Hiring character. Training skill.

By Maxwell Briskman Stanfield, Esq.

What does it mean to be a “successful lawyer?” Answers to this question will certainly vary depending on who is asked. Within the legal field, older, more seasoned lawyers might say “having a healthy book of business” or “always reaching a favorable outcome for the client.” Perhaps younger lawyers might give responses ranging from “being steadily promoted within your firm or company” to “developing and generating business early on in your career.” Of course, if you would ask a client, perhaps the answer would be “winning my case or closing my deal so that I spend as little money as possible on legal fees.”

While there is not one correct response, as with most things in life, answers change based upon experience and perspective. However, to be a successful young lawyer, there are certain skills that are required and others that can be developed as the career progresses. Often times, in law school we think that we need a mastery of certain topics for bar exam passage. After bar exam passage, we think that we need a mastery of a second set of skills to be successful young attorney. However, the skills often thought of as required don’t necessarily match up with what is actually desired and required.

The skills most desired in the short term for young lawyers aren’t related to a bounty of legal knowledge, large book of business or expertise in a specialized area. Rather, the skills (or in this case, traits) necessary are much more basic – yet, often overlooked by the younger generation. The Institute for the Advancement of the American Legal System (IAALS) recently released a survey where more than 24,000 lawyers across the country were queried on what skills new lawyers need. The results are not encouraging, yet not surprising. Out of those who responded to the query, only 23 percent

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competencies, and characteristics that comprise the whole lawyer.”

The take-away from this for young lawyers entering the profession is to embrace the co-author’s concept of the whole lawyer and be the best jack-of-all-trades you can be. The more challenges and issues you can triage within your field early on, the better and more experienced you will be when you have specific expertise in an area (or many areas). Remember the words of Olympic sprinter Usain Bolt, “skill is only developed by hours and hours of work.” Skill can most certainly be learned, gained and refined over time, but character is something ingrained within us all. It is clear that employers are starting to realize the importance of hiring for character over skill – when it comes to young attorneys starting out. It is this character that sets the foundation for our careers. Whether it is in law, or any other profession or field.

Maxwell Briskman Stanfield is a business transactional attorney with a practice focused on real estate finance, corporate finance, mergers and acquisitions and a wide range of matters within the hospitality and entertainment industries. He is licensed to practice in both Pennsylvania and California.

Endnotes
2 http://iaals.du.edu/foundations/reports/whole-lawyer-and-character-quotient
3 http://www.challe.com/hiring_managers/recruiting_quotes.htm
4 http://iaals.du.edu/foundations/survey
5 “The Whole Lawyer and the Character Quotient” was authored by Alli Gerkman and Logan Cornett. http://iaals.du.edu/foundations/reports/whole-lawyer-and-character-quotient
I n many court filings, the attorney must include a statement of the issue presented. Unfortunately, the traditional style of formatting these questions often makes them hard to understand. The statement usually consists of a single sentence containing too much information and providing that information in a confusing order.

Thus, although the attorney is attempting to draft the question in a way that will sway the court, the standard formatting frustrates this goal. However, innovative formatting techniques can make the issue a persuasive part of the written argument.

Consider this example. In *Miranda v. Arizona*, the United States Supreme Court used these words to state its holding:

To summarize, we hold that, when an individual is taken into custody or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning, the privilege against self-incrimination is jeopardized. Procedural safeguards must be employed to protect the privilege, and unless other fully effective means are adopted to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored, the following measures are required. He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that, if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation. After such warnings have been given, and such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement. But unless and until such warnings and waiver are demonstrated by the prosecution at trial, no evidence obtained as a result of interrogation can be used against him.

The goal of Miranda’s attorneys was to draft a statement of the issue that would point to the Court’s favorable holding. Of course, the attorneys had to formulate the issue in only a few words yet still make it persuasive. Here is what they wrote:

Whether the written or oral confession of a poorly educated, mentally abnormal, indigent defendant, taken while he is in police custody and without the assistance of counsel, which was not requested, can be admitted into evidence over specific objection based on the absence of counsel?

The attorneys made the story of their client compelling by describing his psychological and financial limitations as well as the circumstances of his confession. However, because these pieces of information are in a jumble, the statement is hard to understand.

Here is a revision that places the information in an understandable order. It begins by describing Miranda’s limitations and then describing the facts surrounding the confession in roughly chronological order.

When the defendant is poorly educated, mentally abnormal, and indigent and is taken into police custody and does not request counsel and makes a written or oral confession without the assistance of counsel and does not request counsel, can the confession be admitted into evidence?

As these examples show, you can draft more compelling issue statements by using some or all of these techniques—placing pieces of information in an order that is easy to read, numbering items in a list of facts, using a tabular format, and using more than one sentence to state the issue.

Louis Sirico is a professor at the Villanova University Charles Widger School of Law and a member of the Pennsylvania Bar Association Plain English Committee.
Ditch the swagger: Overcoming self for successful attorney job searches

By Jacob R. Lauser, Esq.

We’ve all been told that confidence is the key to a successful job interview, and to an extent, that advice is true. Nobody likes interviewing job candidates with weak handshakes and hesitant demeanors. They seem timid, unprepared, and unsure of themselves — hardly desirable qualities in a potential law hire. Rather, we prefer bold handshakes, direct eye contact and confident assertions. These traits speak of leadership, certainty and dependability, arguably the perfect mix for a lawyer. Or do they? In some cultures, prolonged eye contact can be perceived as aggressive or confrontational, and overt physical contact as disrespectful. Cultural anecdotes aside, there is a fine line between the positive and negative perceptions of confidence in a law job applicant. Confidence is good, but overconfidence or arrogance invites disaster. As a young lawyer seeking (and interviewing for) his/her first “real” law job, it is important to know the difference, but also to remember that even experienced lawyers are not immune from these dangers.

Allow me to illustrate: Have you ever sent what you thought was a benign email that ended up highly insulting someone, or posted a “harmless” comment on Facebook that touched off an online flame war? Justin Kruger, Ph.D., a psychologist and professor of marketing at New York University’s Stern School of Business, identifies the cause of this phenomenon as egocentrism, the “well-established social psychological phenomenon whereby people have a difficult time detaching themselves from their own perspectives and understanding how other people will interpret them.” Of particular interest to Professor Kruger has been the study of “overconfidence in planning and self-assessment,” which led him to postulate in 1999 that, “the same knowledge that underlies the ability to produce correct judgment is also the knowledge that underlies the ability to recognize correct judgment. To lack the former is to be deficient in the latter.” This theory, reached in collaboration with Professor David Dunning of Cornell University, has become known as “The Dunning-Kruger Effect.”

In simpler terms, the Dunning-Kruger Effect describes “a cognitive bias in which unskilled individuals suffer from illusory superiority, mistakenly rating their ability much higher than is accurate. This bias is attributed to a metacognitive inability to recognize their [own] ineptitude.” Stated differently, a substantial or total lack of knowledge in an area can cause overconfidence, easily recognized as such by those of greater education or experience, but remaining hidden to the unskilled person.

Applying this concept to the legal realm, over-confidence in one’s skills or training can be easily recognized by experts (i.e., the experienced attorneys interviewing you), and is often misinterpreted as arrogance or hubris. Worse yet, your inexperience actually may blind you to the reality of your situation, resulting in both a failed interview (not getting the job) and leaving you scratching your head about why. Repeat this a dozen times, and it can spell disaster for your job search. This is especially true for law students, new graduates or recent bar admittees looking for their first jobs. They may feel they are doing well in trumpeting their education, grades or training, or in speaking at length about their many accomplishments in law school or life, while the interviewers (the real experts in the field, and usually with far more impressive resumes) can see right through them as the naïve and seemingly arrogant young “upstarts” they really are.

Even if they are willing to overlook your inexperience, overconfidence can contribute more quickly to misimpression than it might otherwise in a more skilled candidate. It might seem like common sense, but understanding this phenomenon can be the key to overcoming the Dunning-Kruger Effect, or at least in ameliorating the dangers of projecting overconfidence in the face of limited skills or training, and thus being misjudged by interviewers. “But how can I avoid creating such an impression, while still distinguishing myself from other candidates?” you ask. The answer lies in Reflective Self-Assessment and a well-practiced presentation.

Reflective Self-Assessment is exactly what its name suggests: a careful inward look and comparison of your skills and abilities against an objective standard of competency, often with independent feedback. Knowing how you actually compare in an analysis (and not just how you think you compare) can help mitigate the “egocentric” risks of the interview process. With that information in mind, you can reassess your qualifications and

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take a different approach to marketing yourself to a potential employer in a less direct, self-aggrandizing manner, one that will invariably make you more attractive as a potential hire.

A good exercise for you to perform is to first research the employer’s website or business profile to get a good feel for the firm’s culture, business focus and structure. The job announcement will sometimes direct you, but without placing the opening in context, it can be hard to tailor your approach to an interview or understand its expectations of potential employees. Researching the interviewer, and perhaps the person you are replacing or joining, as well as their positions and histories with the firm, can provide valuable insight and opportunities to connect with them as a people during the interview process, without getting too personal or “creepy,” of course.

