicidal behavior, as the Centers for Disease Control and Prevention have found. https://www.cdc.gov/mmwr/volumes/68/wr/mm6803a3.htm; https://www.insider.com/transgender-treatment-felony-under-new-georgia-bill. Opponents also express great fear for children and youth in the care and custody of these states, such as dependent or delinquent children, whose medical care is determined by state agents. Critics also see these legislative efforts as the next battlefront, as social conservatives attempt to erase effectively the existence of transgender people. https://www.motherjones.com/politics/2019/12/the-conservative-war-on-transgender-rights-has-reached-a-new-low/. The ACLU, The Fairness Campaign, the Human Rights Campaign and the National Center for Transgender Equality are in the forefront of opposition to this legislative movement.

California is having its own dispute, regarding treatment for intersex minors, children born with atypical genitalia. Intersex individuals have differences in their reproductive or sexual anatomy. The differences can be chromosomes, gonadal, hormonal or genital features which result in physical development with a combination of “male” or “female” biological features. Some such differences are identified at birth while others may not appear until puberty. SB201, introduced by Sen. Scott Wiener of San Francisco, would have banned treatment of these children under the age of 6, “unless the treatment or intervention is medically necessary.”

Advocates for these youngsters supported the legislative effort. They argued that surgery, which is often performed at birth, could result in incorrect gender assignment, among other problems. Medical organizations opposed the legislation as drafted, citing concerns for the provision of medically necessary treatments. The California Medical Association, California Psychiatric Association and California Urological Association opposed the bill, arguing that such medical decisions for children must be made by parents in consultation with medical advisors. Dr. Hillary Copp, a pediatric urologist at University of California, San Francisco’s Benioff Children’s Hospital, criticized the bill for treating both “routine and complex cases equally. . . .In so doing the bill removes all flexibility from trained medical professionals and loved ones to do what’s in the best interests of patients.” https://www.latimes.com/california/story/2020-01-13/legislation-to-ban-surgery-on-intersex-children-fails-in-california-senate.

On Jan. 13, 2020, SB201 failed in the Senate Business and Professions Committee by a 4-2 nay vote; on Feb. 3, 2020, it was returned to the Secretary of the Senate. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB201. Sen. Wiener plans to renew his efforts in the future. The intersex community, their allies and advocates understand the challenge in making medical care available to young people who are able to make informed choices, free from undue pressure from parents, physicians, other family members and peers, without

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These state legislative efforts, whether they address care for transgender or for intersex children and young people, raise fundamental questions about family integrity, privacy rights and, perhaps most importantly, who gets to choose and to consent to medical treatment: the young person, his or her parent or parents, or the state. The law has historically been varied regarding the rights of parents as distinct from the state regarding decisions on medical care for dependent or unemancipated children. (See Lee Black, Limiting Parents’ Rights in Medical Decision Making, *AMA Journal of Ethics*, October 2006, [https://journalofethics.ama-assn.org/article/limiting-parents-rights-medical-decision-making/2006-10.](https://journalofethics.ama-assn.org/article/limiting-parents-rights-medical-decision-making/2006-10.))

Insofar as the recent legislative efforts would remove parents from appropriate involvement in medical decision-making for their children, or criminalize that involvement, the efforts are ironic, given that they tend to emanate from the proverbial conservative or right side of the aisle, members of which often describe themselves as respecting, preserving, promoting and protecting “traditional family values.” (See, e.g., [https://newrepublic.com/minutes/149326/family-values-conservatism-dead](https://newrepublic.com/minutes/149326/family-values-conservatism-dead.).)

Where legislative efforts to criminalize, ban or restrict treating transgender and intersex youngsters, or to oppose supportive legislation, like California’s SB201, represent a new social, political or ideological strategy, similar to the “bathroom bills” debate, the community, its allies and advocates must follow these efforts carefully, particularly as they appear to be part of a larger, broader plan of anti-LGBTQ+ legislation including youth participation in sports, non-discrimination for adults and youth, adoptions and foster care, and, yes, still bathrooms. (See the NBC News Feature, supra.)

