Active Young Lawyers Division embraces change

By Jonathan D. Koltash, PBA YLD chair

Often, lawyers think of summer as a more laid back time of the year. However, that has not been the case for the Young Lawyers Division of the Pennsylvania Bar Association. As we gear up for fall, I am amazed at what we have already accomplished.

A Busy Summer for the YLD

The division has held eight caravans throughout the zones. Led by a wonderful team of zone chairs, our caravans have allowed us to connect with our membership on a local level and afforded us an opportunity to partner with local bar associations to strengthen our relationships with those organizations. We have also held 24 Wills for Heroes events since May, ensuring our first responders and veterans are provided necessary estate planning documents. The Mock Trial Executive Team has also begun eagerly preparing for the 2018 Mock Trial Competition, drafting a problem that will challenge thousands of high school students across the commonwealth.

YLD Summer Summit

In July, the YLD Summer Summit in State College was an opportunity for more than 150 young lawyers, judges and leadership of the PBA to assemble, participate in CLEs and engage and discuss important topics facing the profession. It was also the YLD’s opportunity to welcome members of the Bar Leadership Institute and new admittees to the association as they become more active in the PBA.

Executive Council amended its bylaws to reflect that a young lawyer of the PBA will now be all members of the association who are 40 years of age or younger (previously 38) or have been in practice less than five years. Our hope is that this change will allow young mothers to return to the YLD with enough time to seek leadership positions. It will also allow young lawyers who get involved with their local bar association prior to getting active in the PBA with an opportunity to take on a leadership role in the YLD. This change was approved by the PBA Board of Governors on Sept. 14 and immediately became effective.

Proposed Changes to Bylaws

The YLD is also currently advancing two proposed changes to the PBA bylaws. The first proposed change is to dissolve the Law Student Division, making all law student members of the YLD. Because law

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students are only law student members for a short period of time, the Law Student Division struggles each year to obtain leadership, plan events and be active. Our hope is that by recognizing law student members as part of the YLD, the PBA will give law students a home and, upon graduation, they will already be involved in the YLD and continue to remain active. This initiative has been approved by the Board of Governors and will be voted on by the PBA House of Delegates in November.

The YLD’s second PBA bylaws amendment would be to consolidate our elected ABA YLD representative with that of the PBA YLD member who is appointed each year by the PBA to sit in the ABA House of Delegates. This initiative is aimed at strengthening both positions, while being fiscally responsible, but also maintaining the YLD’s voice in the ABA. This initiative has also been approved by the Board of Governors and will be voted on by the PBA House of Delegates in November.

PBA YLD Mock Trial Competition Wins Award

The PBA YLD Mock Trial Program was awarded the Leo West Award for Social Studies Awareness and Promotion by the Pennsylvania Council for the Social Studies. One of the largest in the nation, the PBA YLD Mock Trial Competition gives more than 300 high school student teams from across the state the opportunity to act as lawyers and witnesses in simulated civil and criminal trials before actual judges and panels of juries. Lawyers volunteer to assist students as team advisors, scorekeepers and regional coordinators. Each year, the winning team goes on to represent Pennsylvania in the national competition. The West Award recognizes the PBA YLD Mock Trial Competition’s continued success in giving high school students from across the commonwealth the opportunity to see our judicial system in action.

Follow Us on Facebook

The YLD has also made an effort to be more visible on its Facebook page, posting pictures and updates to ensure that members can see what’s happening around the state. It is also a great opportunity to get information between versions of this newsletter. If you have not already done so, please follow us!

Committee & Section Liaisons

Having had such an active summer, don’t be fooled into thinking that our year is over! In early October, the YLD began an initiative to strengthen its relationship with the various committees and sections of the PBA. As part of this initiative, I have reached out to each of the committee and section chairs, soliciting their nomination of an active young lawyer within their committee or section to serve as a liaison with the YLD. These liaisons will report back to the committees and sections about the activity of the YLD and report to the YLD about the activity of the various committees and sections. If a committee or section interested in a liaison does not have an active young lawyer, we will begin soliciting young lawyers to serve in these capacities. Look for information to come shortly.

