

ACBA BLI PROJECT NEW ATTORNEY GUIDE

FOREWORD

The Bar Leadership Initiative (BLI) is a program established by the Allegheny County Bar Association (ACBA) Young Lawyers Division to integrate young lawyers into the numerous opportunities available through the ACBA. Each year, members are selected by the Young Lawyers Division Council to participate in a ten-month class. For the 2013-2014 bar year, 13 young lawyers were selected to participate in BLI.

Every BLI class selects a project for its members to complete. Past projects have benefited not only the local legal community, but also the community at large. The 2013 - 2014 BLI class desired a project that would bridge the gap between law school and a new attorney's first year in practice. The class members posed the questions, "What have I learned?" and "What do I wish I knew when I started out?" The answers to these questions are in this New Attorney Guide. From getting admitted to the Bar and joining professional organizations, to networking and securing one's first job, to learning about specific practice areas, common filings, and information about student loans, the 2013 - 2014 class sought to provide a reference guide for Allegheny County's new attorneys.

The 2013 - 2014 BLI class would like to extend their gratitude to the ACBA, especially to the members of the substantive law Sections who took the time to provide input on this project.

2013 - 2014 ACBA YLD Bar Leadership Initiative Class

Julie R. Colton, BLI Professor
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Stefan Dann, Esquire
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Cara Group, Esquire
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Mallorie A. McCue, Esquire
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I JUST GRADUATED

GETTING ADMITTED

This section details how to become a new member of the Pennsylvania Bar. The paragraphs do not entail the rules for restricted practice in the Commonwealth of Pennsylvania, former attorneys returning to practice, or other special circumstances. Those rules are posted in the Pennsylvania Bar Admission Rules that can be found at www.pabarexam.org.

Application Process

You must file online to sit for the Pennsylvania Bar Exam. The Pennsylvania Board of Law Examiners (Board) provides strict application fees and filing deadlines that can be found on www.pabarexam.org. There are multiple questions that need answered on the application asking for background information pertaining to character, education, employment, military service, financial responsibility, and criminal history that may require you to submit Supplemental Documents and/or Third-party Documents. You may also need to supply an Amendment to the Application if necessary. As you answer questions in the application, a checklist will develop to indicate the documents you will be required to submit to the Board. Documents that you may need to submit or have submitted by a third party include:

- Name change request with a copy of marriage license, divorce decree or court order
- Criminal history records from all states in which you have lived if you were arrested, charged, cited, accused or prosecuted for any offense (misdemeanor or felony) other than a summary citation or minor traffic violation since age 16
- Original driving records for each state from which you ever held a driver's license, and/or in which you were stopped, arrested, charged, cited, accused or prosecuted for DUI or any serious traffic violation
- Certified law school transcript if you attended a foreign law school
- Certificates of Good Standing for any other jurisdiction in which you are a member of the Bar
- If you worked as a sole practitioner at any time for which you are claiming employment history, have a judge and two attorneys provide professional references on their letterhead
- If you worked in a non-legal capacity for most of the past five years, have two people provide professional references on their letterhead
- If you are currently working in a legal capacity in PA, have your supervisor send a letter of verification on letterhead explaining your duties, along with an Attorney Disclaimer Form

Mail all supporting documents to: Pennsylvania Board of Law Examiners, 601 Commonwealth Avenue, Suite 3600, P.O. Box 62535, Harrisburg, PA 17106-2535. **IT IS STRONGLY RECOMMENDED THAT YOU MAKE COPIES OF ALL DOCUMENTS SUBMITTED TO THE BOARD OFFICE.**

The application and all supplementary and third party materials are your application file. The Board staff reviews the application file to determine if additional investigation is necessary in order for the Executive Director to provide the initial character and fitness determination. When the Board accepts your application, you will receive an email. This does not mean you have passed the character and fitness investigation.

An admission ticket issued by the Board office, which states that you are registered and eligible to sit for the examination, will be sent to you after your application has been accepted. The ticket contains information on where you will sit during the exam and details on the exam location. The tickets will also indicate if you will be handwriting the exam or taking the exam on a computer at the location.