Martricia O’Donnell McLaughlin has practiced law in Northampton and surrounding counties since 1979 in the general practice firm of McLaughlin and Glazer. Currently, Martricia concentrates her legal practice in criminal law and appellate advocacy. She is also a certified mediator concentrating in family and elder issues. mclandg@hushmail.com

Mária Zulick Nucci is a contract attorney with Allerton Bell PC in Wyomissing and is experienced in appellate litigation and aviation law, with an interest in animal law. Her private and public sector experience has covered a range of civil law areas. She graduated from Temple University School of Law. She may be reached at MJNucci58@gmail.com.
Ellen S. Fischer, a partner at Fenningham, Dempster & Coval LLP in Trevose, Pa., was named recipient of the 2020 PBA David M. Rosenblum GLBT Public Policy Award. This award is presented annually to an individual who has made a significant contribution to the advancement of GLBT individuals in the legal profession and/or to GLBT legal issues.

The award’s namesake, David M. Rosenblum, was a very active member of the PBA GLBT Rights Committee* and dedicated his professional career to the advancement of LGBTQ+ rights and was a leader in promoting civil rights and equality before the law for the LGBTQ+ community.

Ellen practices in several areas and is a mediator and collaborative law attorney. Over many years, she has made significant contributions to advancing the GLBT community in the legal profession and in legal issues. Her private practice includes same-sex marriage issues and name change procedures for transgender clients.

Ellen has been an advocate for the LGBTQ+ community, since the start of her career. She handled one of Pennsylvania’s earliest transgender custody cases in 1993, and has remained an active legal ally ever since. In fact, she is one of only six Pennsylvania lawyers invited to join the LGBT Family Law Institute® of the National LGBT Bar Association, a select group of international attorneys dedicated to pursuing the rights of LGBTQ+ individuals and families.

She is an active member of the PBA GLBT Rights Committee.* In the March 2019 issue of Open Court, she authored, with Erica N. Briant, “Transgender Name Change Practices,” discussing experiences representing transgender clients seeking name changes in the five counties in the Philadelphia area. This included discussion of procedures and her experiences representing these clients in counties where judges were understanding of the particular needs and concerns of transgender citizens, especially regarding safety and privacy, as opposed to counties where there might not have been that level of understanding. Ellen has represented LGBT and non-LGBT clients in name change processes for many years.

She is also a very active member of the GLBT Rights Committee’s Transgender Name Change Task Force. The Task Force was formed in 2018, at the request of Sharon López, then president of the PBA, to develop a Report and Recommendation to present to the PBA regarding proposed legislative or rule changes to protect the safety and privacy of transgender persons in name-change petition processes.

Nominator Maria Nucci said, “As chair of “phase 1” of the task force, I can state that Ellen was a faithful, and extremely valuable, member, as she brought not only legal knowledge but also real-life experience in representing transgender clients. Within appropriate parameters for a PBA committee project, she had Ari Jones-Davidis involved, to share his experience and to learn. Ari was a student at Germantown Academy, and Ellen helped him with his own name-change process. That experience gave Ari an interest in law, possibly to become an attorney, so he was able to learn through Ellen and the task force’s work.”

The PBA House of Delegates approved the Task Force’s Report and Recommendation on May 17, 2019, at its Annual Meeting, so that “Phase 2” of the project could begin: development of proposed rule language, again for PBA approval then presentation to and working with the Pennsylvania Supreme Court’s Civil and Orphans’ Court Rules Committees, for new or amended rules for adult and minor petitioners. As chair of Phase 2, Ellen works diligently on the Task Force’s regular conference calls and research, also working with the University of Pennsylvania’s Lambda Law student group, who are assisting with that research.

*In May 2020, the PBA GLBT Rights Committee was renamed the LGBTQ+ Rights Committee.
Hear Ye! Hear Ye!