Volunteers Needed

We are also in need of volunteers to serve in various leadership capacities as part of the YLD Mock Trial program. Although the competition does not formally begin until January, there is a lot of work still to be done. Likewise, we still have areas of the state without active Wills for Heroes coordinators. An updated list of the YLD Wills for Heroes coordinators and dates of upcoming events can be found on the PBA website in the YLD Section. Both programs provide young lawyers with leadership opportunities that give back to their local communities and make a difference.

YLD Fall Meeting, Nov. 16

Last, but not least, Committee/Section day is Nov. 16. The YLD will have its annual fall meeting at that time. I encourage all of you to make the trek to Harrisburg to get involved and to have an active voice in our great association. Additionally, get involved with a committee or section — the lifeblood of the PBA. Committees and sections provide an opportunity to learn from other lawyers in our practice areas, while giving us an active voice in shaping our profession.

As always, if I can be of service, please never hesitate to contact me, and I hope to see you Nov. 16!
PBA President López welcomes Bar Leadership Institute Class of 2017-2018

Pennsylvania Bar Association President Sharon R. López named 11 Pennsylvania lawyers to the 2017-18 class of the association’s Bar Leadership Institute (BLI).

“Our young attorneys are the bright lights in the bar’s future. The investments that we make in them now are critical for the profession’s growth. I’m so pleased to name these hardworking attorneys to this year’s class and look forward to working with them, as they connect and form relationships with more seasoned members, create a network throughout the commonwealth to share experiences and learn more about the varied paths to leadership within the PBA,” said López.

The BLI class was limited in size. To apply, candidates had to demonstrate leadership ability, commit to attendance and participation in the required events, be currently licensed to practice law in Pennsylvania, be a PBA member, and be age 38 years or younger or have practiced five years or less.

The BLI was originally developed by Arthur L. Piccone of Kingston in 1995-96 during his year as PBA president to strengthen the PBA’s ongoing efforts to recruit and develop leaders of the association. The first chair of the institute, Gretchen A. Mundorff of Connellsville, re-launched the BLI when she became the 2010-11 president of the PBA.

This year’s BLI co-chairs are Melinda C. Ghilardi, Office of the Federal Public Defender, U.S. District Court for the Middle District of Pennsylvania, Scranton, and Philip H. Yoon, Superior Court of Pennsylvania, Philadelphia. Both Ghilardi and Yoon have served in a number of PBA leadership roles.

The 2017-2018 BLI class members include:

**Allegheny County**
Amber Reiner, Picadio Sneath Miller & Norton PC, Pittsburgh

**Beaver County**
Frank Paganie, Beaver County Public Defenders Office/Law Office of John Salopek, Ambridge

**Blair County**
Jon Higgins, Beard Legal Group, Altoona

**Centre County**
Sharon Barney, Leech Tishman Fuscaldo Lampl, State College

**Dauphin County**
Gina Miller, Pennsylvania Public Utility Commission, Harrisburg

**Lackawanna County**
Katie Nealon, Munley Law PC, Scranton

**Lehigh County**
Keri Schantz, Allentown

**Monroe County**
Donald Gual, Monroe County Court of Common Pleas, Stroudsburg

**Montgomery County**
Michael Lyon, Kane Pugh Knoell Troy & Kramer LLP, Norristown

**Philadelphia County**
Jordan Fischer, XPAN Law Group, Philadelphia
Transitions from law school to the courtroom can be quite an adjustment. You are no longer reading the parties’ arguments in a casebook — you are the attorney making the arguments! Here are seven tips for courtroom etiquette every young attorney should know when standing up as a member of the bar:

1. **Appearances matter — dress to impress.** You need to make sure that you look confident and professional. For men, make sure your suit is ironed, your tie is straight and your jacket fits. For women, you can wear a pant suit or a skirt, blouse and jacket or a dress and a jacket. Avoid low cut tops, too short skirts and dresses and make sure to polish off your look with closed toe shoes and minimal jewelry. You want to make sure your look enhances your argument, not distracts from it.

