PBA Board of Governors Approves Recommendations

The PBA Federal Practice Committee developed recommendations for the PBA Board of Governors regarding comments in response to the Judicial Conference Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules proposed amendments to their respective rules and forms.

The committee’s recommendations were circulated to all Federal Practice Committee members and to other interested PBA committees and sections for comment prior to submission and consideration by the Board.

On February 12, the PBA Board of Governors convened a special conference call meeting to consider our committee’s recommendations. Judge Fisher, Henry Van Eck and Melinda Ghilardi presented the recommendations and responded to questions from the Board. The Board voted to approve acting in lieu of the House of Delegates due to the submission deadline for comments. The Board also voted to approve the recommendations as submitted by our committee. The Board was very appreciative of the time and work the committee invested in developing the comments. They specifically noted the quality of the recommendations and our outreach to other practitioners and courts. Our recommended comments will be submitted as the official comment of the PBA to the Federal Courts during the public comment period which ends February 17.

Information on the proposed amendments is here: http://1.usa.gov/1ksGwez

Judicial Vacancies

U.S. District Court, Eastern District of Pennsylvania
Wendy Beetlestone, Mark Kearney, Jerry Pappert and Joseph Leeson were confirmed by the U.S. Senate in December, 2014 and all have taken their seats on the Court. There is one remaining vacancy.

U.S. District Court, Western District of Pennsylvania
There are three vacancies.

United States Court of Appeals for the Third Circuit
District Judge Felipe Restrepo has been nominated to a vacancy on the U.S. Court of Appeals for the Third Circuit. His nomination is pending before the Senate.

Hon. Marjorie O. Rendell has announced she will assume Senior Status on July 1, 2015, thereby creating another vacancy.

RESOURCES

Pennsylvania Bar Association www.pabar.org
Become a member of the PBA Federal Practice Committee - Join now
Federal Judicial Center http://www.fjc.gov/federal/courts.nsf
U.S. District Court, Middle District of Pennsylvania http://www.pamd.uscourts.gov/
U.S. District Court, Eastern District of Pennsylvania http://www.paed.uscourts.gov/
U.S. District Court, Western District Pennsylvania http://www.pawd.uscourts.gov/
Summaries of interesting federal-practice precedential opinions issued by the United States Court of Appeals for the Third Circuit between October and December, 2014.

Third Circuit Precedential Opinions

**Flintkote Co. v. Aviva PLC**, 769 F.3d 215 (3d Cir. 2014) (Arbitration) – The district court’s order compelling a non-signatory to an arbitration agreement to arbitrate was reversed because the non-signatory’s voluntary participation in mediation, pursuant to separate agreement, was not a sufficient basis for applying the doctrine of equitable estoppel.

**Schmidt v. Skolas**, 770 F.3d 241 (3d Cir. 2014) (Civil Procedure-Rule 12(b)(6) / Shareholder Suit) – The district court granted defendants’ Rule 12(b)(6) motions and dismissed with prejudice plaintiff’s claims that liquidating trustees had breached their fiduciary duties in selling valuable corporate assets for pennies on the dollar, concluding that plaintiff had filed the complaint after the two-year statute of limitations had run and had not shown he was entitled to the discovery rule. The Court of Appeals reversed in part, holding that the district court erred in considering documents not subject to judicial notice or referred to or relied upon in the complaint, and concluding that it was not evident, looking only at the complaint and the documents properly considered at the motion to dismiss stage, whether the discovery rule saved plaintiff’s claims.

**U.S. v. Franz**, 772 F.3d 134 (3d Cir. 2014) (Criminal Law & Procedure / Fourth Amendment) – The district court’s judgment of conviction was affirmed, the Court of Appeals concluding that under the facts of the case, the district court committed no error in deciding that the exclusionary rule did not apply to evidence obtained pursuant to a warrant that was valid when issued, but invalid when executed because the attachment containing the listing of items to be seized was not given to the defendant at the time of the search. The defendant waived his arguments that the failure to give him a copy of a second warrant until 31 months after it was executed violated Rule 41(f)(1)(C) and his due process rights because he raised them for the first time in his motion for reconsideration and did not establish good cause for failing to raise the arguments earlier.