This feature provides up-to-date, brief bulletins addressing LGBTQ+ issues that might be relevant to readers’ lives or practices. Contributions from committee members and allies are welcome. Send the editors an item or an alert to the item.


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**The Downtown Soup Kitchen v. Municipality of Anchorage**, Case No. 3-18-cv-00190-SLG (D.Alaska, filed August 9, 2019). This is the case in which a homeless shelter, Soup Kitchen (dba Hope Center), denied services to a transgender woman. As set forth by the court, police brought “Jessie Doe” to the center on a Friday evening. She smelled of alcohol, was agitated, aggressive and injured. The center stated it could not take her in, per its policy of not admitting women who were inebriated or under the influence; it recommended that she go to the hospital and paid for a cab. She returned the next day (Saturday) and was denied admission per the policy of not admitting persons on Saturday daytime if they had not stayed there Friday night. She filed a complaint with the Anchorage Equal Rights Commission, alleging discrimination based on sex and gender identity. Part of the center’s defense included assertion of its “Christian” identity with respect to sex and gender.

Following a complex procedural history, federal District Judge Sharon Gleason found that Hope Center established a sufficient likelihood of irreparable harm if the Anchorage Municipal Code’s anti-discrimination terms were applied. “Preventing discrimination against protected classes is clearly an important public interest.” However, after extensive analysis of the specific Code terms and Alaska Supreme Court decisions, Judge Gleason found that those Code terms did not apply to Hope Center as a homeless shelter and granted the center’s request for a preliminary injunction. Significantly, Judge Gleason did not rule that the center’s “Christian” iden-
Hear Ye! Hear Ye!

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tity excused it from compliance with city law, i.e., did not give it a “license to discriminate.” Thereafter, the parties filed a Joint Motion to Approve Consent Decree, under which Anchorage would pay the center $1 damages and $100,000 attorney fees and costs. On Oct. 2, 2019, Judge Gleason issued a judgment in a civil case approving the consent decree.

District Judge Gleason’s Order Re Pending Motions: https://www.govinfo.gov/content/pkg/USCOURTS-akd-3_18-cv-00190/pdf/USCOURTS-akd-3_18-cv-00190-0.pdf.


R. Douglas Elliott et al., The Just Society Report, Grossly Indecent: Confronting the Legacy of State Sponsored Discrimination Against Canada’s LGBTQ2SI Communities. This is a report of The Gale Human Rights Trust, upon mandate from Canada’s Prime Minister and Minister of Justice. It provides a history of anti-LGBTQ laws in Canada, dating to Contact and the First Nations (the arrival of Europeans and their interactions with native peoples) and makes recommendations for remedies.


What’s Your Pronoun? In this C-span video, linguist Dennis Brown discusses the historical use of pronouns, including current issues of pronouns in relation to the needs of transgender and gender-nonconforming individuals: https://www.c-span.org/video/?468403-1/whats-pronoun.

Littler Mendelson, a law firm with offices in the United States and 20 other nations, announced an initiative to address nonbinary persons, including removing gender-based pronouns from HR documents, letting employees choose their identifiers, and including pronoun preferences in email signature blocks.


Rainbeaux Arts and Culture

This section adds a touch of the humanities, because the humanities civilize and inspire! Members are welcome to share information on the arts and culture for the LGBTQ community. Items are provided for information and are not officially endorsed or promoted by the committee or the PBA.

Books

*In The Dream House*, by Carmen Maria Machado (272 pages, Graywolf Press, $26). In this memoir, Machado recounts her experience of domestic violence by her same-sex partner. Each chapter begins with “Dream House as,” as the narrative structure, similar to architectural structure, starting with “Dream House as Inciting Incident” to “Dream House as Choose Your Own Adventure.” Beyond telling her own story, she brings out that the problem is still, unfortunately, seen as wholly or largely confined to man-on-woman violence and abuse in heterosexual relationships, so that LGBTQ victims might not receive, or even seek, assistance. However, she reaches out and provides guidance for all victims of domestic violence and abuse: her dedication of her memoir states, “If you need this book, it is for you.”


