What is Houston’s Legacy?

Charles Hamilton Houston was a vice dean of Howard Law School and civil rights lawyer. Among those he mentored was Supreme Court Justice Thurgood Marshall. Although he did not live to see the decision, he engineered the legal strategy that ultimately resulted in the unanimous 1954 Supreme Court decision, Brown vs. Board of Education, which overturned “separate but equal” Jim Crow segregation. The PBA Minority Bar Committee seeks to honor him by naming its newsletter “Houston’s Legacy” and to continue his unfinished work.

For more information about Charles Hamilton Houston, see the article authored by Andy Saylor in the inaugural Spring 2015 issue of the PBA Minority Bar Committee newsletter, “Houston’s Legacy.”

ONWARDS AND UPWARDS

MBC member Judge Stella Tsai is breaking barriers

A continuing series of articles and interviews on the topic of leadership and talent management

By Su Ming Yeh, Esq.

The Honorable Stella Tsai is breaking barriers as only the fourth Asian American state or federal court judge in the history of Pennsylvania. She is only one of two current sitting Asian American judges in the Pennsylvania state courts. On June 13, 2016, Gov. Tom Wolf appointed Judge Tsai to a seat on the Court of Common Pleas in Philadelphia, where she currently sits in criminal court, presiding over felony waiver cases and trials.

Judge Tsai arrived to the bench after a notable career of nearly 30 years in both the public and private sectors. After graduating from Penn State and the University of Pennsylvania Law School, she started off in the private sector before transitioning to the City of Philadelphia Law Department, where she became the chair of administrative law. Judge Tsai later became a partner at Archer & Greiner.

With a longstanding dedication to pro bono work, community involvement and civic engagement, Judge Tsai served as a member of the independent city of Philadelphia board of ethics and was appointed by Mayor Michael Nutter to the city’s zoning code commission. She has served on the boards of multiple community-based organizations.

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The Supreme Court of Pennsylvania’s comprehensive plan to improve language access

By Pearl Kim, Esq.

Pennsylvania is the 10th most linguistically diverse state in the country. Approximately 10 percent of the commonwealth’s residents speak another language at home. Spanish is the language for which interpreters are most frequently requested in our courts, with American Sign Language at number two, followed by Mandarin Chinese, Russian, Vietnamese and Arabic.

The Supreme Court of Pennsylvania has adopted a comprehensive plan to improve access to justice for those with limited English proficiency and those who are deaf or hard of hearing. It reflects the courts’ commitment to providing quality language access services. The statewide plan for the court system was developed by a Language Access Advisory Group created by the Supreme Court. The advisory group included judges, court administrators, court interpreters, legal services providers and elected government leaders. It was an honor to serve as a member of the group, and I am pleased to see the culmination of longstanding efforts on the part of the judiciary to serve limited English proficient and deaf court users.

The Unified Judicial System of Pennsylvania Language Access Plan is located on the court’s website.

Pearl Kim is the senior deputy attorney general in the Pennsylvania Office of Attorney General’s Office of Public Engagement. She is the designated spokesperson for Language Access Advisory Group created by the Supreme Court. She formerly worked as a special victims prosecutor with the Delaware County District Attorney’s Office as chief of the Human Trafficking Unit. She was appointed to the Governor’s Advisory Commission on Asian American Affairs and serves on the board of directors of the Asian Pacific American Bar Association of Pennsylvania.
organizations such as Philadelphia Legal Assistance, the Women’s Law Project and Philadelphia VIP, as well as several bar associations, including serving twice as the president of the Asian American Bar Association of Pennsylvania. She currently sits on the board of directors for the Community College of Philadelphia.

Despite her varied professional background, Judge Tsai had to quickly learn the ins and outs of criminal court. She described it as “trial by fire.” After being sworn in at the end of August 2016 and attending an intensive judge training, Judge Tsai has been assigned roughly 300-350 cases, which have resulted in 150 dispositions and 50 bench trials. She had to preside over a trial within her first few days. The cases assigned to her range from DUls, forgery, gun possession, possession with intent to deliver, to aggravated assault. Running a courtroom has now become more routine, and she has adopted and developed protocols to ensure an efficient and fair courtroom.

When asked about her greatest challenge, Judge Tsai expressed that sentencing individuals is never an easy task. About deciding criminal cases, she said, “These are people’s lives, so I make sure I’m careful.” Despite the large numbers of cases and trials she presides over and decides, she aims to make sure that people in her courtroom are treated fairly and that they feel that justice is being served.