Next, write down some personal attributes the firm is likely to value and briefly outlining how you exhibit those characteristics to help solidify talking points for your cover letter and interview. It can also be helpful to think about whom the firm is likely to hire if presented with an ideal candidate, and more importantly, how you might compare to that ideal candidate. Then, ask yourself whether there are other skills or experience you could offer that an “ideal” candidate may not, such as experience or training in a complimentary legal area. The key here is to show the interviewer that you’ve done your homework, you know what they are looking for in a candidate, and even if you don’t have directly relevant experience, you are eager to fill a need with applicable skills or characteristics that fit their business model and culture well, or may indirectly apply to other needs, to make you uniquely useful in a new position.

Once you have done all this, getting external feedback on your comparisons from a trusted source can provide a fresh perspective. That source can also serve as a mock interviewer to help simulate your upcoming interview. It is preferable if that person is not your mother, significant other or best friend, since they can be biased in your favor and less objective about your qualifications or suitability for the job. Ask them to look over your research and perhaps “pretend” they are a specific interviewer as they review your resume and cover letter (using the research information you provide them).

Practically, these exercises can help you turn the focus of an interview or cover letter to what contribution you can make to reach an employer’s goals, and less on why you’re better than other candidates. The reasoning might be the same, but one approach focuses on you, your skills and your accomplishments (egocentric), while the other focuses on the benefit you can bring to the employer or the particular need you can meet. One hollers, “Look at me, not them!” while the other extends a cooperative hand (ignoring other candidates) and explains, “I’m sensitive to your needs, and here’s how I can help.”

My own experience speaks all too well to the common failure of the first approach. I once had the opportunity to interview at a mid-sized firm where an attorney friend worked. The firm was struggling with the departure of their only family law partner, and having what I thought was a fair amount of family law experience, I proceeded to write a detailed outline of everything the firm was doing wrong and how I could fix it. Based on my knowledge and experience, I thought I was presenting a viable alternative that could help the firm out of a difficult position and secure a better job for myself — a win-win. Instead, I came across as opportunistic and arrogant. I didn’t get the job, and I caused trouble for my friend, who had vouched for me. I was only able to smooth things over after the firm’s managing partner sat me down to explain where I went wrong, probably only after my friend begged him to do so as a favor.

The partner explained (paraphrased), “You have to realize that even if a firm is doing something wrong, the partners probably already know it. Telling them that isn’t going to help; it’s only going to rub salt in an open wound and insult the very people you’re asking to hire and work with you. Offering to fix their problems is only going to make you sound condescending, especially when there are a dozen other people lined up with similar qualifications to yours. What you really need to do is approach every interview as an opportunity to learn more about the firm’s particular needs and explore how you might help meet those needs by applying your specific experience, skills or insights. Briefly highlight your qualifications, without seeming pretentious or overconfident in your own skills. Focus more on offering solutions to the firm’s needs and less on criticizing its management or trumpeting your own accomplishments.” It was feedback I should have sought years before, but advice I took keenly to heart as I continued my job search — advice other young lawyers would do well to heed.

Ultimately, it’s good to show confidence in your education and experience when pursuing law jobs. However, it’s more important to understand that you don’t know everything (yet), and that even when/ if you do, potential employers are less interested in hearing you brag about yourself.
As of 2016, there are 49,644 attorneys with an active license in Pennsylvania.¹ And this number keeps rising.² With continuing stagnation in the legal market, more and more recent graduates decide to go solo.³ In addition to concerns for generating enough business to stay afloat,⁴ young solo practitioners face other problems — lack of attorney experience, expertise and resources. One of the solutions to this problem is to associate with or refer cases to more experienced attorneys from other law firms and divide the attorney’s fees with such attorneys. While finding attorneys willing to associate with young lawyers is a challenge in and of itself, the division of the fees also poses a legal ethics concern that should not be overlooked.

All U.S. states, except for California,⁵ adopted the ABA Model Rules of Professional Conduct (Model Rules) that have a special rule on the division of attorney’s fees.⁶ Under this rule, attorneys that are not in the same firm can divide a fee when: (1) the division is proportional to the services rendered or each attorney assumes joint responsibility for the representation; (2) the client agrees to the arrangement, including the share each attorney will receive, and the agreement is confirmed in writing; and (3) the total fee is reasonable.⁷ Pennsylvania adopted a less stringent rule: attorneys from different law firms can divide fees if:

1. The client is advised of and does not object to the participation of all the lawyers involved, and
2. The total fee of the lawyers is not illegal or clearly excessive for all legal services they rendered the client.⁸

The notable distinction of Pennsylvania Rule 1.5 from Model Rule 1.5 is that the former does not require the referring attorney to render service proportional to the fee received.⁹ This means that a young solo practitioner in Pennsylvania can generate revenue by providing leads of potentially successful cases to bigger firms, without doing any substantive work.¹⁰ While the client has to be aware of the division of the fee itself, the exact shares of each attorney do not have to be disclosed.¹¹

Contrary to the lenient Pennsylvania rule on division of attorney’s fees, some Pennsylvania neighboring states are stricter.¹² For example, both New Jersey Rules of Professional Conduct and Ohio Rules of Professional Conduct require that the division of fees between attorneys of different law firms be proportional to the services provided or each lawyer assumes joint responsibility for the representation.¹³ So do District of Columbia Rules of Professional Conduct.¹⁴ Consequently, Philadelphia attorneys that practice in both Pennsylvania and New Jersey or Pittsburgh attorneys practicing in Pennsylvania and Ohio must be cautious about this distinction when they seek referral fees or split fees with attorneys from other law firms.

Still, even attorneys that practice only in Pennsylvania with its less strict rule on division of attorney’s fees should keep in mind several legal ethics restraints. First, the total fee they charge must be reasonable.¹⁵ The ABA interprets the identical language in the Model Rules to mean that the total fee cannot be increased because of the referral or division of fees.¹⁶ Second, the division arrangement or referral fee must be disclosed to the client.¹⁷ Pennsylvania rule does not specify the timing for making such disclosure.¹⁸ Model Rule 1.5(e) is more specific, since it states that the “client [must agree] to the arrangement, including the share each attorney will receive.”¹⁹ The ABA specifically interpreted the future tense in the provision to require the disclosure to happen before the fee is divided.²⁰ Because Pennsylvania rule does not have such language, it is logical to assume that the division can be disclosed and agreed upon even after the division is made or at the end of the representation.²¹

While Pennsylvania Rule 1.5(e) does not require the disclosure to be made in writing, unlike Model Rule 1.5(e) (2), another paragraph in the same rule prescribes that the fee arrangement with a client other than a regular client must be in writing.²² Consequently, in order to comply with Pennsylvania Rule 1.5 in general, young lawyers should remember to put the fee arrangement in writing, including the fact that the fee will be divided with an attorney from a different firm, and show it to the client, or better have them sign it.²³

Lastly, the conflict of interest can become an obstacle to the division of fees between attorneys of different law firms.

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By Christina Alam

Teamwork makes the dream work, but make sure you share the benefits ethically

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Do’s and don’ts of making the record for attorneys

By Robin Smith, Esq.

The transcript an attorney receives from the court reporter is an important document before, during and after trial. In the judicial process, there is a lot on the line and the importance of a clear, accurate record is critical.

Court reporters are trained and experienced in creating a word-for-word record of every spoken word, but that record is only going to be as good as you make it. There is a lot of groundwork and strategy that goes into preparing for a deposition or trial and you’ll want to ensure that the record created reflects all that hard work. The National Court Reporters Association suggests some helpful tips and reminders for creating an accurate record in its pamphlet, “Making the Record.” Some of them are common sense, but it’s sometimes the common sense things that trip us up.

Remember you’re making a record.
Keeping in the forefront of your mind that your words are being reported and may be read by opposing counsel, appellate judges, legal scholars — maybe even the Supreme Court — and will go a long way to creating an effective, usable record.

You’ll eliminate duplication and repetition and your false starts will drop dramatically. You’ll look good in front of your colleagues and in print.

Who are you? The reporter needs to know who you are and who you represent. Often, it’s fairly straightforward. If it’s not, such as a multi-party case or a telephonic proceeding, it’s best practice to identify yourself before you speak.

What’s that name again? Enunciate clearly and spell out proper names. Often names can be spelled a variety of ways or even mistaken for similar sounding names such as Terry/Perry, so take the time to ensure that there is no doubt of the correct spelling. No one likes to have his/her name confused with someone else’s or misspelled.

One at a time. What can’t be heard and understood can’t be reported. It’s hard not to overlap because we do it all the time in conversation. In a legal proceeding, talking over one another only serves to confuse those listening and clutter up the record — or may not even make it in the record. A reporter can only take down the words of one person at a time.

How fast can you talk? Odds are fairly fast. We all speak faster than we used to. It’s estimated that current speech patterns are between 150 to 160 words per minute. In the heat of the moment, it’s not unusual for that speed to almost double that rate. When you are going that fast, words are often slurred and easily misunderstood. Your court reporter can write fast and with a great deal of accuracy. Qualifying graduating speeds for court reporters are 225 words per minute at 95 percent accuracy. But like the engine in your car, this skill isn’t meant to be run at top speed all the time. You look and sound better when you speak clearly rather than when you are racing out of control.

Be mindful of your ABCs and 1-2-3s. Rapidly spouting out acronyms and numbers can cause a lot of confusion.

Methyl-ethyl-what? Court reporters acquire a broad general knowledge of terms and subject matters. However, in our world of advanced technologies, it’s impossible to be familiar with every possible subject matter. You may be very familiar with the specialized terminology in your case; the court reporter may or may not be. By providing the court reporter with a glossary of technical terms — especially if there is a realtime display — will help create an accurate record and minimize interruption for clarification during the proceedings.