Character and Fitness Determination

Once you file your application to sit for the Pennsylvania Bar Exam, you authorize the Pennsylvania Board of Law Examiners to conduct a fitness and character investigation. They must find that you have a history of honesty, trustworthiness, reliability and diligence. The Board may contact your schools, employers, police agencies, credit agencies and other sources to make this determination. The determination will not be finalized until after you have passed the Bar exam.

Realize that hiding or deliberately neglecting to disclose information is considered by the Board to be one of the most serious character and fitness issues. Applicants must respond with complete candor when answering questions and supplying detailed explanations. Honesty and integrity is the foundation of the legal profession, and must serve as fundamentally necessary for the determination of good moral character. If an applicant is uncertain whether a situation falls within the scope of a particular question, they should assume that it does. False statements or deliberate omissions will result in a denial of the application and/or subsequent discipline under the Rules of Professional Conduct.

Filing Deadlines and Fees

Please visit this page for the most up to date filing fees and deadlines: www.pabarexam.org/bar_exam_information/fees.

Bar Exam Information

The exam is administered twice a year, the last Tuesday and Wednesday of February and July. Philadelphia and Pittsburgh administer the February and July exams at the places listed below; meanwhile Harrisburg only administers the July exam. The first day of the examination consists of one Performance Test (PT) question and six essay questions that are prepared by the examiners and approved by the Board. The second day of the examination is the Multistate Bar Examination (MBE), which is prepared by the National Conference of Bar Examiners. For a list of the test subjects, please visit www.pabarexam.org.

The February bar examination results are released in mid-April, and July bar examination results are released in mid-October. To be certified for admission to the bar requires both successful bar examination results and a positive character and fitness determination.

Philadelphia Location

The Pennsylvania Convention Center
1101 Arch Street
Philadelphia, PA 19107
215-418-4700 or 800-428-9000

Pittsburgh Location

David L Lawrence Convention Center
1000 Fort Duquesne Boulevard
Pittsburgh, PA 15222
412-565-6000

Harrisburg Location (July Only)

Pennsylvania Farm Show Complex and Expo Center
2300 North Cameron Street
Harrisburg, PA 17110-9443
717-787-5373

If you are traveling to one of these areas and need hotel information, the Pennsylvania Board of Law Examiners website lists nearby hotels, but does not endorse any hotel. It is advisable to consider booking a hotel room to take into account the weather, traffic and to alleviate some stress during the taking of the two-day exam.

Passing Standards

A successful applicant for admission to the bar of the Commonwealth of Pennsylvania must attain a scaled score of 272 on the combined scores of the PT, essay examination and MBE. The six answers to the essay examination and the PT (valued at 1.5 times an essay question) will be graded, totaled and scaled to the MBE. The combined essay and PT scores will be weighted at 55%, and the MBE score will be weighted at 45% of the total scaled score. The scaled scores of the PT/essay examination and MBE will then be combined to determine whether a scaled score of 272 or higher has been attained.

Another requirement before you can be admitted to the Pennsylvania Bar is passing the Multistate Professional Responsibility Examination (MPRE). This is a 60 multiple-choice question two-hour test in which a scaled score of 75 is needed to pass in Pennsylvania. There are 50 scored questions and 10 non-scored pretest questions. This test should be taken after a person completes his/her law school class on Professional Responsibility. For more information on registration, locations, and rules regarding the MPRE, go online to the National Conference of Bar Examiners www.ncbex.org.

Bar Admission Certification and Licensure

After you pass the Pennsylvania Bar Exam, you will receive a Certificate Recommending Admission to the Bar. You then have six months from the date of the certificate to submit an Application for Admission to the Bar of the Commonwealth of Pennsylvania along with your certificate to the Pittsburgh office of the Prothonotary of the Supreme Court of Pennsylvania.

After six months, your certificate lapses and you will be required to complete and submit to the Board a Supplemental Application for Character and Fitness Determination with the applicable filing fee. If you do not file to become a member of the Bar within three years of receiving your certificate, you must take and pass the bar exam again. Any questions about the Application for Admission should be directed to the Prothonotary's office at 412-565-2816.

The Supreme Court sponsors ceremonies for newly admitted attorneys. Attendance is not required for admission. These ceremonies are held in Philadelphia, Harrisburg and Pittsburgh. The dates, places and times can be found on www.pabarexam.org/admissionpost.cert.