In fact, Judge Tsai aims to make the judicial experience a fair or positive one for all. A fan of the musical, “Hamilton,” she composed a rap to welcome the jurors when assigned to greet them at the start of the day.

Judge Tsai’s biggest surprise on the bench? “The respect that is offered to this office,” she responded, adding, “One I don’t take that lightly.” Judge Tsai explained that, growing up, she learned that when Taiwan was under martial law, her Uncle Ted had been incarcerated for 15 years for political resistance without meaningful judicial review of the charges against him. He finally was able to immigrate to the United States, and she saw that he truly valued his life as a free man here. Thus, in many ways, becoming a judge is like coming full circle.

When Judge Tsai was deciding whether to pursue being a judge, she was fully aware of the need and opportunity for diversity on the bench. She felt that it was time to step up. “As a child of immigrants and born in Pennsylvania, I never take democracy for granted,” Judge Tsai stated. She is honored for the opportunity to serve in the judiciary that provides a critical role in the checks and balances of our government.

Su Ming Yeh is the managing attorney at the Pennsylvania Institutional Law Project. She also co-teaches the Civil Practice Clinic at the University of Pennsylvania Law School.

FIRST, BUT NOT THE LAST*

P. David López, a crusader for equality

By Sharon R. López, Esq.

I saw him across the room looking comfortable and friendly with the lawyers standing beside him. You would never know he was a twice-nominated and confirmed presidential nominee to the Equal Employment Opportunity Commission (EEOC). As I saw him laugh and smile at a comment made in the conversation he was having, I reflected on the conversation I had with him just a few months earlier.

Last fall, the PBA Labor & Employment Law Section scheduled its first retreat and secured P. David López as the keynote speaker. The LinkedIn announcement featured a photo of an affable, handsome man in his mid-forties. We share the same last name, but I knew he was no blood relative. Nevertheless, it felt as if I were looking at a photo of a relative, a brother in spirit, if nothing else. As a member of the Labor and Employment Law Section, I knew I would attend the retreat, if for no other reason than to meet and hear this man talk about my favorite law practice topic—anti-discrimination laws. It struck me that David López intersected with many of my bar association interests: employment law, civil litigation, Minority Attorney Committee and leadership development. Interviewing him would be rich and worthwhile.

My only problem was making a connection to ask him to speak with me; after all, he did not know me from Eve. Why would he grant me an interview? I decided to send him an inbox message and see what would happen. To my delight and surprise, David responded to my request for an interview within a few minutes. After a few emails between secretaries, he and I were on the phone. He was as much a treat to talk to on the phone as he was in person!

David said he wanted the EEOC to push the bounds of the law. He has been known to describe his leadership of the EEOC as developing an entrepreneurial approach to litigation, seeking out the facts through independent investigation rather than waiting for individuals to file charges. Counsel López’ strategy
seemed to work, because the agency had over a 90 percent litigation success rate. Indeed, many of the key Supreme Court cases relating to employment law arose from the EEOC for the last several terms. Some examples of these successful cases include: EEOC v. Abercrombie & Fitch, (finding a violation of Title VII of the Civil Rights Act, where religion is a motivating factor in an employer’s adverse employment action) and Mach Mining, LLC v. EEOC, (finding a court may engage in a limited review of the EEOC’s conciliation efforts). There is no doubt that this brilliant lawyer is also a visionary leader among lawyers. This leadership started with humble government lawyer roots.

David graduated from Harvard Law School in 1988 and shortly thereafter left for Washington D.C. to start his government attorney work at the Department of Justice. After a brief stint in private practice, he relocated to Phoenix, where he served as the supervisory trial attorney for the EEOC. He worked in the Phoenix office until he was nominated by President Barack Obama to serve as the EEOC’s first Latino general counsel. His first confirmation in 2010 went very quickly, but his litigation strategy and hands-on leadership style brought greater challenges to his 2014 confirmation process. Sen. Lamar Alexander voted against López’ confirmation, ironically based on his zealous enforcement of the Americans with Disabilities (ADA). This enforcement may have had contrary results that impacted the Affordable Care Act (ACA). Employees were required to disclose medical conditions as part of the ACA wellness programs, but these programs ran afoul of the ADA. López was also criticized for using EEOC-initiated charges (where there is no identified party charging discrimination) to investigate matters. Sen. Scott questioned López about his aggressive tactics, with 70,000 outstanding charges and limited resources. Despite these criticisms, López was confirmed and served a second term as general counsel of the EEOC. A leader who makes changes and pushes the envelope will make waves.