Presenting evidence. While there is no standard for marking exhibits, there are a few tips for efficiently handling items of evidence. Briefly and adequately identify documents by stating both the date and an identifying feature and when referring to an exhibit during testimony, specify the exhibit number. Simply saying “that exhibit” will have you wondering later exactly what exhibit it was. If there are going to be a large number of items entered into evidence, let the reporter know in advance and give them enough time to mark the exhibit and make a note in the record before proceeding.

What was that gesture? “From here to there” won’t make sense when reading

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Dodging disaster: Overcoming disenchantment and depression in the legal profession

By Maxwell Briskman Stanfield, Esq.

Many professionals in every industry experience some sort of depression or disenchantment at one point or another. Lawyers however, statistically suffer at a higher rate than other employed persons – specifically, at a rate of 3.6 times higher. Many studies have been conducted and scholarly articles written analyzing why lawyers more than others have a propensity for depression. Various factors and personality traits contribute towards this propensity, such as: “Type A” personalities (such as overachievers and highly strung personality types) and those with a tendency for perfectionism – just to name a couple. While sometimes the root of stress, anxiety and depression, these same personality traits are often what draw individuals to the legal profession in the first place.

When these personality characteristics are coupled with the inherent nature of the traditional practice of law, it can often be a recipe for a psychological disaster. The daily practice of law, especially at any big law firm, is often stressful and demanding. Yes, there is the luxury of a high salary, but this alone may not be enough to offset any impending “burn-out.” The practice of law can be highly competitive and what it takes to succeed in a highly competitive environment can take its toll on anyone’s mental state. If early signs of work-related depression are not properly resolved, things can quickly spiral out of reasonable control. Psychologist Martin E. P. Seligman, Ph.D. posits that one of the biggest factors contributing to the depression amongst lawyers is that the legal profession has shifted more from a win-win (positive sum) game to a win-loss game, which produces more negative emotion. Further, Dr. Seligman suggests that this shift consists of moving away from good counsel about justice and fairness to a big-business mentality where billable hours, the bottom line and victories are now the principle ends.

While it can be hard to outright avoid a stressful or chaotic mental state, when depression and disenchantment occur, there are some practical ways to counteract a negative mental state:

**Realize that the practice of law is a continuous learning process and, as such, mistakes will happen.** While we should all do our best to avoid mistakes as much as we can, they are bound to occur (to everyone) at one point or another. Rather than letting the stress of future mistakes prevent us from taking steps forward, it’s important to remember that most mistakes are correctable and are part of learning. A wise mentor once told me that he understands best how to spot (and therefore avoid) mistakes because he has made every mistake once. After a mistake is made once, that experience gets added to our mental “issue-spotting database” and is hopefully avoided in the future.

**Don’t be afraid to ask questions.** Asking questions, receiving guidance and delegating tasks when necessary provide us with a roadmap to the finish line. Having this mental roadmap can significantly reduce stress and anxiety, especially for those of us who like to plan in advance and have some sense of control over an unfamiliar situation.

**Know your strengths.** Each of us has strengths and weaknesses — whether we want to admit it or not! In a law firm setting, perhaps when we started practicing, we ended up in a practice group that does not align with our natural strengths or interests. While going outside of our comfort zone at times is important and can provide for a diverse learning experience, working in an area misaligned with our strengths can be a trigger for a constant state of anxiety. To the best extent possible, it is important to explore different practice areas and working groups of interest to find one that is the best fit. This may not be a change that can happen immediately, but taking the first step towards change with anything always helps reduce mental stress.

**Manage daily stress.** Stress is inevitable. At times, stress can even be beneficial. Managing stress and balancing work life with personal life is something that should be integrated as part of your daily routine. Stress management can come in many forms – working out, reading a book, relaxing in the bath, going out with family and friends, watching a movie, etc. Giving the mind this opportunity to disengage from the weight of the day helps us recharge and maintain a healthy day-to-day stress level, which directly affects our overall physical health and wellbeing.

**Set realistic and achievable goals.** Setting short-term goals to achieve and then following through with those provide a posi-
Deposition instructions: To give or not to give?

By Matthew Dolfi, Esq.

Imagine meeting someone for the first time. You exchange names and pleasantries. Then, you stop the conversation to give some instructions: “Um … before we get to know each other any further, I’d like to lay out some ground rules for this relationship. First, don’t lie to me. Second, don’t make any gestures or head nods. I can’t understand them. Third, please say ‘yes’ or ‘no,’ because I can’t decipher ‘uh-huhhs.’ Also, don’t interrupt me when I’m speaking to you. And, if you need to take a break from this discussion, please let me know. Oh, and most important, don’t answer any questions if you don’t understand them. Instead, let me know, and I’ll rephrase. Ok? Now, how about a drink?”

It’s unlikely that you would make many friends if you handled greetings this way. So, why would you start a deposition in this manner?

Lawyers are creatures of habit. We take comfort in form, procedure and routine. Also, depositions are stressful. Some lawyers – particularly young lawyers – feel that giving the standard deposition “instructions” may help to ease their nerves. You might think: “Let me just get through this familiar stuff, before embarking into the unknown.” Perhaps we go through the monotony of the ground rule instructions because that is what everyone else does. You might feel that if you fail to cover the ground rules at the outset of the deposition, opposing counsel will be quietly judging you or, worse, a partner reviewing your transcript might think you’ve lost your mind. Whatever the reason, it is clear that most lawyers adhere to the notion that deposition instructions must be provided at the start of the deposition.

But have you ever heard the phrases, “You catch more bees with honey?” and “Keep your friends close, but your enemies closer?” If you start a deposition by reading a bunch of rules to the witness, you will put the witness on the defensive. You will make the witness feel as though you are being condescending. And you are setting the stage for an adversarial proceeding. The witness already doesn’t trust you. Why make it worse?

You need to give instructions in the deposition at some point. Deposition instructions serve a real and significant purpose. They permit you to limit the witness’s ability to contradict, explain or rehabilitate himself later at trial. For example, “Oh, you’re telling the jury that the light was green? But you told me in your deposition that the light was red. And you told me that you understood all of the questions that I asked you in the deposition and that all of your answers were truthful. So, are you lying now or were you lying then?”

Recognizing the importance of deposition instructions, but also taking into consideration the importance of establishing a rapport with the witness, I suggest an alternative to the opening monologue: cover the instructions as you go.

For a young lawyer that finds butterflies in his or her stomach at the thought of taking a deposition, consider that a five-minute speaking narrative might be far worse than asking a few questions of the witness to get things rolling. If you’ve ever read a transcript with the standard instructions, you know that the first several pages are filled with paragraph after paragraph from the attorney. The monologue may be peppered with an occasional “yes” from the witness, but it’s primarily instruction after instruction from counsel.

If nerves are an issue for you, flip the script. Ask the witness some short questions and let him or her do the talking. For example, state your name, your age, where do you live, how long have you lived there, are you married, how long have you been married, do you have any kids, where did you go to school, when did you graduate, etc. In this manner, you can get comfortable asking short questions and quiet those nerve-wracking butterflies.

If nerves are not your concern, there is still merit in dispensing with the instructions at the outset of the deposition. You don’t want to immediately alienate the witness. You’re going to cover some background material with the witness anyway, right? Educational history, family life, work history (expertise and qualifications of an expert), etc? Why not get through

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In particular, impermissible conflict of interest will prevent an attorney from receiving a referral fee as a matter of law.24 In Epstein v. Saul Ewing LLP, for example, the court did not allow a referring attorney to recover 1/3 referral fee when she was the client’s guardian ad litem.25 This situation can be relevant to small practices that may provide both legal and non-legal services, and the later may create a fiduciary relation with a client.

To summarize, the division of fees and labor in legal representation in Pennsylvania is acceptable and often desirable, but it requires following nuanced rules of legal ethics, such as disclosure, reasonableness, and knowing your jurisdiction. Young solo practitioners should become familiar with Pennsylvania Rule 1.5 so they can be sure to generate revenue in an ethical manner.

Ditch the swagger
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and more interested in getting down to the task at hand: finding someone to meet the business needs and challenges that underlie their decision to hire a new attorney. Ditching the heady swagger of graduating law school or passing the bar exam, performing a reflective self-assessment of your qualifications for potential jobs and getting feedback on your presentation ahead of time, will help make your job search and interviewing process the resounding success you hope it will be.

Jacob Lauser is a graduate of Appalachian School of Law and 2009 admittee to the Pennsylvania Bar. He is currently a Clinical Instructor and Supervising Attorney at the PennState Law Family Law Clinic in State College, Centre County, where he lives with his wife and children. In addition to teaching and supervising family law interns, Jacob enjoys helping other young lawyers and new law graduates in Pennsylvania focus their career paths and find rewarding legal employment in the present economy.

Do’s and don’ts of making the record for attorneys
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Rather than relying on the transcript later so clarifying by using the simple statement, “let the record reflect” and explaining the statement or gesture will go a long way to making sense of what could potentially be meaningless testimony. And if a witness nods or shakes his/her head, the reporter will note that in the record, but they won’t interpret it or draw conclusions. It is up to you or the judge to clarify the record.

As an attorney, being mindful of the record being created will reap benefits down the road. Not only will there be a clear, accurate record, the deposition process will be smoother and with fewer interruptions.