Film

“Shirley Jackson,” by Josephine Decker, starring Elizabeth Moss. The Sundance Film Festival has consistently featured important films for LGBTQ artists and audiences. 2020 is no exception. One of them is Decker’s fourth feature film, an unconventional literary bio-pic chronicling Jackson’s fascination with the teaching assistant of Jackson’s husband, Staley Hyman (Michael Stuhlbarg) and his wife. A highly fictionalized narrative of the influences and inspirations of Jackson, the film, which has been compared to *Who’s Afraid of Virginia Woolf*, has been described as a powerful, challenging and unconventional work. [https://www.slashfilm.com/shirley-review/](https://www.slashfilm.com/shirley-review/)

*Miss Americana*, by Lana Wilson (Netflix). A bio-documentary about Taylor Swift’s maturation as a woman, artist and political activist, *Miss Americana* highlights Ms. Swift’s LGBT advocacy as part of a portrayal of the singer. “Being on the right side of history” is one motivation for this LGBT ally who personifies millennial recognition that “love is love.”

Photography

Historical photos of the San Francisco Gay Men’s Chorus, from 1981, were recently found. The Chorus formed in 1978 and performed at a candlelight vigil for Harvey Milk, the recently assassinated San Francisco city supervisor. The article tells the Chorus’ history to the present, in addition to showing the photos. (In April 2018, Terminal 1 at San Francisco International Airport was renamed Harvey Milk Terminal 1, the first airport terminal in the world named for a leader in the LGBTQ community.) [https://www.sfchronicle.com/oursf/article/These-1981-photos-of-the-SF-Gay-Men-s-Chorus-15088170.php?utm_source=newsletter&utm_medium=email&utm_content=briefing&utm_campaign=sfc_baybriefing_am](https://www.sfchronicle.com/oursf/article/These-1981-photos-of-the-SF-Gay-Men-s-Chorus-15088170.php?utm_source=newsletter&utm_medium=email&utm_content=briefing&utm_campaign=sfc_baybriefing_am)
Getting to Know One of Our Members: Brooke Reed Ginty

Just for the record, as they say, what is your full name?
Brooke Reed Ginty

Tell our readers about your background, education and employment as an attorney.
I’m a practicing family law attorney in Chester County and a partner at my firm, Baer Romain & Ginty LLP. I reside in Phoenixville with my husband and two young children and am a member of several committees locally, such as Phoenixville’s Human Relations Commission and Historical Architectural Review Board. I’m also the solicitor for the Chester County Clerk of Courts and general counsel for the Mayor’s Task Force, a small, community-based group of invested individuals leading the way to restoration of train service to Phoenixville.

My undergraduate degree is from Lafayette College, where I created my own major, philosophy of legal rights. I then took three years off prior to entering law school at Western New England in Massachusetts, finishing as a visitor at Villanova Law in my 3L year.

Where do you live and work?
I live and work in Phoenixville, one of the most amazing municipalities in Pennsylvania. My husband and I moved into the Borough of Phoenixville in 2009 and have watched it grow by leaps and bounds since then. What is more important than the success our borough has seen is the unbelievable bond that residents of Phoenixville have for each other. We are an open, loving community, with hundreds of non-profit organizations, and a business community that supports each other unequivocally. In times of crisis, like we are currently seeing, our community is forged together to support those in need.

What made you join the PBA GLBT* Rights Committee? Does it dovetail with other professional or volunteer efforts or ventures?
Since my undergraduate years at Lafayette College, I had a keen focus on human rights issues in the law, including LGBTQ issues. I am a known ally in my community and one of the first members of our Human Relations Commission as the vice chair following the passage of the Borough of Phoenixville’s HRC statute, which promotes health, safety, general welfare and interest by assuring equal human rights in the Borough of Phoenixville. I joined the GLBT* Rights Committee at the urging of a friend and colleague, who knew I could find support for my clients within its membership.