The waves López started will have long-lasting impact. López’ leadership at the EEOC resulted in everyday workers’ lives being forever changed. The National Law Journal recognized his leadership by naming López one of America’s 50 Outstanding General Counsel in 2014. As a Latina, I agree with the Diversity and the Bar magazine that David is a “Latino luminary” for his work as a civil rights attorney and as general counsel.

After interviewing David for an hour and a half, I felt our connection allowed me to approach him in any legal context. Although not related to David López by blood, I feel he is a brother in the movement and in law.

P. David López

Continued from page 2

A unique perspective on executive orders

By Gerry Kina, Esq., an internee of Relocation Camp Heart Mountain

On March 6, 2017, Donald Trump issued an executive order titled, “Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States.”

This order, ubiquitously labeled as the “travel ban” by media pundits and other outlets, bans refugees and travelers from specific countries. It exacts group punishment based on persons from countries of origin as specified in the order. The order blocks citizens of six predominantly Muslim countries from entering the U.S.

At the time of publication, the executive order remains on hold and will very likely be appealed to the U.S. Supreme Court because of a Hawaii federal court’s preliminary injunction regarding the entire executive order. A federal court decision in Maryland placed a halt to portions of the order. On March 24, U.S. District Judge Anthony Trenga in Virginia ruled differently than federal judges in Hawaii and Maryland, when he rejected a Council on American-Islamic Relations’ complaint that a revised version of the travel ban is discriminatory of persons of Muslim religion.

Following the attack on Pearl Harbor in 1941, President F. D. Roosevelt issued Executive Order 9066, which authorized the U.S. military to declare certain West Coast areas as military zones during a time of war with Japan, and to issue an exclusion order that directed about 120,000 Americans of Japanese descent to be excluded from such zones that included their homes. A federal district court decision in Korematsu v. U.S. affirmed a conviction of Korematsu for refusal to obey the military
A unique perspective on executive orders
Continued from page 3

exclusion order. The conviction was appealed and was subsequently affirmed by the U.S. Supreme Court in 1944.

In 1983, for the purpose of rectifying a wrong legal decision in Korematsu v. U.S., attorneys acting on behalf of Korematsu filed a legal proceeding called a *writ of coram nobis* that sought to set aside the original federal district court decision that affirmed a conviction of Korematsu for disobeying the exclusion order. The conviction of Korematsu occurred despite exonerating evidence that included military intelligence reports finding no credible evidence of a security threat by Japanese Americans.

The U.S. Justice prosecutors withheld the exonerating evidence from the court. The *writ of coram nobis* was legally required to prove the district court would likely have reached a different legal decision had the court been made aware of contradicting evidence that was known to the prosecution and withheld from the court. The writ was granted, serving to set aside the conviction of Korematsu. In effect, the successful *writ of coram nobis* invalidated Korematsu's conviction but did not amount to an apology or an admission of mistake.

An apology accompanied by monetary reparations took an Act of Congress, namely the Civil Liberties Act of Aug. 10, 1988, signed into law by President Reagan, whose second presidential term expired in January 1989. President George H. W. Bush signed a letter of apology and distributed monetary reparations to beneficiaries of the Act of 1988, but only after a delay lasting until six weeks before the next presidential election in November 1992, in which he was unsuccessful in his re-election. The delay was of no comfort to those elderly beneficiaries of the Act of 1988, who died during the four-year delay.

In the Korematsu appeal, the court was being asked to declare as unconstitutional a military order, at least in part, consistent with the U.S. Code: Title 18 - Crimes And Criminal Procedure, an Act of Congress, March 21, 1942, 56 Stat. 173, 18 U.S.C.A. 97a. The court's opinion expressed care to define the appeal to that of an appeal of the conviction of Korematsu, a U. S. citizen, for violation of a military order excluding Korematsu of Japanese ancestry, from a declared military zone that included his home. As a result, the court demonstrated its reluctance to encumber a military decision based on a military necessity. In addition, it would have been too much to ask the court further to exercise judicial review of the president's Executive Order 9066. It has been written that ACLU lawyers made clear to Korematsu his appeal to the U.S. Supreme Court would exclude a constitutional challenge of the executive authority of the Office of the President to restrict personal freedoms during a wartime emergency. Such a judicial review would have served to invite even further encumbrances upon the war effort itself.