Robin L. Smith, is managing partner of Geiger Loría Filius McLucas Reporting, LLC, a court reporting firm serving York, Harrisburg and Lancaster for more than half a century. She is a graduate of Elizabethtown College and has been managing her family’s court reporting service since 1980.

Teamwork makes the dream work
Continued from page 6

Christina Alam is a 2016 graduate of the University of Pittsburgh School of Law. During law school, she interned in the Legal Department of Duquesne Light and clerked for Pittsburgh employment and labor firm. She also received CALI Excellence for the Future Award in Professional Responsibility. Before coming to the U.S., Christina practiced law in Ukraine.

Endnotes
2 Id.
3 See, e.g., Julie K. Fowler, From Graduate to Solo: Hit the Ground Running, GP Solo, Vol. 31 No. 1, also available at http://www.americanbar.org/publications/gp_solo/2014/january-february/from_graduate_to_solo_hit_ground_running.html.
7 Id.
8 Pa. RPC 1.5.
9 Cf. Model R. 1.5(e)(1) and Pa. RPC 1.5(e).
10 Pa. RPC 1.5(e).
11 Pa. RPC 1.5(e) cmt. 4.
12 See N.J. Court Rules, RPC 1.5 and Ohio Prof. Cond. Rule 1.5.
13 N.J. Court Rules, RPC 1.5 and Ohio Prof. Cond. Rule 1.5, but Cf. W. Va. Prof. Cond., Rule 1.5 cmt. 5.
14 D.C. Bar Appx. A, Rule 1.5.
15 Pa. RPC 1.5(e)(2).
17 Pa. RPC 1.5(e)(1).
18 Id.
19 Model R. 1.5(e)(2) (emphasis added).
20 Opinion 474, at 6 (“the division of fees must be agreed to either before or within a reasonable time after commencing the representation.”).
22 See Pa. RPC 1.5(b) (“When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.”).
23 In re Amendments of the Pa. Rules of Prof’l Conduct & the Pa. Rules of Disciplinary Enf’t, No. 132 Disciplinary Rules Docket, 2014 Pa. LEXIS 3469, at *4-5 (Dec. 30, 2014) (“A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee).”).
25 Id.
Deposition instructions

Continued from page 9

the preliminary matters first – there is no harm or risk associated with issues – and see how things are going?

If you notice that the witness is cutting you off before you finish asking a question, take the opportunity to instruct the witness on waiting until you finish asking a question before providing an answer. If a witness responds “uh-huh,” instruct him or her to keep responses verbal, i.e., “you have to say ‘yes’ or ‘no’, please.” When you come to a point in the witness’s employment history and he or she can’t recall an exact date, use the opportunity to instruct the witness that he should let you know if he can’t remember a specific event. In this manner, you can convey most of your instructions to the witness in a more organic, conversational, and less adversarial manner.

Here’s another suggestion: go over your “instructions” at the close of the deposition. For example: “You understood all of the questions that I asked you today? And, all of your answers were truthful? And complete? There were no questions that you did not understand today? Or didn’t hear? And if you didn’t understand or hear one of my questions, you would have told me so, right?” In this manner, you end the deposition on your terms.

As with anything in the law, there are exceptions, and these concepts will not work in every deposition or with every witness. Use discretion, know your subject matter, and – like any dialogue – take feedback from the deponent. You will know relatively quickly whether a witness will be hostile, defensive or evasive. If that is the case, courtesy and rapport with the witness may no longer be possible, or even desirable. In that case, issue the standard deposition instructions and tie down the witness.

Matthew Dolfi specializes in civil litigation, primarily handling cases involving commercial litigation, professional liability, construction defects and personal injury.

He has tried numerous cases to jury verdict in various state courts and has also represented clients in arbitration, mediation and early neutral evaluation. Dolfi has served as the solicitor for the Borough of Crafton and the Ross Township Civil Service Commission. He has presented legal education seminars for the Allegheny County Bar Association on the topic of settlements and Bridging the Gap. He was recognized as a Pennsylvania Super Lawyer, Rising Star in 2008 and 2011-2016.

He is also a member of Bike Pgh, USA Cycling, the Allegheny Cycling Association, and the Appalachian Bicycle Racing Association. In 2014, he won the Allegheny Cycling Association’s Category C Criterium Racing Series and placed 4th overall in the Appalachian Bicycle Racing Association’s Category 4/5 Road Racing Series. In 2010, he finished an Ironman distance triathlon and has won his age group at the Pittsburgh Triathlon in the sprint distance. Dolfi authors the Lawyer-Cyclist blog, a website offering legal insights for cyclists and bike commuters and maintains a Pittsburgh Bike Lawyer Facebook page.

Disenchantment and depression

Continued from page 8

tive mental state and offer a mental reward for the achievement. Some examples of short-term goals include writing an article and having it published, speaking or presented at a conference or for a group, joining a new club or committee, etc. Setting long-term goals gives our mind something to continually look forward to and strive for achievement in the future. Examples of this could be working towards a new job or promotion, becoming a board member of an organization, etc. And of course, both short- and long-term goals do not have to be relegated to the work realm. These can include personal and familial goals as well!

Implementing and accepting these various approaches will help any lawyer, young or old, perform better, manage stress and anxiety more effectively and, if used proactively, hopefully avoid the pitfalls of disenchantment all together!

Maxwell Briskman Stanfield is a business transactional attorney with a practice focused on real estate finance, corporate finance, mergers and acquisitions and a wide range of matters within the hospitality and entertainment industries. He is licensed to practice in Pennsylvania and California.

Endnotes
2  http://www.lawyerswithdepression.com/articles/why-are-lawyers-so-unhappy/ & Learned Optimism
3  Id.
Hiding in plain sight: The Commonwealth’s imminent water supply problem

As a relatively “wet” state, most people think of Pennsylvania as having a bountiful water supply and well-suited climate with plenty of rain and annual snowfall. With more than 86,000 miles of streams and rivers, and an abundance of groundwater, the commonwealth’s agricultural sectors, municipalities, ecosystems, energy industry, utilities and citizens generally avoid the water shortage difficulties of the western U.S. Think again. Based on predictions from various reports, notably the Pennsylvania Climate Impacts Assessment, Pennsylvania can expect warmer temperatures year-round, increased frequency of flood events, more rain than snow in winter, prolonged summer drought and impacts to cold-water fisheries.

The pressures and demand on our water system have been steadily increasing and flying under the radar for some time now. With relatively wet spring seasons, snowfall, and “endless groundwater,” water supply pressures would hardly enter the mind of most. As the old adage goes, the devil is in the details. First, the commonwealth’s population is at 12.8 million people, based on the July 2015 census, an increase of about 600,000 since 2000. Projections estimate this number rising to 14 million by 2035. Second, the natural gas industry, booming between 2008 and 2013 in Pennsylvania, withdraws a significant amount of surface water for hydrofracking. Although this technique uses less water than most golf courses, it is a demand on the water supply that needs to be considered in water management.

Third, Pennsylvania is not immune to drought: 2002 saw a drought of historic proportions, while the current 2016 drought threatened crops and groundwater aquifers. The state has experienced more drought emergencies in the last 30 years than the previous 300. This results in a variety of issues, depending on the location, including saltwater intrusion in depleted groundwater reserves, increased irrigation use, transboundary transfers, impact to hydropower production, and hydrological impacts to entire ecosystems, such as the Chesapeake Bay. The long-term picture for Pennsylvania’s water management becomes clearer: we need an appropriate legal system to manage increased demand and to adapt to changing climate conditions.

Pennsylvania water law: Two systems needing immediate cohesion

Water law developed in the U.S. differently depending on location. States west of the Mississippi River adhere to a prior appropriation system based on allocation of water by priority date. Where the climate is wetter, eastern states use riparian law based on principles of unquantified “reasonable use.” Some states have recognized the hydrological connection between surface and groundwater, managing both as one regulatory system; however, Pennsylvania treats each system separately.

Surface water in the commonwealth is governed predominately by the riparian doctrine. First, only “riparians” (those owning land next to waterways) have the right to use water flowing on or next to their land. All users share a waterway equally with others and may not unreasonably interfere with other riparian rights, except for domestic uses. Domestic uses like household or livestock purposes take precedence over other uses, such as irrigation or recreation. Domestic uses may materially diminish the flow of a watercourse without consequence.

Groundwater is separately regulated by a principle of “reasonable use,” meaning any lawful purpose incident to the overlying land is acceptable, even if it...
Overhauling Pennsylvania’s water law system

Continued from page 12

depletes the supply for neighboring lands. Landowners are free to pump as much groundwater as needed for their use. Malicious or negligent withdrawal remain the only instances where a remedy is available. Using groundwater for purposes not connected to the overlying land is generally unreasonable.

Like surface water, groundwater withdrawal and use is not quantified or measured; often the user with the biggest pump and deepest well succeed. Aside from a few statutes requiring public water suppliers, large water users, and hydropower facilities to register and obtain a permit from the Department of Environmental Protection, Pennsylvania lacks a comprehensive regulatory surface water plan. In addition, registration exemptions exist for agricultural producers and private wells. As a result, little is known about how much water is being used, and by whom.