2. **Address the judge as “Your Honor.”** As a young attorney, you may not know how to address the judge handling your matter. A simple “Your Honor” is always the best route. Do not use the judge’s full name. It is unnecessary and takes time away from your argument. You also risk mispronouncing it and offending the judge rather than showing respect.

3. **Stand up.** You should always err on the side of standing up to address the court. You can sit down only if the judge specifically instructs you to do so. Otherwise, you should always stand when the judge enters or exits and stand to make your arguments or any objections.

4. **Come prepared as if the judge has not read your brief.** You have labored painlessly for hours over the legal brief in support of your argument. Unfortunately, especially at the trial court level, some judges do not have time to read each and every brief. In fact, it is more likely the law clerk read your brief and summarized it for the judge prior to the argument. The judge will likely look back on the brief after the argument if the judge does not rule from the bench. Consequently, you should be prepared to make all the legal arguments outlined in your brief as if the judge is not familiar with them. However, see the next tip and avoid making repetitive arguments if the judge so directs.

5. **Pay attention to the judge’s cues.** The judge will often ask questions to direct the argument. If the judge tells you to move on, move on. Do not try and get in one last point. Do not focus on arguments the judge has said are set forth in the brief and do not need to be addressed. The judge will be aware of the arguments that need to be made and will be annoyed if you are not answering direct questions or following instructions on what to address.

6. **Listen with your ears, not with your facial expressions.** It is important when listening to your adversary’s arguments to listen respectfully. Take notes of important points you want to address when it is time for your to rebut the argument. Take care to control your facial expressions. You do not want to make disgruntled faces, roll your eyes, mutter under your breath or abruptly shake your head as your adversary is talking. Remember, you are a member of a profession and it is important your conduct reflects it.

7. **Be courteous to everyone in the courtroom.** Everyone in the courtroom deserves to be treated with respect. The judge’s staff, the courtroom personnel and your adversary should be treated professionally and civilly. You do not want to have a reputation as a difficult attorney. If you are disrespectful out of the presence of the judge, the judge will find out, and it will not reflect well on your case or your professional reputation.

Follow these tips and you can be sure that your courtroom etiquette will be well received and will raise the bar of your professional reputation!

Megan Knowlton Balne is an attorney at Hyland Levin LLP and focuses her practice on commercial litigation, specifically business divorce matters, shareholder disagreements, restrictive covenant issues and contract disputes. Prior to entering private practice, Megan served as a law clerk in both New Jersey state court and the U.S. District Court for the District of New Jersey.
“Wow, you could be a real lawyer!”

The plight of the public defender and what it means to win

By Justin Wisniewski

Many newly minted lawyers start their careers in the public sector where they can accrue a lot of experience very quickly. Two noble options are the offices of district attorneys and public defenders. While both enjoy the reputation of being overworked and underpaid, there is at least one major difference: respect.

There are a fair number of articles on this issue, such as the famous case of wrongly-arrested public defender Jami Tillotson (http://www.sfexaminer.com/police-watchdog-officer-wrongly-arrested-deputy-public-defender-courthouse/), but this article is focused on the image of public defenders. DAs have the backing of the police force and the public in general (and a political career is never out of the question). Comparatively, PDs somewhat regularly have clients who actively question if you are a “real attorney” because, after all, you could not possibly be good at your job if you choose not to make a lot more money doing less work.

People have asked me, “How often do you win as a public defender?” I have to respond by asking what they define as a win. Then they laugh and say, “What a lawyer’s answer.” Their responses are somewhat telling: rather than understanding the nuances of the job, they just want to know how often a public defender will get a murderer right back on the street — because there is an unfortunate assumption that all of my clients are guilty. This comes from the public misunderstanding of the job of the public defender.