**Manning v. Merrill Lynch Pierce Fenner & Smith, Inc.,** 772 F.3d 158 (3d Cir. 2014) (Federal Court Jurisdiction) – In this interlocutory appeal, the Court of Appeals reversed the district court’s denial of plaintiffs’ motion to remand to state court a case in which plaintiffs asserted only state-law claims based on defendants’ alleged naked short selling. The plaintiffs’ operative complaint repeatedly mentioned the requirements of (federal) Regulation SHO, the Regulation’s background, and enforcement actions taken against some Defendants regarding Regulation SHO. New Jersey has no Regulation SHO analogue. The Court concluded that the district court did not have jurisdiction over the case because the question of whether the naked short selling at issue violated New Jersey law did not have to be answered by reference to Regulation SHO.

**Comité de Apoyo a Los Tradabajadores Agrícolas v. Perez**, 774 F.3d 173 (3d Cir. 2014) (Administrative Law / Labor) – The district court erred in dismissing, on ripeness grounds, a challenge to the Department of Labor’s rules allowing the use of private wage surveys to set prevailing market wages of certain foreign workers admitted into the United States for temporary employment even though OES wage information – which the DOL publicly
acknowledged was more reliable – was available. The Court of Appeals concluded that, given the DOL had been using the challenged rules for years, the fact that it had indicated an intention to review the rules did not render the case unripe for decision. In the interest of judicial economy and given a developed record, the Court of Appeals decided the case on the merits (rather than remanding) and vacated the challenged rules, concluding that they were arbitrary and capricious, as well as in violation of the APA.

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Summaries of notable district court decisions involving federal practice issued between October 2014 and December 2014.

**Eastern District of PA Opinions**

*Kiker v. SmithKline Beecher Corp.,* 2014 WL 4948624 (10/01/14) (Product Liability)

**Background:** Mother and child, residents of Ohio, sued SmithKline, a Delaware corporation that manufactures Paxil, alleging that the mother’s taking the medication during pregnancy led to severe birth defects of her child. The suit was filed in the Eastern District of Pennsylvania. The mother took the medication as prescribed by her physician while she was pregnant in Ohio. SmithKline moved to transfer venue to the Southern District of Ohio under Section 1404(a).

**Holdings:** The District Court, Joel H. Slomsky, J., granted the motion to transfer. While deference is typically given to a plaintiff’s choice of forum, the claim arose in Ohio, witnesses would generally be located in Ohio, and SmithKline is a “global company” whose employees with knowledge of Paxil are located in various places.
The Court also considered that the Southern District of Ohio was significantly less congested than the Eastern District of Pennsylvania, Ohio had a greater interest in protecting its own citizens, and Ohio judges would be more familiar with any applicable state law.


**Background:** Following complaints and an investigation, former news reporter was suspended for his use of a racial epithet and ordered to go through sensitivity training before returning to work. After he did so and returned, his African-American co-anchor called management about messages and comments she received about on-air chemistry with the reporter. Days later, he was informed he would not be put back on the air and his contract was not renewed. He sued his news station, alleging he was terminated for using a racial epithet in a non-perjorative manner, while African-American employees were not punished for using the same language. The station moved for summary judgment.

**Holdings:** The District Court, R. Barclay Surrick, J., held that Plaintiff established a genuine issue of material fact that he was wrongfully terminated and denied the motion. The evidence showed that his co-anchor acted with discriminatory animus after the meeting, complaining to management and allegedly encouraging co-workers to complain. Concluding that the “cat’s paw” theory was not limited to supervisors, the Court held that the employer could be held liable because there was sufficient evidence that Plaintiff’s co-workers were motivated by discriminatory animus, acted with intent to cause his termination, and ultimately brought about his termination. There was also a triable issue of fact as to whether the employer was negligent in allowing the plaintiff’s co-workers to influence their decision as to the plaintiff’s employment status.