Recognition of the future

Developing a water law system that recognizes the hydrological connection between surface and groundwater is vital for maintaining a sustainable water supply in the commonwealth, particularly given predictions for future hydrological changes. In Pennsylvania, stream flow is supported by groundwater and surface streams recharge groundwater systems. Any excessive withdrawal affects either source. The Delaware and Susquehanna River Basin Commissions manage water withdrawal within each basin with this principle in mind. However, they do not cover western Pennsylvania, where active hydraulic fracturing is taking place. A statewide program to account for water use and to manage potential shortage may be needed; this in turn will help improve water-use data and could lead to systematic water-quality standards. This may also help centralize future decision-making for state leaders.

In addition to conjunctive management, recognizing instream flow needs and human consumption is important. Keeping a minimum flow in the commonwealth’s streams benefits a healthy ecosystem, preserves habitat for species, and economically benefits a variety of sectors, including recreation and sport fisheries. Such minimum flows have been set in the Susquehanna River Basin. Lessons should be learned from the western U.S., notably California, where regulators are redirecting already allocated water supplies towards endangered salmon survival; this is causing an uproar. Minimum instream flows benefit riparian users, owners of private groundwater wells, and native fish species reliant on cold water temperature. Established minimum flows will help ensure supply is available and act as a buffer to address population growth. In addition, adapting to a changing climate depends on a healthy ecosystem. Regulating surface and groundwater together and protecting minimum flows will increase the likelihood of maintaining appropriate soils and wetlands to help combat drought and manage flooding. Other benefits include reversing saltwater intrusion into some groundwater sources and maintaining sustainable forests and wetlands.

Finally, future impacts need to be addressed in any reformation of Pennsylvania water law. As temperatures in Pennsylvania increase, irrigation is likely to increase as well. Likewise, municipalities and water utilities will need to find alternative water sources and/or focus on conservation as population centers expand and grow. Moreover, potential transboundary water transfers make managing surface and groundwater together more important to protect appropriate water levels. As a state with a strong agricultural history, countless outdoor recreation opportunities and an important energy industry, the update of our water law is crucial to the continued success of these sectors while adapting to shifting climate conditions. We owe it to ourselves not to create a second act of the current show playing out in western United States.

Robert Caccese is a staff attorney and postdoctoral fellow at Penn State University. Bob’s work focuses on water rights allocation issues and the potential constraints legal institutions pose on various economic sectors when adapting to climate changes. His areas of interest include wildlife and fisheries management, natural resources, water law, and the Endangered Species Act. He received both his Bachelor of Science in Wildlife and Fisheries Science and Juris Doctor from Penn State and is an avid hunter and fisherman.

Endnotes
1 James Shortle et al., Pennsylvania Climate Impacts Assessment Update 1 (Envtl. & Natural Res. Institute, Penn State Univ. 2015).
The reality of Jason Bourne*

By Dianna Reuter

This summer’s crop of blockbuster films brought with it the long-awaited return of the Bourne series. Robert Ludlum’s latest tale crafts a compelling and timely depiction of one of today’s hottest legal topics — the intersection of technological progress and data privacy — and takes a trip down (recent) memory lane as it meanders through a land filled with Edward Snowden, government access to data and the Apple encryption debate. But just how much of the legal tale is true — and how concerned should the average citizen be — when it comes to privacy protection?

Existing American legal precedent provides a film backdrop rich with controversy. U.S. privacy laws have long enjoyed the basic freedom which comes with negative liberties; broadly speaking, domestic entities are allowed to act freely unless expressly forbidden by law or regulation. The U.S. data protection system is thus based on a sectorial approach, wherein a series of statutes afford data collection protocols and governance in limited areas; children are protected via the Children’s Online Privacy Protection Act (COPPA), and health information retained by insurance providers is protected via the Health Insurance Portability and Accountability Act (HIPAA). For any sector not governed, limited or forbidden to collect data by statute, entities are allowed to generally collect any data they want. As technology has progressed, so too has data collection and analysis. This is especially true in regards to national security, long among the top priorities for the United States government. The U.S. government has been helped by emerging legislation that not only authorized such collection of data, but shielded it from public questioning. Perhaps the most notable example is the Foreign Intelligence Surveillance Act (FISA), passed in 1978. With the passage of the Act came the creation of the Foreign Intelligence Surveillance Court (FISC), which provided ex parte courtroom settings for the government to request electronic surveillance allowances and whose rulings were automatically top secret.

As with all Bourne films, the story unfolds as our protagonist is chased by the suits at Langley through a series of foreign countries. In JASON BOURNE, the latest concern is that Bourne has come into possession of internal, top-secret CIA and NSA documents, and may intend to make them public. The filmmakers are obvious in acknowledging the reference to Edward Snowden, who exploded onto the world the full extent of U.S. intelligence-gathering activities and pushed into the mind of the average citizen an understanding of unfettered data collection at a level not before imagined. Snowden, a former information technology consultant with both Booz Allen Hamilton and Dell Corporation, worked in tandem with a journalist and a filmmaker in 2013 to release a number of documents marked “Top Secret” and kept behind closed doors at the NSA. The documents ranged from the covert court orders of the FISC to internal NSA presentations; even top secret presidential directives, including one signed by President Obama in November 2012, which ordered the Pentagon and related agencies to create a list of potential overseas targets in preparation for a number of aggressive cyber operations around the world.

At the center of BOURNE is a fictional company named Deep Dream, a thinly-veiled reference to both Facebook and Google, which has secretly held the hands of the NSA while assuring its masses of customers that their data will be kept private. The parallel is clear to the NSA Prism program, also made public by Snowden’s releases. Prism called for the collection of data from online providers including email, chat services, videos, photos, stored data, file transfers and video conferencing, to be aggregated and accessible by the NSA. A number of America’s largest Internet Services Provider companies (Google, Facebook, Yahoo!) were named by Snowden’s NSA slides as participants in the program. Media accu-

* This article originally appeared in The International Association of Privacy Professionals’ publication The Privacy Advisor and is reprinted herein with permission. There is no affiliation between the IAPP the Pennsylvania Bar Association’s Young Lawyers Division.
sations claimed such participation might even include open access by the NSA to all such data at any time and without a warrant. (When asked by the New York Times for a response, several companies responded that they did not allow the government “open-ended access to their services” but noted they did comply with lawful requests.)

Several scenes in the movie offer opportunities for the filmmakers to weigh in on the debate between tech and privacy advocates. The presence of Scott Shepherd as Director of National Intelligence Edwin Russell gives a mouthpiece to the side of government and brings to mind the 2013 testimony of James Clapper (then-U.S. Director of National Intelligence) as he defended to Congress the NSA program BOUNDLESS INFORMANT, designed to quantify the agency’s daily surveillance activities with exactitude. Clapper testified that the NSA did not collect any type of data at all on millions (or hundreds of millions) of Americans. He was soon thereafter proved to have knowledge that in a 30-day period surveyed and ending in February 2013, one unit within the NSA collected more than three billion pieces of communication data from U.S. communication systems alone.

Privacy and security advocates alike will take pleasure in the scene set at a restaurant which plays out between CIA Director Robert Dewey (Tommy Lee Jones) and head of Deep Dream Aaron Kalloor (Riz Ahmed). The actors frame the ultimate debate at this table: Should we be more concerned with privacy or with security? Jones as the archetypical bureaucrat and Kalloor as the stereotyped tech wonder kid argue each side in turn; yes, the pressing security needs of a political superpower cannot be underestimated, and data is a weapon in our protection. At the same time, personal autonomy and privacy have never been more precarious, although the basic rights of U.S. citizens (including the right of the people to be secure in their homes, papers and effects, against unreasonable searches and seizures) have been promised. While it’s encouraging that the filmmakers have paid homage to this popular debate — bringing the dinner table discussion to the big screen — the scene ends all too abruptly, without really exploring the nuances of the issue. (What have we lost already, and what have we learned already? What are our sister nations doing to address this concern? What do average citizens know, or not know, about their own data and their own rights?)

Returning to reality, the moviegoer will inevitably leave the theater reminded that these two opposing views form the tectonic plates of our digital world in 2016. Both sides must be acknowledged. Moreover, an international lens is helpful; there is no doubt that other nations and regions of economic cooperation elect to prioritize data protection differently. (For example, the EU prizes grants of privacy powers that reflect a preservation of personal dignity, especially as it applies to protection of one’s own personal image; Europeans are given a right to access the information collected about them and are assured both the proportionality of data collected and a purpose-driven limitation in the gathering of that data.) Post-Snowden updates have brought a series of tightened protocols to U.S. data collection practices and helped align its own data protection policies with foreign models.

The world has changed greatly in the 14 years since Jason Bourne first bobbed to the surface off the coast of Marseilles, and his latest adventure captures well the pulse of one of the defining issues of our age. The world is still sorting and re-sorting these issues, as can be seen in the legislation, regulation, and pending case law which unfolds each day in the data privacy sector. If it's good enough for Hollywood, it must mean it's a great time to be a privacy professional.

Just remember to bring your own popcorn.

Dianna Reuter is a Philadelphia-area legal services executive director and 3rd-year U.S. law student. In 2011, she founded the Military Assistance Project and helped build the organization to include 10 board members and over one hundred volunteer attorneys, law students, certified public accountants and enrolled agents with the IRS. Dianna holds a B.A. in history from James Madison University, is a 2011 graduate of the AmeriCorps Public Allies program at Arizona State University’s Lodestar Center for Philanthropy and Non-profit Innovation, and is a student at Rutgers Camden School of Law.
Impoverished parents deserve their day in court

By Rebecca Canterbury, Esq.