The Allegheny County Bar Association sponsors an admissions ceremony to the US District Court for the Western District of Pennsylvania. You will receive information in the mail regarding this admissions ceremony.

For Domestic Attorneys, Foreign Attorneys and Graduates of Foreign Institutions see Rule 204 and Rule 205 on the Pennsylvania Board of Law Examiners, Pennsylvania Bar Admission rules found at www.pabarexam.org.

If you passed the Bar examination but the Board determined you ineligible to become a member of the Pennsylvania Bar due to your character and fitness investigation, you may appeal the decision through the hearing process. This process is outlined in Rule 213 of the Pennsylvania Board of Law Examiners, Pennsylvania Bar Admission rules.

Passing the Bar Bash

Now that you are admitted to the Pennsylvania Bar and have your attorney's license in hand, it is time to relax and get to know some of the other newly admitted attorneys and "young" attorneys in the Allegheny County area. The Young Lawyers Division (YLD) of the Allegheny County Bar Association (ACBA) holds a get together at an establishment located in downtown Pittsburgh a few weeks after the October announcement of the July exam results. The YLD holds this function so that new attorneys can get acquainted with the ACBA and can network with attorneys who have been in practice for 10 or less years. It is a great opportunity to meet people who have experienced what you have achieved. The date of the event is posted on the YLD Facebook page.

GETTING A JOB

Contacts: Key Resources

Allegheny County Bar Association Executive Director: David Blaner 412-402-6601 dblanser@acba.org	Diversity and Gender Equality Director, Alysia Keating 412-402-6658 akeating@acba.org
Special Counsel Attorney Search Director: Nicholas Grimm 555 Grant St #160, Pittsburgh, PA 15219 412-201-7470	Carpenter Legal Search: Associate Search: Leigh Ann Amodie Gorman, Esq. Search Consultant 412-255-3770, ext. 206 lgorman@carpenterlegalsearch.com
McClelland Legal Search <u>Attention:</u> Diane McClelland 412-281-6609 dianne@mccllellandlegalsearch.com	McAnney, Esposito, Kraybill & Associates, Inc. Attention: Maura McAnney 412-767-8889 info@mcanneyesposito.com
University of Pittsburgh School of Law Director of Professional and Career Development, Lori McMaster 412-648-2359 mcmaster@pitt.edu	Duquesne University Director: Maria Comas 412-396-6279 comas@duq.edu
Finding Alumni: Martinedale.Com	
University of Pittsburgh School of Law – Alumni Association Jeffrie W. Miracle Director of Constituent Relations Phone: 412-624-5187 Fax: 412-648-2647 Email: mjjeff@pitt.edu	Duquesne University, Office of Law Alumni Relations 600 Forbes Avenue Pittsburgh, PA 15282 Email: lawalumni@duq.edu Phone: 412-396-5215 Jeanine L. DeBor Director of Alumni Relations and Development
University of Pittsburgh School of Law – Law School YLD Liaison Maribeth Thomas 412-644-6431	Duquesne University, Law School Liaison U.S. Steel Tower, Suite 2900 Michaelene Weimer 412-803-1145

maribeth_thomas@pawb.uscourts.gov

meweimer@mdwcg.com

The Informational Interview

What is an Informational Interview?

What if you are not sure about your career goals...or you feel that you lack relevant experience and knowledge to get the career position you want. One of the best ways to find out what an industry, company or position is really like is to talk with people in careers you are considering. No one else can give you a better sense of the real life experiences, the challenges and opportunities, the specific and perhaps hidden demands as well as the drawbacks and limitations of the career field.

What Exactly is the Informational Interview?

The informational interview is a highly focused information gathering session with a networking contact designed to help you choose or refine your career path by giving you the “insider” point of view.

What are the Benefits of Conducting the Informational Interview?

- Gather valuable information from industry professionals on career planning and job search strategies.
- Discover the “realities” of a particular career field and what it is really like to work in a given industry.
- Evaluate whether the career is compatible with your skills, interests, lifestyle and goals.
- Receive specific suggestions on how and where to acquire the experience and knowledge required.
- Develop confidence in interviewing with professionals by discussing your interests and goals.
- Gain access to the hidden job market. Over 80% of quality jobs are secured through networking.
- Expand your network of contacts in your field of interest for future opportunities
- Gain referrals to other professionals in the same field for additional networking.