**Background:** Inmates brought a putative class action asserting allegedly unconstitutional conditions of confinement, including a lack of minimally adequate security and health care in the Philadelphia Prison System. Plaintiffs’ counsel served discovery requests on the City, seeking logs of mental health requests with medical charts, patient names, numbers, and dates. The parties negotiated a protective order, but Corizon Health, a provider of medical services to the City prison system, refused to sign the order, asserting that it failed to comply with the Mental Health Procedures Act (MHPA). Corizon therefore filed a request not to produce with the Court.

**Holdings:** The District Court, R. Barclay Surrick, J., held that the requested information was relevant and discoverable under Fed. R. Civ. P. 26, as it was sought to protect plaintiffs’ class and attempt to uncover alleged constitutional violations. Thus, Corizon could only withhold relevant material if it was subject to the federal common law of privilege, the United States Constitution, federal statute, or rules prescribed by the Supreme Court. HIPAA and federal privilege law govern the dispute. Confidentiality provisions in the state MHPA are not part of the federal common-law privilege. Corizon’s request was denied.

Background: Plaintiff, on behalf of a class of Domino’s Pizza delivery drivers, sued his employer alleging violations of the Fair Labor Standards Act (FLSA) and Pennsylvania Minimum Wage Law (PMWL) because the drivers did not receive the minimum wage for non-tipped, in-store work, were under-reimbursed for vehicle expenses, and were not paid for overtime. Defendants did not appear or defend against the claims, and plaintiffs sought default judgment and an award of attorney fees.

Holdings: The District Court, Joel H. Slomsky, J., entered default judgment against defendants. The Court ordered that the plaintiffs be paid an additional $1.25 per hour for their non-tipped, in-store work, pursuant to the PMWL. The total owed for the in-store, non-tipped work was $716,250 (based on an assumed 15 drivers at each of 10 locations). The Court considered the IRS reimbursement rates and found that defendants owed their delivery drivers $1,831,680 for reimbursement. Finally, the Court determined that the PMWL mandated backpay for overtime. Because drivers typically worked at least 50 hours per week, the defendants owed the drivers $1,398,120. Once interest was considered, the total award was $4,529,753.66. The Court also approved a 25% attorneys’ fee award.

National Association for the Advancement of Multijurisdictional Practice v. Castille, --- F.Supp.3d ---, 2014 WL 6988595 (12/11/14) (Constitution)

Background: The Association and two lawyers brought suit against Pennsylvania Supreme Court justices, alleging that Pennsylvania’s reciprocal bar admission rule infringed on the Privileges and Immunities Clause of Article IV, regulated interstate commerce unevenly, and violated the plaintiffs’ First Amendment rights. The individual plaintiffs included a Maryland attorney who was denied admission by motion and a New Jersey attorney whose application was found futile. The justices moved for summary judgment.

Holdings: The District Court, Gerald A. McHugh, J., concluded that both the individual plaintiffs and the Association had standing and ultimately upheld that the reciprocal admission rule. The rule did not violate the Privileges and Immunities Clause because it did not discriminate based upon the duration of an individual’s residency in Pennsylvania, and lawyers from states without reciprocal agreements can still gain admission in Pennsylvania by taking the bar exam or applying for pro hac vice admission. Although the rule might have “incidental effects on interstate commerce,” the state’s interest in enforcing reciprocity agreements was legitimate, and burden imposed in promoting that interest was not excessive. Finally, the rule did not favor one speaker over another, restrict expression, or punish lawyers for associating with nonreciprocal states.