If a “win” is defined by acquittal, then public defenders very rarely win. To me, a “win” is getting the best possible result for my client. A “win” is when a struggling mother or father is staring down a lot of jail time for a nonviolent offense, and the DA offers a very generous plea bargain.

The result might not be ideal, but it can be the best possible circumstance for some clients. This mindset is necessary for me, and for others, to find satisfaction and confidence in my profession.

And what about when we know we should win, but fate has conspired against us?

Picture this: two police officers conducted a bad stop — no probable cause, just a hunch and being in a mood to catch some bad guys. To their credit, that hunch paid off, and two suspects were found with enough drugs to put them behind bars for a minimum of 25 years between the two of them. But it was a bad stop, and we moved to suppress the evidence and submitted a glorious brief, which should have gotten both clients a free pass. Did the judge accept our argument and exclude all the evidence? Unfortunately, no.

The judge made up her mind that my clients were definitely guilty of something, and questionable police tactics were not going to be their ‘get put of jail free’ card. Someone had to go to prison, so I had to counsel my client that we can either try the whole case and risk everything or someone must take a plea.

The end result of this case was that one suspect got to walk and the other entered a plea resulting in three years’ incarceration. Do I get to call that a win? I have to. If we were a private firm, armed to the teeth and ready to go to war for the client, they both would have walked. This is a challenging reality to live and work in. I have to hold tight to the feeling that I know how things ought to have played out, but I cannot allow my feelings to be projected in my interaction with the prosecutors or to the court. Everyone in the courtroom is going to be back tomorrow, so we can’t burn any bridges. When things like this happen, we have to smile through gritted teeth.

Even when a client who does plead begrudgingly acknowledges that a deal is pretty good, all of that effort can still lead to one of two things: some version of that backhanded compliment, “Wow, you could be a real lawyer!” or the client feeling that the system was rigged against him, and we didn’t work our tails off for him, which is a serious problem for us.

Many people outside the legal field think that PDs are on the same side as the DAs. Many courtrooms involve the same teams day in and day out, so admittedly we have to maintain a working relationship with the people across the aisle. It can give clients the idea that we collude with DAs, and we do not care about them and are not really on their side. Because we appear before the court with the same opposing colleagues so frequently, there

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“Wow, you could be a real lawyer!”
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is an extent to which we do ‘play nice.’ But clients can get the wrong idea if we so much as laugh at a joke from one of the DAs. While more akin to “Sam and Ralph” than “Tom and Jerry,” some people misconstrue professional civility for inappropriate collusion. This impression is completely false.

How can public defenders gain more respect? It might help to make a couple of things clear to a client, especially if you are a new lawyer. We do not choose this job because we cannot find a better one. We are fighting tooth and nail for our clients, and we do not compromise their interests to cooperate with the DA. We do it because it gives us purpose to look another human being in the eye and know we are there for him or her. And we always will do best we can to get a ‘win’ for every client.

To all young lawyers: remember that honesty is the best policy. When a client expresses doubt, talking to him or her and simply breaking down the role you play as their attorney and as a part of the justice system can make a very big difference in how your client views your role in the courtroom. Make sure your client knows you are in the driver’s seat and explain that getting along with the DAs does not mean collusion. These initial explanations can restore your client’s confidence in you as his or her attorney and in the justice system as a whole. Having this conversation early in your attorney-client relationship can even free up time down the road because your client will have a deeper trust in you. And hopefully, in doing so, you can guide the public into understanding and respecting their public defenders, one client at a time.

Justin Wisniewski is a graduate from Temple University Beasley School of Law, class of 2017. He focused on Temple’s trial advocacy programs and in criminal law.

Calling all writers!
The YLD At Issue editor is now accepting article submissions.
- 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.