What are some of the subject areas that can be discussed during the information interview?

- Work Environment
- Ideal Skill Set/Qualifications
- Industry Trends
- Career Path of Interviewee
- Lifestyle
- Typical Compensation
- Challenges/Rewards

- Career Ladder of Field

How Does the Information Interview Work?

The information interview works best if it is done in person, face-to-face in the setting that you are interested in working (i.e. law firm, hospital, investment bank, consulting or non-profit organization etc.) However, it can also be done by telephone, e-mail chat group, or on the Internet.

How Do I Find the Contacts for the Information Interview?

Usually you will talk with a person you don't know personally but who has been referred to you. Ask friends, family members, colleagues, faculty members, and former employers for a referral to a candidate for an information interview. This may sound like a scary prospect but most people actually enjoy talking about their jobs and giving career advice. Also, call the ACBA, your former professors, former bosses, and law school alumni association.

Can I Ask for a Job During an Information interview?

No. The information interview is not a scheme or trick to get you into the door to talk to a potential employer about a job (although it certainly opens doors to specific job opportunities down the road). IT IS ABSOLUTELY TABOO TO ASK FOR A JOB DURING AN INFORMATION INTERVIEW.

How Can I Best Prepare for the Informational Interview?

Preparation is the key to success. In advance of the meeting, you should prepare as you would for a traditional interview:

- Read about the career area and organization in which the person you are interviewing is affiliated.
- Review materials in the Career Resources Library for background information on the industry/career field.
- Check the company/organization's Internet site.
- Know your own interests, skills, and values and how they relate to the career field represented by the person you are interviewing.
- Prepare an Opening Statement that gives a brief profile of who you are and your interest in the field.
- Develop a number of well thought out, open-ended questions to stimulate a meaningful discussion.
- If you meet face-to-face, dress appropriately in interview attire. You want to give a good first impression and look like someone who could be an asset to the profession.

How Do I Follow Up with My Contacts?

- 1) Be sure to send a formal thank you letter to the person you interviewed. A nice touch is to share with them the results of any project or suggestion discussed during the interview, and inform them what steps you have taken to apply the advice you received.
- 2) Report back to anyone who gave you a lead. This is not only common courtesy, it helps keep others interested and involved in your career plans and job search.
- 3) Continue to maintain contact with the person you interviewed. Keep in touch by sending an occasional article on a business related topic that you think would be of interest or a quick note updating them on your current activities.
- 4) Later on, if you decide to pursue the career field, you may wish to send out a “feeler” letter along with your progress report by stating, “If you hear of any job possibilities, I am enclosing my resume and would appreciate hearing from you.”

Sample Informational Interview Questions

The Organization and the State of the Industry

- What characteristics does a successful attorney have at this organization?
- What are the current trends/changes you have seen in this practice area?
- What developments on the horizon do you see affecting the practice area in the future?
- How is the industry changing and how do you see your organization adapting to those changes?
- What specialized technologies does the organization use?
- What future industry trends do you project will affect your organization?
- How does the organization differ from its competitors?
- What are the organization's goals and objectives for the coming years?

Internal Atmosphere

- How is the organization structured?
- What kind of group activities does the organization encourage?
- How often do you work in groups vs. on your own?
- How are project teams organized?
- Are there formal training programs in the organization?
- Are there rotational opportunities in the organization?
- How is performance measured?
- Is there a regulated exchange of feedback?

Career Fields/Positions

- What are the major responsibilities and skills required of this position?
- What are the key responsibilities of a junior attorney in X practice area?
- What is a typical day like?
- What do you find most satisfying about the job? The least satisfying?
- What types of decisions are made at your level?
- What part of the job do you find most challenging?

Skills and Experience

- When a junior attorney is hired, what are the qualifications you look for?
- Which of my skills set me apart from others in the field?
- Do you think my experiences thus far make me competitive for this practice area?
- Taking into account my skills, education, and experience, what other practice areas would you suggest I explore before making a final decision?