Background: Photographer alleged Houghton Mifflin overused his photographs in its textbooks in excess of contractually agreed-upon amounts. Plaintiff sought discovery of any other overuse claims against the publisher, including those that resulted in settlements, asserting that this information was probative of the publisher’s knowledge of overuse, which would warrant an adoption of a corporate policy against the same. The publisher opposed the discovery request on the grounds that it was burdensome and that settlement documents in unrelated claims were inadmissible under Federal Rule of Evidence 408.
Holdings: The District Court, Michael M. Baylson, J., granted limited discovery of the unrelated settlements, but noted “that the construction of a reasonable fence around the subject matter of settlement of other claims” was necessary. The Court permitted discovery of party names, court, and case number in other overuse claims, and Plaintiff on his own could secure the docket and similar pleadings and then could ask the publisher’s employees reasonable questions about the matters during depositions. The Court denied discovery of the settlement of unfiled claims.

Dunkin’ Donuts Franchising, LLC v. Claudia I, LLC, 2014 WL 7008593 (12/12/14) (Contract / Attorney Fees)

Background: Prevailing party Dunkin’ Donuts Franchising requested $203,803 in attorney fees and expenses. Claudia I objected to the lead attorney’s $495/hour rate as excessive, arguing the subject contract only allowed the prevailing party to receive “reasonable” attorneys’ fees. Claudia I argued that Dunkin’ Donuts should be allowed to recover attorney fees of no more than $177/hour, the rate the attorney for another prevailing party – a third-party defendant - charged.

Holdings: The District Court, Gerald A. McHugh, J., held that Dunkin’ Donuts was entitled to hire its choice of counsel, and it hired an international firm and an attorney with significant experience in trademark and franchise law. The lead attorney’s rate of $495 per hour was reasonable “for representation of that caliber,” and the attorneys provided more than 100 pages of invoices. The Court therefore approved the $203,803 attorneys’ fees. The Court denied third-party defendant Spring Hill Realty’s request for $63,257 in attorneys’ fees, concluding that no agreement existed to permit Spring Hill to shift its legal fees to either of the other parties.


Background: Sweet Street Desserts sought a declaration that its apple turnover’s six-fold, round configuration did not infringe on Chudleigh’s registered product configuration trademark for “Apple Blossom Pie,” cancellation of Chudleigh’s trademark registration, and damages for Chudleigh’s alleged tortious interference. Both parties filed motions for summary judgment.

Holdings: The District Court, Michael M. Baylson, J., concluded that the “case bakes down” to whether or not Chudleigh’s round, six-fold configuration was functional, which would render the design unprotectable as trademark or trade dress and that although a question of fact, summary judgment could be granted on the question of functionality. The Court found no genuine dispute of material fact that Chudleigh’s blossom design was truly functional, and granted summary judgment for Sweet Street on its non-infringement claim.

Middle District of PA Opinions

Hartley-Culp v. Green Tree Servicing, LLC, --- F.Supp.3d ---, 2014 WL 5088230 (10/10/14) (Statutes-TCPA)

Background: Consumer brought action against the Federal National Mortgage Association (Fannie Mae), alleging violations of the Telephone Consumer Protection Act (TCPA) in connection with automated calls made to the consumer’s cellular telephone. Fannie Mae moved to dismiss.

Holdings: The District Court, James M. Munley, J., denied the motion, holding that the TCPA can impose direct or vicarious liability in connection
with calls made by a third party, and that the consumer’s allegations were not “conclusory”; documents attached to complaint supported those allegations. Thus, the consumer stated vicarious liability claim under the TCPA.


**Background:** Student brought § 1983 action against a state university, a private healthcare services provider that operated a joint program with the university, the director of the joint program, and the chairperson of the university’s nursing department, claiming that her termination from the joint nurse anesthesia program for refusing to submit to a drug test deprived her of her equal protection and due process rights. The student, the provider, the chairperson, and director moved for summary judgment.