Can you give me an example?
One such example is the ability to provide legal resources and guidance in my role as vice chair of Phoenixville’s Human Relations Commission.

On a lighter note, what’s your favorite vacation spot?
Every year my husband and I take our children and closest friends to Hague, New York, on Lake George. My husband’s grandfather built a tiny, two-bedroom Cape Cod home in a small community on the Lake. There is simply nothing like a lake vacation for the soul, and watching my children grow up on “Pine Cone Beach,” as they call it, is something I am incredibly thankful for.

*In May 2020, the PBA GLBT Rights Committee was renamed the LGBTQ+ Rights Committee.

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Getting to Know Brooke Reed Ginty
Continued from page 13

Do you have a favorite book and why do you love it?
One of my recent favorites is Michelle Obama’s “Becoming.” I was struck by one of the passages about her time at Stanford Law and how she was often the most intelligent person at the table, despite her plight to gain acceptance at the school. It was a symbol of how much harder minorities have to work for a seat at the table, despite their talents.

Do you have a favorite TV show?
I don’t have a favorite in particular, but I am ashamed to admit the one that is currently keeping me up late at night is “Love is Blind.”

What about a favorite movie?
“Girls Just Wanna Have Fun” is a classic for me.

What’s one thing that we don’t know about you?
I used to own a Ducati Monster sport bike before I entered law school. Much like my personality, all 5’1” of me wasn’t going to be a passenger on my husband’s bike – I wanted to ride my own!

Do you have a favorite band or type of music?
There is nothing like some classic James Taylor.

Do you have any pet peeves?
Lack of manners is HUGE for me. I was raised to show respect to others and nothing drives me crazier than someone who doesn’t use their manners and show kindness to others.

Is there anything special you do after a particularly challenging day?
I wish I had something genuinely clever to answer this question, but I’m sure a nice glass of red wine and mindless television isn’t it!

Do you have any interesting objects on your desk?
I have my grandfather’s Masonic badge on my desk, along with my grandmother’s ring. They symbolize what I’m working for, my family, and to be true to where I came from by serving my community. They both passed in the last two years, so the objects are very meaningful to me.

Is there any special photo or artwork on your office wall or in your office?
I have several pieces of artwork from my kiddos in my office, from handprint roses, to feet-stamped Mother’s Day plates. I always feel connected to them, even when I’m not with them.

Do you have any pets?
Yes, we have a one-year old French bulldog, Preston “Meatball” Ginty. One of his ears never stood up, so he’s a goof and fits in perfectly.

If you were not a lawyer, you would be a _____.
Executive at a non-profit somewhere. I can’t imagine a career where I’m not using my talents to support others.

Open Court Co-editors

Martricia O’Donnell McLaughlin has practiced law in Northampton and surrounding counties since 1979 in the general practice firm of McLaughlin and Glazer. Currently, Martricia concentrates her legal practice in criminal law and appellate advocacy. She is also a certified mediator concentrating in family and elder issues.
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Mária Zulick Nucci is a contract attorney with Allerton Bell PC in Wyomissing and is experienced in appellate litigation and aviation law, with an interest in animal law. Her private and public sector experience has covered a range of civil law areas. She graduated from Temple University School of Law.
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# LGBTQ+ Rights Committee

**About the Committee:**
The LGBTQ+ Rights Committee shall study matters pertaining to the recognition and protection of the legal rights of the gay, lesbian, bisexual and transgender (LGBTQ+) community. The committee will monitor and make recommendations on issues and developments in the law impacting LGBTQ+ people in the public and the legal profession.

**Committee Membership:**
The committee is open to LGBTQ+ lawyers and allies. The committee welcomes all members who are interested in promoting equal rights for the LGBTQ+ lawyers and the LGBTQ+ community at large.

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<th><strong>2019-20 Chair:</strong></th>
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