An extreme example of national distraction occurred when presidential executive orders were challenged and were subject to judicial review by the federal courts during the Watergate investigation, when President Richard M. Nixon defied the courts and relied upon “presidential privilege” for protecting his executive actions from revelation to an office of an appointed special prosecutor, Archibald Cox, and to seek exemption of presidential orders from legal review by the U.S. courts. A resulting showdown between a U.S. president and the courts agonized the entire country. One could see anxiety etched into faces of everyday people walking down the street. The showdown perhaps some day will be documented in history as the greatest U.S. constitutional crisis of the 20th century.

In the end, Nixon was advised by a prominent U.S. senator to resign the office of president and thereby avoid impeachment. Nixon's White House confidants who were indicted and convicted of Watergate related crimes included: Charles Colson, John Ehrlichman, H.R. Haldeman and former U.S. Attorney General George Mitchell. President Nixon was named as an unindicted co-conspirator, the only sitting president to have been so named.

Although a challenge to Roosevelt's Executive Order 9066 would not have involved investigation of criminal activity as did the Watergate investigation, the Watergate investigation teaches how distracted the country might have been if Roosevelt's Executive Order 9066 were to have been challenged in the courts during a time of war.

It is important to know the language of Roosevelt's Executive Order 9066 remains unchallenged to this day. Moreover, following the terrorist attacks of 9/11, the language of Executive Order 9066 was repeated and used in new executive orders authorizing an entirely military process of evacuation and internment of non-American combatants in Guantanamo Bay, an entirely military jurisdiction in which prisoners were subject to military courts. A question remains whether the language of Executive Order 9066 might be repeated and used again to register Muslims and ban Muslim immigration.

Gerald K. Kita was an internee of Relocation Camp Heart Mountain with his American citizen parents. They were relocated before the end of WW II to a semi-rural community in Illinois where they were welcomed. The commander of the camp wrote a recommendation letter stating they were as loyal Americans as anyone. Mr. Kita attended the University of Illinois Law School in Champaign-Urbana Illinois and graduated with a law degree from The Washington College of Law, The American University of Washington, D.C. He is a retired patent attorney and remains active in assisting persons seeking immigration and citizenship naturalization.
By LaToya Winfield Bellamy, Esq.

The hashtags #BlackLivesMatter and #SayHerName continue to be shared, worn, chanted and debated. Below are the latest reported incidents, as well as some updates.

Korryn Shandawn Gaines – Aug. 1, 2016
An attempt by the Baltimore County Police Department to serve arrest warrants left Korryn Shandawn Gaines, a 23-year-old black woman, dead and her son Kodi, 5, injured. Gaines allegedly pointed a loaded shot gun at officers and refused to put it down. Gaines posted live videos to social media during the incident. The county state’s attorney ruled the officer’s shooting justified.

Paul O’Neal – July 28, 2016
Paul O’Neal, an unarmed 18-year-old black male, was shot in the back and killed by a police officer during a foot pursuit. While driving a stolen vehicle, O’Neal crashed into two police vehicles. Nine body and dash cameras recorded the incident. The officer, who shot O’Neal, had not activated his body camera. During the vehicle pursuit, the officers violated the Chicago Police Department’s (CPD) Use of Force Policy, which prohibits officers from shooting into a car when the vehicle is not in his vehicle. The officer who shot Crutcher told dispatchers, “I’ve shot a subject who won’t show me his hands.” Further, he allegedly ignored her commands and questions and reached toward his pockets. She said he behaved “as if he was on drugs.” Dash cameras and helicopter video showed Crutcher walking toward his vehicle with his hands raised. A second officer was observed using his taser. Officers obstructed the camera’s direct view of Crutcher moments before he fell to the ground. The district attorney and police department conducted separate investigations. A week later, the shooter/officer was charged with first-degree manslaughter and placed on administrative leave without pay. Trial is set for May 8, 2017.

Keith Lamont Scott – Sept. 20, 2016
Keith Lamont Scott, a 43-year-old black man, was fatally shot by a Charlotte police officer in the parking lot of an apartment complex. Police maintain that a gun containing Scott's DNA was found at the scene. However, the Scott's family attorney argued that there was no evidence that the gun was in Scott's hand. After an investigation, the officer involved was not charged.