In Allegheny County, courts frequently turn away low-income parents in child-custody cases simply because they cannot pay the exorbitant filing fees. This must change.

Astonishingly, parents who assert child-custody rights in Allegheny County must cough up almost $500 at the outset of the case. The fee for filing a custody complaint has risen to a whopping $337. Add another $150 in fees owed for court-ordered co-parenting and mediation seminars. Of course, that does not even begin to include the cost of hiring an attorney.

Such filing fees are insurmountable for many moms and dads, raising concerns that poverty alone restricts them from exercising what the Pennsylvania Supreme Court termed a biological parent’s "prima facie right to custody.”

Criminal defendants who are poor have a constitutional right to be represented by an attorney, at no charge. But indigent parents have no such right to free counsel even in legal proceedings where basic human rights are at stake, such as those involving the custody of their children.

In Allegheny County, low-income parents may petition the court to waive the mandatory filing fees. But the guidelines for granting a fee waiver in family court are anything but clear.

The Superior Court of Pennsylvania has issued opinions directing trial-court judges to consider a party’s totality of circumstances, including income, dependents, monthly obligations and debts. Such subjective criteria have led to inconsistent rulings.

In child-custody actions, domestic-relations officers in Allegheny County have the authority to grant fee waivers. But they do not just consider a parent’s income levels. They also look at a parent’s savings, which most low-income parents can ill afford to drain, and at their expenses, which usually are just enough to scrape by on. Shockingly, domestic-relations officers can deny fee-waiver requests based on the merits of a case even before it reaches a judge.

If denied at the initial level, petitioners may then make their case to a family-court judge. But more than 60 percent of fee-waiver requests are denied, according to the Allegheny County Domestic Relations office.

By contrast, the Allegheny County Public Defender’s Office takes a simple, objective approach by automatically appointing free attorneys to criminal defendants with income levels that fall within the federal poverty guidelines, taking into consideration the number of household dependents.

Indeed, plaintiffs in Allegheny County who seek protection from abuse orders pay no filing fee at all and even receive a free attorney regardless of their income.

That’s right: A millionaire who files for a PFA gets a free lawyer. But poor parents seeking custody of their children often can’t even get the filing fees waived.

Perhaps that’s why some family-law attorneys and judges believe people are inappropriately using the PFA system as a backdoor to assert child-custody rights.

Last year, as a second-year student at Duquesne University School of Law, I worked as a legal intern drafting child-custody petitions and frequently seeking fee waivers for low-income clients.

One client, whom I’ll call Jane, was a single mother of four children. Jane sought to modify a custody order because her ex was preventing her from seeing their kids.

Jane was unemployed due to severe medical problems. She had no income and was living on just $347 per month in food stamps. My classmate at Duquesne drafted a petition to modify the custody order and request a fee waiver.

But a court administrator inexplicably denied the request to waive the $250 filing fee. A judge later upheld the decision on grounds that Jane’s bank statement reflected that there was $300 in her account. Sadly, they did not account for the fact that Jane’s rent and utility bills were coming due, for which she needed that money.

A classmate and I initiated a program to subsidize filing fees for applicants whose fee-waiver requests were denied. After several months of preparation and fundraising, we hope to launch the program this year.

While our efforts may bring relief to some, they will not solve the problem of low-income parents being denied access to the courts. Unless family-court administrators implement an objective process for approving fee waivers for the poor similar to the public defender’s office, the doors to custody court will remain closed to many who cannot pay.

Rebecca Canterbury received her J.D. from Duquesne University School of Law in June 2016 and this fall she will work as an associate attorney at Spivak Law Firm in Dormont, PA, which represents clients in family law and criminal defense.
Happy Valley was once again the site of the 2016 YLD Summer Meeting and New Admittee Conference. Members of the bench and bar gathered at Toftrees Golf Resort in State College on July 27-29 to welcome young lawyers to the PBA, reunite with old friends and gain some valuable insight through several CLE presentations.

On the opening evening, the Honorable Matthew Brann, United States District Judge for the United States District Court for the Middle District of Pennsylvania, addressed the conference. After dinner, there was a heated trivia game as the attendants split into small squads to compete in a battle of wits and wisdom. The subject of meteorology proved to be a difficult storm for some teams to weather (terrible pun intended).

On Thursday, the YLD conducted a business meeting and received zone reports from all across the commonwealth. Newly-minted YLD chair Joel Seelye, a partner at Grabill and Seelye, P.C. in Altoona, presided over the meeting, which encouraged young lawyers, particularly the new admittees, to get involved with the YLD in their zones. After a day of entertaining and enlightening CLEs, attendants of the conference had an array of interesting choices for afternoon entertainment and excursions. Several young lawyers had the honor to stand on the hallowed ground of Beaver Stadium (but not on the grass) and were treated to a guided tour of the facility by legendary Penn State Equipment manager Brad “Spider” Caldwell. If sports were not their thing, attendants also had the chance to tour local breweries and wineries. Those who chose the brew visited the Robin Hood and Happy Valley Breweries. For the wine connoisseurs, it was Seven Mountains Winery and Mount Nittany Winery. Later that evening, after remarks by current PBA President Sara A. Austin, the rafters of Toftrees were rocked by the band His Boy Elroy.

The conference was a successful and productive experience for all in attendance. If you missed it this year, we hope you will give it a try next year and encourage other young lawyers, especially new admittees to do the same.

More photos on pages 18 & 19.
What’s Going on in our Counties

ZONE 1 (Philadelphia)
Zone Chairs: Philip Yoon – philip.yoon@pacourts.us & Andre Webb andre.webb@libertymutual.com

On July 20, the YLD hosted its “Legal Line” program, where volunteers offered free general legal guidance and helped make referrals.

On July 21, the YLD held a Quizzo tournament at Field House Sports Bar, where teams signed up to compete against each other for a trophy. All proceeds went to a public service agency supported by the Philadelphia Bar Foundation and chosen by the winning team.

The YLD is also looking for volunteers for the Youth Sentencing and Re-entry Project, which partners a volunteer with court-involved youth and their families and sets the goal of keeping children out of adult jails and prisons.

Zone 1 will be working with the Philadelphia YLD to set up an attorney-law student mixer in the fall, with Drexel and Penn Law as the target schools.

ZONE 2 (Berks, Carbon, Lehigh, Northampton, Schuylkill)
Zone Chair: Ed Qaqish - EQ@QaqishLaw.com

BERKS COUNTY
During the summer YLD members participated in a baseball league every Tuesday.

The YLD held a mixer with CPAs and small business owners. The mixer brought together young lawyers, accountants and business owners to discuss how the young lawyers and CPAs can help the small business owners with their businesses.

LEHIGH COUNTY
The YLD holds monthly happy hours at various restaurants throughout Lehigh County. The YLD also participated in the annual Bar Association of Lehigh County softball game.

NORTHAMPTON COUNTY
On July 7, the Northampton County YLD sponsored a “Christmas in July” fundraiser at the Easton Public Market. Proceeds went to support the YLD’s involvement in the Holiday Hope Chest project sponsored by the Volunteer Center of the Lehigh Valley. The Holiday Hope Chest project provides wrapped shoe boxes containing small gifts for underprivileged children throughout the Lehigh Valley during the holidays. The Northampton County YLD has been the largest contributor of Holiday Hope Chests the past several years.

The YLD continues to support a monthly happy hour known as “Bar Buddies,” designed to encourage interaction between newer and more experienced members of the bar to form mentor-mentee relationships.

ZONE 3 (Adams, Cumberland, Dauphin, Franklin, Juniata, Lancaster, Lebanon, Perry, York)
Zone Chairs: Paul Edger – pedger@midpenn.org & Jacqulyn Harris – jackie@artell-law.com

CUMBERLAND COUNTY
Cumberland County participated in Law Day in May. Volunteers, including attorneys and judges, went to various elementary schools throughout the county presenting The Three Little Pigs, a mock trial about Miranda rights. Students and teachers acted out the roles, and YLD volunteers were the attorneys. More than 1,500 students were part of the mock trial. The YLD had a happy hour to celebrate its Law Day presentations and honor volunteers.

The YLD subcommittee is working on updating the Stepping Out program booklets. Through the Stepping Out Program, the YLD members speak with high school seniors to provide information about what they may experience when they turn 18 and graduate from high school. Cumberland County is revamping the information and updating the laws after a 13-year hiatus. The program is expected to be ready for the class of 2016 – 2017.

The YLD is also starting a mentorship program. The goal is for newer and younger students, including law students, to be paired up with an older experienced attorney to “mentor” them with practice tips.

The YLD offered scholarships for the Justice Eakin retirement reception held in his honor at the West Shore County Club. Justice Eakin was the Cumberland County district attorney before becoming a Superior and Supreme Court judge. Justice Eakin is still active with Cumberland County Bar Association, and the YLD appreciates all that he does.

The young lawyers of the Cumberland County Bar Association and Dauphin County Bar Association held a joint picnic in the summer.

DAUPHIN COUNTY
The YLD of Dauphin County participated in the Dauphin County Bar Association and Cumberland County Bar Association joint picnic at Liberty Forge on July 20.

During the summer, the YLD had a volleyball league every Thursday night with 19 teams made up of attorneys throughout Dauphin County. The volleyball picnic was held Aug. 4.