**Holdings:** The District Court, A. Richard Caputo, J., granted the motions in part and denied them in part. The student’s motion was granted in part, the court holding that the defendants deprived her of a property interest while acting under color of state law when they dismissed her from the program without due process. Defendants’ motions were granted on the “class of one” equal protection claim because the student failed to present any evidence that she was treated differently from an individual that was “alike in all relevant aspects.” Their motions were also granted on the due process liberty interest claim because defendants did not make public any false statements in relation to the student’s dismissal from the program.

**Weil v. White**, --- F.Supp.3d ---, 2014 WL 5443622 (10/24/14) (First Amendment)

**Background:** Student in physician’s assistant program brought action against state university, university officials, faculty members, and a manager of a private medical practice alleging First Amendment retaliation. Defendants moved for summary judgment.

**Holdings:** The District Court, Matthew W. Brann, J., granted the motion, holding that the manager of private medical practice was not acting under color of state law when he supported decision to dismiss student from practice’s clinical rotation, and concluding that although the student’s complaints about alleged ethical violations at medical clinic was protected speech under the First Amendment, he failed to show causal connection between his protected speech and any adverse action by defendants. Plaintiff provided only unsupported conclusory allegations and failed to present specific facts to support his claims.


**Background:** African-American student and his parents brought action against school district, alleging that district violated Title VI and their substantive due process rights with regard to alleged harassment of student by his peers and teacher. District moved for summary judgment.

**Holdings:** The District Court, A. Richard Caputo, J., granted the motion, holding that (1) the district and student did not have “special relationship” giving rise to duty to protect; (2) the district did not deprive student of his due process rights under “state-created danger” theory; (3) alleged harassment by teacher did not violate student’s due process rights; and (4) alleged harassment could not support Title VI claims. The court found
that plaintiffs had not provided any response to the district’s challenges to one of their claims, thus had abandoned that claim.


**Background:** Employee suffering from learning disability and adult separation anxiety disorder brought action against his former employer, alleging disability discrimination and retaliation in violation of the Americans with Disabilities Act (ADA). Employer moved for summary judgment.

**Holdings:** The District Court, Christopher C. Conner, C.J., granted the motion, holding that: (1) employee did not show that employer’s proffered legitimate, nondiscriminatory reason for his discharge was pretext for discrimination or retaliation; (2) temporal proximity between employee’s protected activity and his discharge did not create inference of discrimination sufficient to show pretext in light of intervening event; and (3) alleged harassment suffered by employee did not create inference of discrimination sufficient to establish pretext.

**Morse v. Allied Interstate, __ F.Supp.3d __, 2014 WL 7004036 (12/10/14) (Statutes-TCPA)**

**Background:** Consumer who owed a debt filed a complaint against a collection agency alleging violations of the Telephone Consumer Protection Act (TCPA) and the Fair Debt Collections Practices Act. Both parties filed motions for partial summary judgment on consumer’s TCPA claim. and at issue is whether Defendant’s dialing technology is an automatic telephone dialing system” under the TCPA and that the 356 phone calls placed to consumer’s cellular phone were in violation of the TCPA. The court rejected defendant’s argument that an FCC order should be disregarded as contrary to statute, following other decisions holding that district courts have no jurisdiction to review FCC orders. Consumer was thus entitled to $500 in damages per phone call. A determination on treble damages was left for a jury.

**Western District of PA Opinions**

**Boatner v. Union Twp. Police Dep’t, 2014 WL 5089741 (10/9/14) (Civil Rights-§ 1983)**

**Background:** Pro se plaintiff sought permission to proceed in forma pauperis (IFP) with his § 1983 claims against the Union Township Police Department and “Union Township Police Officers,” which, liberally construed, were false arrest, “official oppression,” and excessive force.