U.S. Attorney General Lynch commented that deaths are a reminder of “the real divisions that still persist in this nation between law enforcement and communities of color.”

Alfred Olwera Olango – Sept. 27, 2016
El Cajon police shot and killed Alfred Olwera Olango, a 38-year-old black man, after he allegedly pointed an e-cigarette device at officers while standing in a “shooting stance.” Olango’s family said that he was dealing with a grief-related mental crisis. The incident was captured on cell phone video. Upon further investigation, it was determined that the shooter/officer acted reasonably and would not be charged with a crime.

Updates
Following is the latest about previously reported cases.

Eric Garner - July 2014
Both federal and state investigations are ongoing.

Michael Brown - Aug. 2014
A civil lawsuit is pending against the former police officer, City of Ferguson, former Ferguson police chief and St. Louis County Police Department.

Akai Gurley - Nov. 2014
The officer who killed Gurley agreed to withdraw his manslaughter conviction appeal while prosecutors withdrew their appeal to amend the criminally negligent homicide conviction at sentencing. Prior to these withdrawals, the city settled with Gurley’s family for approximately $4 million.

Tamir Rice - Nov. 2014
The city settled with Rice’s family for $6 million.

Walter Scott - April 2015
The officer’s state trial ended in a mistrial. A new trial is scheduled for August 2017. His federal trial is scheduled for May 2017.

Freddie Gray - April 2015
Following the acquittal of three officers, the Baltimore City state’s attorney announced that all charges against the remaining officers were being dropped. The year prior, the city settled with Gray’s family for $6.4 million.

Sandra Bland - July 2015
While a trial date was scheduled, a settlement, which included a monetary payment $1.9 million and historic changes to the county jail practices, procedures, staffing, and training, was reached prior to the trial.

Delrawn Small - July 2016
Last fall, the off-duty officer responsible for Small’s death was indicted for second-degree murder.

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MINORITY BAR ACTIVITIES

Come one, come all!

By Marisa H. Lattimore, Esq.

Here I go again — talking about the wonderful work our subcommittees are doing.

Ninth Diversity Summit

On Oct. 20, 2016 our Minority Bar Committee held its 9th Diversity Summit at the Harrisburg Hilton. The co-chairs of this program were Andrea Farney and Tyrone Powell. As predicted, the event was not only educational and informative, but also fun and exciting. The distinguished Honorable Timothy Lewis gave an inspiring keynote address. The outstanding panels were: 1) a judicial panel that included discussion on how to become a judge; 2) a voting rights panel; 3) a panel regarding the state of diversity in the PBA; 4) a panel concerning LGBT issues and Fisher II; and 5) a panel pertaining to managing partners and diversity practices. Tyrone notes that Glenn Mahone, [the] longest known African American partner of a major Pennsylvania firm, provided a unique 40-year reflection on the successes and failures of diversity initiatives within his law firm and the legal profession generally.” Congratulations to our Diversity Summit team for a job well done!

Minority Law Day Programs

Our Minority Law Day Regional Programs Subcommittees in Central Pennsylvania and Philadelphia conducted amazing law day programs in November 2016. Ed Lanza was the chair of our Central Pennsylvania program. More than 40 students attended this event. Ed emphasizes that the Central Pennsylvania program, held on Nov. 1, 2016, was a huge success because of the fabulous volunteers who generously gave of their time. Other volunteers included: Pam Cross, Trent Hargrove, Lisa Watson, Clarissa Freeman, Leigh Chapman, Arlene Marshall-Hockensmith, Gladys Brown, Tom Lee, Audrey Daly, Andrea Farney, Samantha Jallah and Rachel Hadrick.

Although the Minority Law Day Program in Philadelphia was rescheduled from Election Day to Nov. 28, that did not deter students from attending. In fact, approximately 180 students participated in the event, many more than were expected. Mike Lee and Nigel Scott were the co-chairs of the Philadelphia program.

Mike states, “Our focus was on voter rights and understanding the electoral college...”
Come one, come all!
Continued from page 6

process. Also, volunteer attorneys received CLE credits for the first time.” Nigel remarks, “Despite the fact that there were only a relative handful of attorney volunteers on hand, the event nonetheless was a huge success. However, a strong need remains for volunteer attorneys on the day of the event. Our legal volunteers help to channel and maintain focus during the discussion period, while also helping to explain the legal issues for students.” The Philadelphia volunteers consisted of Mike Lee, Nigel Scott, Antoinette Hubbard, Syreeta Moore, Marisa Lattimore, Wes Payne, Prince Thomas, David Trevakis, Ben Geffen, Carolyn Williams, Lina Carreras, Zane Johnson and Malcolm Murray.