FRANKLIN COUNTY
The YLD meets monthly for business meetings and social meetings. The social committee organizes a team for Trivia Tuesday at a local bar and restaurant.
What’s Going on in our Counties

YLD members sponsored and participated in a local 5k race to help raise money for Support Circles, an initiative that supports and aids local residents as they work to overcome poverty.

At the request of Judge Shawn D. Meyers, the YLD presented a mock trial and social media program to approximately 50 kids enrolled in a local YMCA summer program.

As an ongoing project, the YLD continues to host Wills for Heroes events when requested.

YORK COUNTY

Happy hours are extremely popular and well-attended, providing an excellent opportunity for local attorneys and judges to network and socialize in an informal environment.

In June, the Young Lawyers sponsored a happy hour before the bar association’s annual family picnic at PeoplesBank Park, home of the York Revolution. Nearly 150 people attended the picnic for an evening of baseball, food and games, which was nicely capped off by a victory for the home team!

The YLD held a happy hour in August and hosted a bus trip to Happy Valley on Sept. 17 to see the Nittany Lions face off against Temple.

The annual Wills For Heroes event was held on Sept. 10 at Penn State York.

ADAMS, JUNIATA, PERRY COUNTIES – Do not have active YLDs

LANCASTER AND LEBANON COUNTIES – No report

ZONE 4 (Lycoming, Montour, Columbia, Northumberland, Snyder, Tioga, Union)

Zone Chairs: Schawnne Kilgus – schawnne.kilguslaw@gmail.com & Christopher Robinson – chris.j.robinson15@gmail.com

ZONE 5 (Bradford, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, Wyoming)

Zone Chairs: Jennifer Menichini – jmenichini@callGLA.com & C. David Pedri – david.pedri@luzernecounty.org

LACKAWANNA COUNTY

In May, approximately 10 schools participated in Lawyers in the Classroom. Young lawyers were assigned to specific elementary schools to discuss Miranda rights with fifth graders for Law Month. Young lawyers handed out bookmarks and pencils.

A Law Month benefit cocktail event and wine pull was hosted by the Young Lawyers on May 26 at the Scranton Cultural Center in honor of Peggy Gavin and Peggy Gavin Award recipient Attorney Kelly Lenahan. A beneficiary was chosen: the Cody Barrasse Foundation, which promotes organ and tissue donation awareness through the Gift of Life. Attendance was more than 200 and $28,000 was raised.

A pro bono golf tournament was held June 10. Two of four YLD golf teams attended. The YLD provided a donation at the sponsorship level for the event. A CLE was provided beforehand.

On July 30, the young lawyers participated in making smoothies for patrons of the St. Joseph’s Picnic, held annually to support extensive residential and community-based programs for children and adults diagnosed with intellectual disability.

Young Lawyers donated backpacks filled with school supplies to the Scranton School District to give to impoverished elementary school students in preparation for the 2016-2017 school year.

LUZERNE COUNTY

In June, the YLD held its 4th Annual Volunteer event at the Lands at Hillside Farms in Dallas. Hillside is a non-profit, educational dairy farm that is dedicated to sustainability. Together, YLD volunteers did some gardening, learned about the farm and enjoyed Hillside’s famous ice cream.

In July, members of the YLD volunteered at Blue Chip Animal Farm, a non-profit animal rescue farm in Dallas, Pa. The group cleared and assembled an area for a dog run so that animals would be protected from the sun and have a comfortable place to play and cool off. The group also toured the facility, helped to clean and maintain the area where pigs are held, and walked the rescue dogs.

The YLD made a donation to the Luzerne County Juvenile Probation Juvenile Fun Day on June 22 at Kirby Park. Juveniles were given community service credits for attending the event and extra credit for bringing family members. Juveniles, their families, and anyone who works in the court system -- ADAs, APDs and GALs and judges, probation and providers -- attended. There was music, food, prizes, and games.
**MONROE COUNTY**

The YLD is organizing members to volunteer at the Monroe County Meals on Wheels Annual Wing Off Event at Pocono Raceway. This is the local Meals on Wheels top fundraiser of the year.

The YLD sponsored its annual river rafting trip down the Delaware River. Organized by the YLD, the event was opened to all members of MCBA and their families.

The YLD hosts a monthly mentor lunch at a local restaurant. Veteran attorneys are invited to join for a casual lunch. The guest attorney shares his or her experiences in the legal professional and provides advice and guidance to the young lawyers. These monthly meetings are very well attended. The most recent guests were Attorneys Alan Young, Brandon Reish, and Kirby Upright and Magisterial District Judge Michael Muth. The YLD traditionally take the summer months off due to many scheduling conflicts, but have resumed the monthly lunches in September.

As in the past, members of the YLD plan to volunteer at the Saint Luke’s Church soup kitchen located on Main Street in Stroudsburg in the fall.

YLD members are rescheduling a volunteer date with Monroe County Habitat for Humanity that had to be cancelled.

**SUSQUEHANNA COUNTY**

Susquehanna County YLD members, in conjunction with the Susquehanna County Bar Association, participated in the recent launch of The Legal Journal of Susquehanna County, PA, which publishes recent decisions from the Court of Common Pleas, local estates, real estate transfers and other items relevant to the practice of law in Susquehanna County.

**BRADFORD, PIKE, SULLIVAN, SUSQUEHANNA, WAYNE, WYOMING COUNTIES – NO REPORT**

**ZONE 6** (Fayette, Greene, Washington, Westmoreland)

Zone Chair: Garnet Crossland – glc142@yahoo.com

**FAYETTE COUNTY**

On July 21, The Fayette County YLD hosted the members of the Fayette County Bar Association at a summer picnic happy hour in a local park with cocktails and catering from a food truck.

The Bench/Bar Conference was scheduled for August at the Uniontown Country Club.

A Wills for Heroes program is planned at Penn State Fayette for the fall.

**WASHINGTON COUNTY**

Washington County held an annual mini-golf and wine/liquor tasting event. This year the event raised a record amount for the Young Lawyers’ Division Educational Assistance Fund. Also, the second quarter meeting officers were elected for 2017.

In June, Washington County had the first annual YLD cookout. In July, the YLD hosted a happy hour.

The summer Bench/Bar was held in Pittsburgh, as well as a happy hour with the Washington County bench.

**WESTMORELAND COUNTY**

Westmoreland County YLD sponsored a tent at the Old Joe’s Club Croquet Tournament, which raises money from sponsorships for local non-profit purposes (http://www.oldjoecroquetclub.com/croquetclub/home.htm). The YLD paid for the tent and passes to attend the event and provided food and drink to everyone who wanted anything. This is a big event with about 25 tents.

The YLD also sponsored a suite at the Westmoreland Bar Association’s Bench/Bar retreat, which was a three-day event at Nemacolin Woodlands. The suite had food and drink for all the attendees and vendors.

The Annual Westmoreland summer party, was on Aug. 19. There was live entertainment and at least 100 members in attendance.

Westmoreland YLD will be doing a food drive/pub crawl event in the fall. Members can participate if they pay an admission fee and donate nonperishable food items. Future events include organizing a Toys for Tots drive this winter and sponsoring a food kitchen in the spring.

**GREENE COUNTY** – Does not have an active YLD

**ZONE 7** (Clarion, Crawford, Erie, Forest, Jefferson, McKean, Venango, Warren)

Zone Chair: Denise Pekelnicky – denise@nwpalaw.com

On Aug. 6, the Zone 7 Caravan event was a wine tasting and tour event. Participants started at Lake View Wine Cellars, then traveled on a bus to four different wineries and breweries, with a tour at Arrowhead Winery. The tour concluded at Lake View Wine Cellars with a catered dinner at no cost to young lawyers; the cost for guests was $10.

On Aug. 24, the young lawyers had a family-friendly event, a Seawolves baseball game, which offered all-you-can-eat food and beverages.

On Sept. 8, the young lawyers sponsored a location at the Bayfront Sheraton to allow the young lawyers and their families to watch the arrival of the Tall Ships and the World’s Largest Rubber Duck.
What’s Going on in our Counties

CRAWFORD COUNTY

On May 28, the young lawyers had an event at Lago Winery. Everyone had a wonderful time, even though Mother Nature sent some rain.

The young lawyers took the summer off, but in September members attended the last home game of the Seawolves, which was a family event open to spouses, significant others and children.

CLARION, FOREST, JEFFERSON, MCKEAN, VENANGO, AND WARREN COUNTIES – Do not have active YLD

ZONE 8 (Bedford, Blair, Cambria, Fulton, Huntingdon, Indiana, Mifflin, Somerset)

Zone Chairs: Christopher Michelone – ctmichelone@mqlaw.com & Warren Crilly III – wlcrrillyiii@gmail.com

On Aug. 8, the Blair County Young Lawyers Division staged a Bridging the Gap CLE for new attorneys. The CLE was held in the Jury Assembly Room of the Blair County Courthouse in Hollidaysburg. Panelists included Jason Imler, Traci Naugle, Joel Seelye and Chris Michelone.

The Zone 8 Caravan was held on Aug 25 at PNG Field in Altoona as the Pittsburgh Pirates’ AA affiliate Altoona Curve took on the AA affiliate of the Detroit Tigers, the Erie Seawolves. A buffet dinner was served in the picnic area at PNG Field Tickets. The event was free for all PBA YLD members and $20 for guests.