**Holdings:** The District Court, Terrence F. McVerry, J., granted IFP status, but dismissed without prejudice the complaint for failure to state a claim. Plaintiff’s Complaint failed because (1) the “Union Township Police Department” is an arm of a municipality and therefore not a proper defendant; (2) none of the police officers are individually named, and a complaint may not be maintained solely against John Doe defendants. Having given Plaintiff an opportunity to file a new complaint, the Court advised that the theory of “official oppression” is a state law claim and not a basis for a federal claim.


**Background:** Plaintiffs’ 19-count complaint alleged that defendants falsified the cost of constructing juvenile detention facilities to obtain millions of dollars in additional loans and pocketed the difference and that one defendant
bribed Luzerne County, Pennsylvania, Court of Common Pleas officials for favorable rulings when defendants had an interest at stake. The Court sua sponte notified the parties that it was considering transferring the action to the Middle District of Pennsylvania so that the case could be consolidated with a set of similar cases pending in that district.

**Holdings:** The District Court, Joy Flowers Conti, C.J., ordered that the case be transferred to the Middle District of Pennsylvania, concluding that (1) the language of 28 U.S.C. § 1404(a) is broad enough to allow a district court to transfer a case on its own initiative, and (2) although the private factors were neutral, practical considerations strongly weighed in favor of transferring the case.


**Background:** Defendant filed a Motion to Strike plaintiff’s Second Amended Complaint under Federal Rules of Civil Procedure 8(d) (1), 10(b), 12 (f), and Local Rule 8.

**Holdings:** The District Court, Nora Barry Fischer, J., granted the motion to strike in part because claims were not stated in adequately separated numbered paragraphs (Rule 10(b)) and also ordered that the plaintiff’s specific demand for monetary relief be stricken (Local Rule 8). The purpose of Rule 10(b) is to “create clarity in pleading and provide the defendants with a point of reference for responding.” The plaintiff’s Second Amended Complaint was broken into only a handful of numbered sections, most of which contained several paragraphs of text describing a wide range of allegations. The Court noted that the plaintiff was represented by counsel and, as such, was not entitled to any degree of laxity in observing the Federal Rules of Civil Procedure.


**Background:** In forma pauperis plaintiff filed a Motion to Forego Service of the Complaint to Numerous Defendants (“Motion”), seeking to serve one copy of the complaint on 22 defendants who were all located at the same business address and were represented by the same counsel. The Court previously denied that motion, and plaintiff sought reconsideration.

**Holdings:** The District Court, Maureen P. Kelly, C.M.J., denied the motion, holding that Federal Rule of Civil Procedure 5(c) only applies to defendants’ pleadings and therefore does not remove the requirement that plaintiffs must provide sufficient copies of the complaint to serve each individually named defendant.

**McDonald’s Corp. v. East Liberty Station Assocs.,** 2014 WL 6982473 (WDPA 12/10/14) (Contract-Lease)

**Background:** Defendant moved to either dismiss plaintiff’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(7) due to plaintiff’s alleged failure to join the franchisee to the lease dispute or, alternatively, for a more definite statement regarding the franchisee’s identity and domicile pursuant to Rule 12(e).

**Holdings:** The District Court, Cathy Bissoon, J., denied the motions because: (1) defendant could not show that the franchisee had a recognizable interest in the lawsuit because the franchisee was not a signatory or third party beneficiary to the lease at issue; (2) the mere fact that the franchisee may eventually have a claim against the successful party in this lease dispute is insufficient to require joinder under Rule 12(b)(7); and (3) defendant’s purported use of Rule 12(e) as a discovery mechanism was improper because
defendant had not alleged that the complaint was so vague or ambiguous as to impair its ability to respond.

*Gabriel v. Giant Eagle, Inc.*, 2014 WL 7071034 (12/12/14) (Class Action – Removal)

**Background:** Following defendant’s removal of a class action, plaintiff filed a motion to remand arguing that removal was untimely because it occurred more than thirty days after defendant received both the praecipe for writ to join it as an additional defendant and the certificate of merit motion.