It would have been nice to have more volunteer attorneys in Philadelphia. However, both of our law day programs were fun, engaging and a tremendous learning experience for the students. In fact, several volunteer attorneys had the wonderful experience of students asserting that they now want to become lawyers. This not only demonstrates the positive impact of our programs, but also that the students appreciate its value. Knowing these programs are being so well received by the students, well, it doesn’t get any better than that! Ben Geffen of the Public Interest Law Center was our eminent guest speaker in Philadelphia. Thank you to all the awesome volunteers of our law day forums for doing an excellent job.

Our Minority Law Day in Pittsburgh will be held in the spring of 2017. The co-chairs are Lisette McCormick and Lanre Kukoy.

Community Outreach Subcommittee


It was a fantastic day with informative and engaging topics. More than 50 people attended this event with special guests from the judiciary and government, such as the Honorable Kenyatta Johnson, the Honorable Anthony Williams, Inspector Joel Dales, the Honorable Joffie C. Pittman and the Honorable Lillian Harris Ransom. Some of the other speakers, other than Prince and Norris, included the Rev. Edward Sparkman, E. Nego Pile, Syreeta Moore and Djung Tran. Thanks to our Community Outreach team for such an extraordinary program!

As far as our other subcommittees are concerned, we are in the planning stage of our exciting Minority Attorney Conference which will be held Oct. 12-13, 2017. Our chairs of the conference are Nefertiri Sickout, Syreeta Moore, Gina Thomas and Cherylle Corpus. Our Nominations Subcommittee is chaired by Syreeta Moore and Carlton Johnson. They help identify members for leadership positions in our Minority Bar Committee, the PBA and the Pennsylvania Bar Institute. Tsiwen Law and Rhodia Thomas co-chair our Legislative Subcommittee, which does an amazing job in keeping our MBC up-to-date on important legislation. Jackie Martinez is chair of our Membership Development Subcommittee. Gina Thomas and Beverly Rampaul chair our Government Attorneys Subcommittee, and Marisa Lattimore chairs the Governance Subcommittee. Tom Lee chairs the Editorial Board of our illustrious newsletter; the Editorial Board staff consists of Wes Payne, Jackie Martinez, Marisa Lattimore and Arlene Marshall-Hockensmith.

We are always looking for more people to join our subcommittees. If you are interested in joining one, please let the chair of that subcommittee or Louann Bell know. Thank you to all the chairs, their subcommittees and Louann for their commitment and dedication to the Minority Bar Committee.

As Mahatma Gandhi said, “Be the change you want to see in the world.”

Maria Lattimore

Maria Lattimore is counsel for Super Bakery, concentrating on intellectual property. She served as manager of diversity and professional development initiatives for Wolf Block LLP. She helped create a series of professional-development lectures designed to transition associates into legal practice with a multidisciplinary firm. She worked for the Supreme Court of Pennsylvania for more than 20 years, serving Chief Justices Robert Nix, John Flaherty and Stephen Zappala. Marisa is a director on the board of the Senior Law Center, the only nonprofit organization in Pennsylvania dedicated solely to protecting the legal rights of the elderly.
JUMPING SILOS

The Immigration Law Committee

A small, active committee may become more active

By Wesley R. Payne IV, Esq.

With the election of Donald Trump as president of the United States earlier this year and his stated goals to limit illegal immigration, build a wall and keep America safe from foreign terrorist, the practice of immigration law, which has always been a vibrant practice, appears to be becoming an even hotter area of practice. In fact, immigration law seems to be ready to explode with activity. As many of us are aware, on Jan. 27, 2017, President Trump signed Executive Order No. 13,769, entitled “Protection Of The Nation From Foreign Terrorist Entry Into The United States,” and started to make good on his campaign promise to tighten America’s borders and prohibit certain refugees from entering the U.S., triggering confusion and uncertainty among airport personnel designated to enforce the order. The president’s order bars all persons from certain “terror-prone” countries from entering the U.S. for 90 days and suspends the U.S. Refugee Admission Program for 120 days until it is reinstated “only for nations of countries for whom” the Trump administration deems are properly vetted. The persons most directly affected are Islamic individuals from Iran, Iraq, Syria, Sudan, Libya, Yemen and Somalia.