Sample Resumes

TRANSACTIONAL AND LITIGATION – SAMPLE RESUME

AYLON SMITHERS

1919 Q Street, NW, Apt. 3A P Washington, DC 20036 P 202-123-4567 P
wsmithers@aya.ABC.edu

EDUCATION

ABC LAW SCHOOL J.D., 2013

[LIST ANY ACADEMIC HONORS]

Activities:

ABC Journal of International Law, Editor **[LIST JOURNALS FIRST]**

ABC COLLEGE, B.A. (Economics & International Studies) cum laude, 2008

Activities: ABC International Relations Association, President

ABC Symphony Orchestra, First Chair Oboe

Curling Club

EXPERIENCE

Law Clerk, 2012

Pittsburgh, Pennsylvania

Counsel privately held businesses on a broad range of corporate transactions. Practice areas include: (i) mergers and acquisitions; (ii) commercial real estate sale, acquisition, development and leasing; (iii) financing; (iv) franchise; and (v) general business planning. Responsibilities include: (i) counseling business owners regarding growth opportunities and planning disposition/exit strategies; (ii) drafting, negotiating and finalizing purchase and sale agreements and ancillary documents such as disclosure schedules, employment agreements, license agreements, guarantees and financing documents; (iii) managing and conducting due diligence process for acquisitions and dispositions; (iv) conducting and managing real estate due diligence, including title and survey analysis; and (v) advising on various general corporate matters including entity formation, tax issues and corporate governance. Independently manage deals up to \$10 million and serve as lead associate on deals up to \$100 million. Experience in industries ranging from construction and engineering to oil and gas to residential real estate development. **[TRANSACTIONAL EXAMPLE]**

Summer Associate, 2011

Pittsburgh, Pennsylvania

- Substantial experience in all aspects of civil litigation from case intake through final disposition at trial.
- Handle heavy caseload at a busy litigation practice, often managing more than twenty cases in active litigation at one time
- Case management and development skills include: initial client interviews, researching potential claims, developing case strategy, and advising clients on likely outcomes. Discovery experience includes taking 20+ expert and hundreds of fact witness

depositions, propounding and responding to interrogatories and managing 15+ attorney document review teams

- Significant writing experience includes: drafting pleadings and motions practice such as drafting summary judgment motions, motions to compel and for sanctions and motions to dismiss.
- Oral advocacy and courtroom experience includes: arguing successful 10th Circuit brief in favor of upholding summary judgment in personal jurisdiction matter, examining expert witness in natural gas pipeline case and leading negotiations in mediations and settlement conferences
- Lead counsel on pro bono case prosecuting workers compensation action involving unlawful termination of injured employee
- Broad range of substantive experience acting as both defense counsel and plaintiff's counsel, representative cases including defending landlord in premises liability action; defending complex construction defect cases; prosecuting a products liability action against a multinational oil company; defending an attorney against allegations of professional malpractice; and defending automobile accident personal injury cases. Amounts in dispute range from \$50,000 to \$5 million.

[LITIGATION EXAMPLE]

BAR ADMISSIONS

Admitted in New York and Washington, DC.

PUBLICATIONS

LANGUAGES [IF ANY]

HOBBIES

GOVERNMENT AND CONGRESSIONAL WORK - RESUME

KATE CAVANAGH

251 Oak Ridge Lane
Los Angeles, CA 99999
310-111-2222
kate.cavanagh@hotmail.com

EDUCATION

ABC LAW SCHOOL, Pittsburgh, CT J.D., 2013

Activities: ABC Law & Policy Review

ABC Journal on Regulation

ABC COLLEGE, Pittsburgh, CA B.A., magna cum laude, 2008

Honors: Presidential Citation for Excellence in Scholarship and Service

Activities: Student Body President

EXPERIENCE

MANATT, PHELPS, & PHILLIPS, LLP, Los Angeles, CA 2012-Present

Associate

- Represent public and private entities in land use and government contracting matters.
- Research and draft legislative analyses for clients regarding various policy issues.
- Advocate for clients before government entities in legislative and administrative matters.
- Draft acquisition, leasing, financing, and development documents for real estate clients.
- Analyze procurement and administrative policies for government entity clients.
- Advise elected officials, political candidates, and corporations on election law issues.