**Holdings:** The District Court, Joy Flowers Conti, C.J., adopted the magistrate judge’s Report and Recommendation and held that removal was timely. The Court determined that defendant’s receipt of service of the praecipe for writ to join an additional defendant and the certificate of merit motion was immaterial because the removal period was not triggered until defendant received the third amended complaint actually naming it as a defendant and asserting claims against it.

*United States ex. rel. Salvatore v. Fleming*, 2014 WL 7069509 (12/12/14) (Statutes – FCA)

**Background:** Plaintiff moved for entry of default judgment where defendant failed to respond to properly served complaint. Defendant moved to set aside default pursuant to Rule 55(c).

**Holdings:** The District Court, Cynthia R. Eddy, M.J., held that default would be set aside. The Court found that plaintiff did not claim it would be prejudiced, that defendant’s defense had merit on its face, and that defendant’s actions “cannot be considered dilatory behavior that is willful or in bad faith.”

*Black v. Youngue*, 2014 WL 7335030 (12/19/14) (Civil Rights)

**Background:** After the close of discovery, defense counsel served a document subpoena upon a third party without providing notice to opposing counsel. Plaintiffs moved for sanctions.

**Holdings:** The District Court, Cynthia R. Eddy, M.J., held that Rule 45 requires that notice must be provided to opposing counsel before serving a subpoena so that opposing counsel has an opportunity to object to the discovery sought. Plaintiffs’ motion for sanctions was granted and defense counsel was ordered to destroy the documents obtained via the subpoena and was precluded from using those documents in either this case or a related case.

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**Do you have ideas for a CLE program in your area?**

Let the Chair know if you would like us to host a local CLE program in your area, either independently or jointly with your local bar. We are prepared to present our “Tips and Traps” program and are exploring other program topics. The committee is interested in providing educational programs wherever interest exists.
Thank you
A sincere thank you to the following Federal Practice Committee members for their work and contributions to this edition of the PBA Federal Practice Committee Newsletter:

Hon. D. Michael Fisher, U.S. Court of Appeals Third Circuit, Pittsburgh
Nancy Conrad, White and Williams LLP, Center Valley
Melinda Ghilardi, Federal Public Defenders Office, Scranton
Philip Gelso, Law Offices of Philip Gelso, Kingston
Susan Schwuchau, Duane Morris, LLP, Pittsburgh
Jeremy A. Mercer, Fulbright & Jaworski LLP
Michael Gaetani, Fulbright & Jaworski LLP
Shannon DeHont, Fulbright & Jaworski LLP
Joshua Snyder, Fulbright & Jaworski LLP


The Federal Judiciary lost another legend on December 28, with the death of Judge Ruggero J. Aldisert.

Judge Aldisert was born in Carnegie, Pennsylvania on the same month and day as the founding date of the Marine Corps in 1775. During his second year at Pitt’s law school, he joined the Marines, rising to the rank of major. He completed his legal education after the war, and practiced for 14 years before winning a seat on the Allegheny Country Court of Common Pleas in 1961. Lyndon Johnson appointed Judge Aldisert to the Third Circuit in 1968, where he remained until his retirement in August 2014.

Known for having strong opinions, particularly where protection of privacy and government intrusion into people’s private lives were concerned, Judge Aldisert gained universal respect not only as a pragmatic jurist, but also as a scholar, teacher, and writer. Countless judges, lawyers, and law students across the country have found guidance and inspiration in his numerous books and articles; countless future judges, lawyers and law students will no doubt do the same.

Federal Practice Committee Leadership
PBA President Frank O’Connor has appointed the following people to lead the Federal Practice Committee:

Chair: Hon. D. Michael Fisher
U.S. Court of Appeals
Third Circuit, Pittsburgh

Co-Vice Chair: Nancy Conrad
White and Williams LLP,
Center Valley

Co-Vice Chair: Melinda Ghilardi
Federal Public Defenders Office,
Scranton