Initially, the executive order was broadly interpreted and led to confusion and uncertainty among airport personnel designated to enforce the order. The implementation was initially applied against not only new arrivals from the seven countries identified but also green card holders – permanent legal U.S. residents – from these countries. As a result, a number of lawsuits were filed in several states. The Trump administration clarified that the executive order did not apply to green card holders. However, the states pursued their cases and argued that Executive Order No. 13,769, as drafted, violated the Immigration and Nationality Act of 1965, which prohibits “discrimination against in the issuance of an immigrant visa because of the person’s race, sex, nationality, place of birth or place of residence.”

Correspondingly, the Trump administration’s counter argument relies upon the presidential powers stemming from the 1952 “Inadmissible Aliens” law, 8 U.S.C. 1182, to “suspend the entry” of “any class of aliens” that the president finds are detrimental to the interest of the United States. Ironically, President Lyndon B. Johnson vetoed this law as “un-American” and “discriminatory.” But his veto was overridden by both houses of Congress. Further, the administration has relied upon President Jimmy Carter’s Executive Order No. 12172 prohibiting Iranians holding non-immigration visas from entering the U.S. during the Iranian hostage crisis. In short, the Trump administration argues that in times of national emergency the 1965 law can be put aside to protect the country from foreign and foreign-born terrorists.

The initial legal battles have been interesting. Judge James Robart of the U.S. District Court for the Western District of Washington issued a temporary restraining order (TRO) on Feb. 3, 2017 prohibiting the enforcement of Executive Order 13,769, and a three-judge panel of the Ninth Circuit affirmed the TRO on Feb. 9, 2017. Subsequently, on March 6, 2017, the president tailored a new executive order to address the concerns raised in the Ninth Circuit’s opinion. The new executive order was also challenged in several jurisdictions, and Judge Derrick Watson in Hawaii and a trial court in Maryland have found that the new executive order failed to pass legal muster. As Hawaii is part of the Ninth Circuit, which previously upheld the ban, President Trump has appealed the Maryland Order to the Fourth Circuit. The appeal will be heard on May 8, 2017.

This issue and possible other immigration law issues stemming from President Trump’s other executive orders, such as the Immigration and Customs Enforcement (ICE) raids allegedly targeted at non-violent individuals pursuant to the “Enhancing Public Safety in the Interior of the United States,” will definitely make their way to the U.S. Supreme Court, and the merits of the legal challenges will be addressed in a number of lower court.

The PBA committee that addresses these types of issues is the Immigration Law Committee. For Minority Bar Committee

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(MBC) members looking for an opportunity to become active in a small but vital PBA committee, the Immigration Law Committee may be the place for you. The committee has approximately 50 members and has always been at the forefront of a number of issues that impact upon the practice of immigration law.

The stated mission of the PBA Immigration Law Committee is to provide a forum to address issues in the area of immigration law; monitor and make recommendations concerning legislation in this area; and promote the understanding of immigration related laws, regulations and court decisions. One of the co-chairs of the committee is the MBC’s own Jacqueline B. Martinez. Wendy Castor Hess is the other co-chair. Under Jackie’s and Wendy’s leadership, the committee has grown and accomplished a number of tasks. These include:

• The PBA House of Delegates approval of the Immigration Committee’s resolution supporting the Dream Act;
• Support of the Civil and Equal Rights Committee’s resolution opposing regulation of immigration by local and state agencies;
• Support of legislation protecting Spanish-speaking consumers from being misled by non-layers who abuse the term “notario publico” for financial gain;
• Drafting of an executive order for the city of Philadelphia on detainer and notification of request;
• Creation of training materials such as “Driver’s License for All: The Key to Safety and Prosperity”;
• The PBA House approval of a resolution to prevent the illegal stopping of individuals merely because they are believed to be illegal or undocumented persons.

The committee has also been very active in the fraud prevention by producing a manual to help stop fraud by “notario publico” taking advantage of immigrants and prohibiting the illegal practice of law. The committee has produced and published a guide to college access resources for undocumented students and has put on CLE seminars with respect to assisting labor lawyers when dealing with issues involving undocumented workers and the successful preparation of Form I/601, “Application for Waiver of Grounds of Inadmissible.” The committee has also been active opposing anti-immigrant policies at the state level and created the “National Security begins at Home Legislative Packet.” The committee held hearings on the legislation in Harrisburg and opposed the legislation on the grounds that it was unconstitutional, contrary to the Rule of Law, against public policy, principals of fairness and equity, and a fundamentally flawed conception.