Submit articles to:
Keli Neary
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and
Aaron Schwartz
aaronlewisschwartz@gmail.com

Articles for the next issue are due Jan. 12, 2018.
Three reasons your client should hire a mortgage foreclosure attorney

By Ryan Daniel Very

When I started my practice as a young lawyer, I was baffled by the number of prospective clients who, when facing a dire legal problem, do not hire an attorney. Take mortgage foreclosure, for example. One would think that, if you stand to lose your home and the equity in it, you would lawyer up. But most homeowners facing foreclosure do not. As a result, I have had to learn how to politely explain to homeowners facing foreclosure that a lawyer is a necessity. In this article, I will provide my three most convincing reasons.

1. The first reason is that the attorney might be able to provide a favorable settlement. This could eliminate the need for lengthy court proceedings, having to pay opposing counsel’s attorney fees, and a court judgment, which could leave a mark on credit reports.

2. The second reason to hire a foreclosure attorney is to win money damages. There are consumer protection laws that regulate the notices that must be provided and the procedures that must be followed, even before the bank files in court. Courts have awarded large sums to homeowners who have been victimized by banks.

3. The third reason to hire a foreclosure attorney is that the attorney may be able to prevent the foreclosure. Here is an example. I represented a homeowner facing foreclosure for being substantially behind on mortgage payments. Upon examination of the pleadings, I discovered that the wrong bank had foreclosed. Because of this, I stopped the foreclosure by filing a court pleading. But had I not been hired, my client may have handed the house keys to someone with no rights to the property. What would have happened when the correct bank foreclosed? Would my client have been held responsible?

Most homeowners facing foreclosure are not aware that, in order to foreclose, the bank must present certain evidence. And the 2008 foreclosure crisis showed us that banks are surprisingly careless. In some cases, mortgages were sold so quickly that banks lost evidence of ownership, resulting in, in theory, a free house for the homeowner. But homeowners that do not hire a lawyer allow the bank to win automatically and never know the difference.

Some homeowners worry about the time and cost of hiring an attorney. But a good attorney may be able to provide a speedy resolution. And most consumer protection laws authorize attorney’s fees. For these reasons, I tell my prospective clients that, if they are behind on mortgage payments, they should meet with a lawyer to explain their options. I also tell them, if they wait too long, their case will be irredeemable.

As young lawyers, we underestimate the value of the services we render. But can you put a price on saving someone’s house?

Ryan Daniel Very is a zealous attorney who asserts rights and promotes justice in civil and criminal matters, with special focus on consumer-related issues. This post originally appeared in the official blog of Very Law PLLC.
**Upcoming PBA Events**

- Through Nov. 28: Avoiding Legal Malpractice Seminars
- Nov. 10-11: Commission on Women in the Profession Fall Retreat, Hershey
- Nov. 16: PBA Committee/Section Day*, Harrisburg
- Dec. 5: Government Lawyers Committee/Administrative Law Section Holiday Reception, Harrisburg
- Dec. 11: Civil Litigation Section Trial Minicamp, Johnstown
- Dec. 5: Civil Litigation Section Trial Minicamp, Bellefonte
- Dec. 6: Civil Litigation Section Trial Minicamp, Williamsport
- Jan. 24-28, 2018: PBA Midyear Meeting, Key West, Fla.
- Feb. 22–24, 2018: Conference of County Bar Leaders (CCBL)*

For more information, go to [www.pabar.org](http://www.pabar.org) and click on the Events Calendar. * YLD business meeting will take place during the event.

CLICK [HERE](http://www.pabar.org) FOR UPCOMING PBA YLD EVENTS.

**Upcoming Wills for Heroes Events**

- Nov. 4: BALC, The Barristers Club, Lehigh County
- Nov. 4: Lower Swatara Fire Department, Dauphin County
- Nov. 10: Lackawanna Bar Association, Lackawanna County
- Nov. 14: BNY Mellon Center Building, Philadelphia County
- Nov. 18: Hampton Inn, Pike County
- Nov. 18: The Baptist Church in the Great Valley, Chester County
- Dec. 9: Arcadia University, Montgomery County

Check the [YLD Wills for Heroes webpage](http://www.yld.org/willsforheroes) throughout the year to see events or to sign up to volunteer.
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Click HERE to see pictures & bios of the YLD Executive Council.