Zone 8 and the Blair County YLD are organizing a group of young lawyers to be sworn in on an argument day at the Supreme Court of the United States. All slots are currently full, and plans are moving forward for the admission ceremony during the Fall 2016 Supreme Court term.

BEDFORD, FULTON, HUNTINGDON, INDIANA, MIFFLIN, SOMERSET COUNTIES - No report

ZONE 9 (Bucks, Chester, Delaware, Montgomery)

Zone Chairs: Patrick Gallo Jr – pgallo@macelree.com & Colin O’Boyle – cjo@elliottgreenleaf.com

BUCKS COUNTY

In June, the annual Young Lawyers v. Seasoned Lawyers softball game and happy hour took place.

The Bucks County Civil Law 101 CLE was held in August. The summer happy hour was also held in August. The YLD has seen an increase in both membership and participation this year and look forward to a busy fall.

CAMBRIA COUNTY

On April 5, the Cambria County Young Lawyers Division sponsored and presented a CLE presentation at the Holiday Inn in Johnstown. The presentation focused on the use of social networking websites in the practice of law and the potential pitfalls for both attorneys and their clients that may arise through this use. It was a well-attended and well-received event. The subject matter drew praise from more experienced members of the bar who may not be as familiar with these sites as their younger counterparts. The presenters were Meaghan Chirillo, YLD Chair for Cambria County and an attorney at Leventry, Haschak and Rodkey in Johnstown; Gregory Neugebauer of Neugebauer & Swope in Ebensburg; Devon Malloy of Stofko Law Offices in Johnstown; and Chris Gvozdich of Gvozdich Law Offices in Ebensburg.

CHESER COUNTY

On June 2, the YLD hosted a happy hour at the newly opened World of Beer in Exton. On June 30, a bar association-wide happy hour took place at Más Mexicali Cantina in West Chester (courtesy of BB&T).

In July, the YLD volunteered for a team build with Habitat for Humanity in Coatesville. A game against federal and state attorneys/judges took place at West Chester University on July 21. The CCBA softball team competed in the local county summer softball league.

On Oct. 6-8, the Annual CCBA Fall Bench Bar will be held at Skytop Lodge. This is the CCBA’s premier event for networking and socializing with colleagues and judges, while also providing opportunities to obtain up to six CLE credits in a variety of practice areas.

The Chester County Trial Advocacy Academy will welcome its second class in October 2016. The two-day academy, developed by Attorney Larry Goldberg, is an intensive and interactive nuts-and-bolts trial advocacy program, which includes a distinguished group of panelists comprised of both attorneys and judges. The academy is designed to help attorneys, especially younger attorneys, improve their trial advocacy skills and confidence in the courtroom.

MONTGOMERY COUNTY

The YLD volunteered at the Grace & Cecil Bean’s Soup Kitchen two Saturdays in May. Additionally, the YLD collected gift cards from Giant supermarket to donate to the Grace & Cecil Bean’s soup kitchen.

The MBA YLD had a series of networking happy hours in various bars and restaurants in Montgomery County: MBA Building (Norristown), Brick House (Willow Grove), Bahama Breeze (King of Prussia) and Stone & Tap (Lansdale).

On July 30, the Young Lawyers had a running team for the MCAP Run For The Hill Of It Event. The run took place at Fairmount Park in Chestnut Hill (Philadelphia).

DELAWARE COUNTY – No report
What’s Going on in our Counties

ZONE 10 (Armstrong, Beaver, Butler, Lawrence, Mercer)
Zone Chairs: Andrea Boyle – aboyle@andreaboylelaw.com & Melissa Merchant-Calvert – Melissa.merchant19@gmail.com

BEAVER COUNTY
On June 14, the Beaver County YLD sponsored a golf outing to benefit the charity Variety, which donated an adaptive bicycle to a child in need.
On July 16, held a YLD happy hour; members in attendance donated children’s books for the women’s shelter.
On Aug. 27, the YLD and bar association worked on a Habitat for Humanity house in Monaca, Pa.

BUTLER COUNTY
In June, the YLD had a happy hour event.
The YLD jointly sponsors a blood drive in August at a local church. The blood drive is held every other month.
The YLD is also joining forces with the Butler Young Professionals Group to hold four community service-related projects. Details are being ironed out.
The YLD is currently negotiating with a local facility to hold its first Wills For Heroes event in the fall.

MERCER COUNTY
In June, the young lawyers participated in a Sip n Paint at a local winery.
In August, a Lunch and Learn was held with Mercer County’s president judge, clerk of courts, register of wills and prothonotary. The purpose of the lunch was to discuss Mercer County Local Rules and the biggest mistakes these office holders see from young lawyers.
The Young Lawyers have monthly happy hours at a local establishment. Not only do the young lawyers attend these events, but senior bar members also attend.
Mercer County Young Lawyers and the Lawrence County Young Lawyers are planning a happy hour.
A Wills for Heroes event will be scheduled in the fall.

ARMSTRONG AND LAWRENCE COUNTIES – Do not have active YLDs

ZONE 11 (Cameron, Centre, Clearfield, Clinton, Elk, Potter)
Zone Chair: Daniel McKenrick – dcm230@psu.edu

CENTRE COUNTY
From May to late July, the YLD had weekly softball games against other community teams.

On May 25, Meet the Judge Night picnic was held at the Tudek Park in State College with newly elected Judge Katie Oliver.
On June 20, at the CCBA summer quarterly meeting at Happy Valley Winery, David K. Trevaskis, Esq. provided a CLE on pro bono issues. A reception and wine tasting followed.
On July 23, the CCBA YLD sponsored a Family Night at the State College Spikes. The baseball game was at Medlar Field was followed by a fireworks show.
On Aug. 18, the PBA YLD Zone 11 caravan was held at the Tussey Mountain Wingfest.
The Meet the Judge Night will include kayaking/canoeing with President Judge Thomas Kistler on Coyler Lake in Centre County; the date is to be determined.

CAMERON, CLEARFIELD, CLINTON, ELK, POTTER COUNTIES - Do not have active YLDs

ZONE 12 (Allegheny)
Zone Chair: Julia Wu - jw@mbm-law.net
On June 16-18, the Allegheny County Bar Association 54th Annual Bench-Bar Conference occurred at Seven Springs Resort. The YLD hosted a CLE Program entitled, “Young Lawyers and the Media,” a panel discussion about a young lawyer’s role in a world of traditional and social media.
The YLD also held a division meeting introducing the incoming YLD Chair Laura Bunting, who succeeded Michaelene E. Weimer.
The ACBA/ACBF and the YLD Public Service Committee participated in a backpack project, where volunteers packed and distribute backpacks filled with school supplies to children in need.
On Aug. 19, the YLD hosted its first annual Esquire Open at the Mt. Lebanon Tennis Center. Tennis pros organized and lead a mixed doubles tennis tournament for players of all skill levels. Prizes, food and beverages were provided.
On Aug. 28, the YLD had a kick-off party at Schenley Park Café.
The YLD council voted and the board of governors approved amendment of the current bylaws expanding the seats on council from 10 to 14. Max Slater and Jessica Crown joined the YLD Council as two-year council members. In addition, Benjamin Gobel was elected by council to fill a one-year vacancy, since the member holding that position, Corinne McGinley Smith, was elected to YLD chair-elect.
Upcoming PBA Events

September
27  Office of Open Records Overview, cosponsored by the PBA Administrative Law Section • Harrisburg
28  Civil Litigation Section Regional Dinner • Harrisburg

October
5-6  Workers’ Compensation Section Fall Meeting • Hershey
6   Environmental and Energy Law Section Fall Social Event • Harrisburg
13  Women in the Profession Mentoring Receptions • Harrisburg, Philadelphia, Pittsburgh & Scranton
20  Minority Bar Committee Diversity Summit • Harrisburg
26  Public Utility Law Section Meet & Greet • Harrisburg

November
11-12 Women in the Profession Fall Retreat • Bedford
17*  Committee/Section Day • Harrisburg

* YLD business meeting will take place during the event.

CLICK HERE FOR UPCOMING PBA YLD EVENTS.

Upcoming Wills for Heroes Events

Oct. 1  Lancaster County Public Safety Training Center, Lancaster County
Oct. 1  Newtown Fire Association, Bucks County
Oct. 8  Marshall Township Fire Department, Allegheny County
Oct. 14 Penn State Fayette The Eberly Campus, Fayette County
Oct. 15 Abington Township Public Safety Training Facility, Montgomery County
Oct. 22 Pike County Emergency Training Center, Pike County
Oct. 29 Cumberland County 911 Call Center – Cumberland County
Oct. 29 Llanerch Volunteer Fire Company, Delaware County
Nov. 5  Arcadia University, Montgomery County
Nov. 12 Willow Grove Fire Company, Montgomery County
Nov. 12 City of Pittsburgh Police Department, Allegheny County
Dec. 3  Lancaster County Public Safety Training Center, Lancaster County

Check the website throughout the year for more events or to sign up to volunteer.

Calling all writers!

The YLD At Issue editor is now accepting article submissions meeting the following criteria:

- The subject matter should be relevant to young lawyers.
- Articles should be no longer than 1,200 words. Longer articles may be considered to run as a series.
- All submissions must include a short author biography and a digital photo of the author (300 dpi resolution preferred).
- Electronic submissions (MS Word) are preferred. Please submit articles to Keli Neary at kmnearyesq@yahoo.com.
- Articles for the next issue are due Dec. 1, 2016.
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