The committee also looks to enhance the practice of immigration law in Pennsylvania by examining the process of having immigration and nationality law designated as a specialty in the Commonwealth of Pennsylvania. Finally, the committee is also very active in pro bono activities and annually awards a pro bono award for work done in the area of immigration law.

Although the committee has been active in the past, with respect to the changes in the political climate, I suspect the committee will have many activities, resolutions and pro bono opportunities in the future. Accordingly, if the issues of basic human rights and dignities, constitutional law and/or administrative law interest you, the Immigration Law Committee may be a place for you to have a positive influence upon individuals and the PBA.

Wesley R. Payne IV, a partner in Philadelphia’s White and Williams LLP and chair of its diversity committee, is an at-large minority governor on the PBA Board of Governors. A member of the PBA House of Delegates, Payne is active in the PBA Minority Bar Committee and a former chair of the PBA Military and Veterans’ Affairs Committee. Payne is the treasurer of the Philadelphia Bar Association, a member of the Barristers Association of Philadelphia and president of the Philadelphia Association of Defense Counsel. He is active in pro bono and civic activities. A cum laude graduate of Washington and Lee University, Payne received his J.D. from the University of Maryland School of Law. He served in the U.S. Army Judge Advocate General’s Corps from 1988 until 1991.
### PBA DIVERSITY TEAM 2016-2017

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<td>Jill M. Scheidt, Vice Chair</td>
<td>At-Large Woman Governor</td>
<td>2018*</td>
</tr>
<tr>
<td>James R. Antoniono</td>
<td>Conference of County Bar Leaders</td>
<td>2018</td>
</tr>
<tr>
<td>Sheryl L. Axelrod</td>
<td>Commission on Women in the Profession</td>
<td>2019</td>
</tr>
<tr>
<td>Madelaine N. Baturin</td>
<td>Legal Services to Persons with Disabilities Committee</td>
<td>2018</td>
</tr>
<tr>
<td>Jennifer L. Ellis</td>
<td>GLBT Rights Committee</td>
<td>2017</td>
</tr>
<tr>
<td>Samuel Encarnacion</td>
<td>At-Large Minority Governor</td>
<td>2019*</td>
</tr>
<tr>
<td>Mohammad A. Ghiasuddin</td>
<td>Presidential Appointment</td>
<td>2018</td>
</tr>
<tr>
<td>Melinda C. Ghilardi</td>
<td>Presidential Appointment</td>
<td>2017</td>
</tr>
<tr>
<td>Marisa H. Lattimore</td>
<td>Minority Bar Committee</td>
<td>2019</td>
</tr>
<tr>
<td>Tsiwen M. Law</td>
<td>Civil &amp; Equal Rights Committee</td>
<td>2018</td>
</tr>
<tr>
<td>Michael B. Lee</td>
<td>Young Lawyers Division</td>
<td>2017</td>
</tr>
<tr>
<td>Jackie B. Martinez</td>
<td>Solo &amp; Small Firm Practice Section</td>
<td>2019</td>
</tr>
<tr>
<td>William H. Pugh V</td>
<td>Presidential Appointment</td>
<td>2019</td>
</tr>
<tr>
<td>Michael H. Reed</td>
<td>PBA Leadership Recruitment &amp; Development Committee</td>
<td>2017</td>
</tr>
<tr>
<td>Cheryl L. Young</td>
<td>At-Large Unit County Governor</td>
<td>2019*</td>
</tr>
</tbody>
</table>

*Not eligible for reappointment in this position because this term coincides with their term on the Board of Governors.*

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**PBA ANNUAL MEETING**

**PITTSBURGH**

May 10-12, 2017

Omni William Penn Hotel

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**SAVE THE DATE!**

**PENNSYLVANIA BAR ASSOCIATION**

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“Advocacy & Fundamental Rights for Changing Times”

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Oct. 12-13, 2017

PBI Conference Center

The Wanamaker Building

100 Penn Square East, Suite 1010

Philadelphia, PA

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- The program includes prescheduled “get acquainted” meetings between attorneys and decision-makers from some of Pennsylvania’s top corporations, government and private entities with a demonstrated commitment to diversity and inclusion in public and private contracting.

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