OFFICE OF THE LEGAL COUNSEL, Washington, D.C. Summer 2011

Legal Intern

- Wrote opinion pieces on presidential powers questions regarding executive authority.
- Researched and drafted portions of civil rights legislation considered by Congress.
- Drafted position papers on separation of church and state and charitable choice issues.

BAR ADMISSION

Admitted to practice law in California

PUBLIC INTEREST - RESUME

BRENDA AGUIRRE AGUILAR

1414 Carolina Street ▪ Oakland, CA 94612

Brenda_Aguilar@yahoo.com

Cell: (510) 272-5555

EDUCATION

ABC LAW, Pittsburgh, Pa CA

Juris Doctor Candidate, May 2013

Recipient, Public Interest Law Foundation Grant, Summer

Social Chair, La Raza Law Student Organization

Co-Chair, Equal Justice Works

ABC College, Pittsburgh, Pa

Bachelor of Arts, cum laude, Spanish Literature, June 2008

President, La Raza Students Association

EXPERIENCE

Centro Latino Resource Center, Bakersfield, CA

9/12-12/13

English Instructor

- Taught English as a Second Language (ESL) classes designed to facilitate cross-cultural learning and exchange between English and Spanish speakers.
- Planned and coordinated activities to encourage discussion and provide nurturing environment for students to practice language skills.

National Hispana Leadership Institute, Washington, D.C.

1/11-8/12

Conference Coordinator

- Organized 2 major Chicana/Latina conferences with over 500+ attendees annually.
- Drafted successful budget proposals to secure funds to ensure free admission to students.
- Contacted nationally known speakers and provided logistical support.

Center on Social Welfare Policy and Law, New York, N.Y.

8/11-12/11

Research Assistant

- Interviewed potential plaintiffs for class action welfare rights litigation, prepared affidavits, and gathered evidentiary documentation.
- Researched history of U.S. welfare litigation and drafted findings for Official Comment on Wisconsin welfare reform.
- Wrote articles and literature summaries for agency's online newsletter.

COMMUNITY ACTIVITIES

Big Brothers/Big Sisters of Alameda County, Mentor, 2007-present
Refugee Assistance, Youth Volunteer, Fresno, CA, 2005-2006
Global Youth Connect, Human Rights Delegate, Quetzaltenango, Guatemala, Summer 2002
Tu Techo (Your Roof), Volunteer House Builder, Guadalajara, Mexico, Summer 2001

Sample Cover Letters

Assistant U.S. Attorney

Address _____

Telephone _____

E-mail: _____

Dear _____:

I am a recent graduate at ABC Law School and am writing to apply for a position at your office. I was excited to learn about the opportunity to work at the U.S. Attorney's Office from ABC's Office of Public Interest Advising.

I competed on ABC Law School's Mock Trial team in the _____ National Tournament. While my Mock Trial experience taught me to argue both sides of a case, my favorite role was always as a prosecutor. In addition to oral advocacy, I received an early start to developing solid legal research and writing skills by working for [INSERT FORMER EXPERIENCE HERE], where my responsibilities included drafting documents ranging from financial affidavits to motions for summary and default judgments.

This past summer, I conducted research as a legal intern in the litigation department at [LAW FIRM], where I also assisted the lead counsel in a pro bono death penalty case. In another pro bono endeavor, I put my oral advocacy skills to use for a victim of domestic violence, obtaining an order of protection for her against her abusive husband. I have continued to hone my multilingual and writing skills by serving as a member of the ABC Law School Law Journal.

My previous legal experience, oral advocacy training, and strong academic background will enable me to make a valuable contribution to the U.S. Attorney's Office.

I have attached a resume and legal writing sample, and I would be happy to forward my transcript. Please feel free to contact me by phone at _____ or by email at _____.

Thank you in advance for your consideration, and I look forward to hearing from you soon.

Sincerely,

William Jones
[LAW FIRM]
1100 New York Ave NW, Suite 500 West
Washington, DC 20005

Dear Mr. Jones:

I am writing to apply for an associate position at [LAW FIRM]. I have spoken with other attorneys at your firm and it became clear to me that I was attracted to [LAW FIRM's] mix of socially responsible work, complex litigation and fast-paced and challenging environment.

I came to law school with a strong commitment to _____ litigation. For two years after college, I worked at the Manhattan District Attorney's office. I found myself energized by the opportunity to work for and with vulnerable populations, and I discovered that litigation can be a useful and exciting tool. Initially, I was drawn to the field of employment law because of my work on gender issues. However, after taking employment law as my one elective last spring, I discovered that I am interested in the general field. I therefore am particularly interested in [LAW FIRM's]'s Civil Rights and ERISA practices.

While I am convinced that a position in your office will challenge me to be a better lawyer, I also feel confident that my strong foundation in public interest litigation would allow me to assist your attorneys with their work. In addition to the two years of legal work before law school, I served as a student attorney with the ABC Legal Aid Bureau (HLAB). Although I had a clinical mentor, I have my own docket of family law and employment cases. Both HLAB and the district attorney's office have prepared me to juggle a complicated caseload, to handle both pre-trial and trial work, and to work with a wide variety of clients and supervisors. In addition, I had the opportunity to refine my legal research and writing skills at the Women's Law Project this past summer. Finally, I am building upon my 1L employment law course with a class on employment discrimination this semester.

I believe that my legal research and writing skills, my litigation experience, and my dedication to [LAW FIRM's] mission will enable me to be a useful member of your team of associates, and hope I will have the opportunity to interview with you. Enclosed please find my resume, writing sample, and transcript. Thank you in advance for your time and consideration.

Sincerely,

Things I Wish I Knew Before Job Searching And Lessons I Learned Along The Way

1. Be honest with yourself about the work you actually want to do. You might have a different answer for interviewers, but at least figure out what it is you want to do.
2. Have a real understanding of the differences between being a litigation attorney and a transactional attorney. Use your informational interviews to provide you with an understanding of the different areas of law practice.
3. You will never know which contact will get you your job.
4. Use your alumni directory. People will want to talk to you.
5. Lawyers will get back to you – even if it might take a while.
6. Networking is a full time job. Be prepared for coffees, lunches, dinners, and evening networking events.
7. There is nothing wrong with asking for what you deserve with regard to compensation.
8. Professionalism at all times – including, your online persona – LinkedIn, Twitter, and Facebook.
9. Prepare different resumes, writing samples, and cover letters for different jobs – law firm, non-profit, government, and targeted practice areas.
10. Remember to pay it forward – take people out to lunch once you become employed.

STAYING ADMITTED

Bridge The Gap

The Supreme Court of Pennsylvania requires that each newly admitted lawyer prior to their first CLE compliance deadline. This program was developed after the Disciplinary Board of Pennsylvania recorded an increasing number of complaints that involved newly admitted attorneys. The majority of the complaints related to the practical aspects of operating a law office. A subcommittee of the Supreme Court of Pennsylvania developed the program to help lawyers make the transition from law student to law practice. Pennsylvania's Bridge the Gap contains subject matter and information specific to the practice of law in the Commonwealth of Pennsylvania and its disciplinary process. To sign up for Bridge the Gap program, go to www.pacle.org and select from the Approved Courses page on the website and search for upcoming offerings of the Bridge the Gap program.

If you were admitted by motion, you are not required to complete the Bridge the Gap program.

Requirements For Maintaining License And Annual Attorney Registration

Once you have your law license in Pennsylvania, you must maintain it by completing 12 hours of continuing legal education (CLE) each year. This requirement will start on your second year after admission. There are different compliance periods, and each is attorney specific. Compliance periods could be at the end of April, September or December. The 12 hours of CLE must include one hour of ethics courses. The rules and regulations that CLE must meet are listed by the Supreme Court of Pennsylvania Continuing Legal Education Board. To keep track of your CLE and the requirements, you can visit www.pacle.com.

A listing of ACBA CLE courses can be viewed at <http://www.acba.org/acba/calendar/?c=1>

Annual registration typically begins around April and attorneys have the deadline of July 1 to renew. An email is sent with a link to the Unified Judicial System when the portal is opened to complete the annual form. This email is sent to attorneys who have provided an email address or registered previously online. The fee for renewal will be able to be paid securely online after you complete the form.

If the paper method is used for an attorney, those are usually sent in mid-May. The mailing address for paper forms and payment processing is: Attorney Registration, P.O. Box 3313, Lancaster, PA 17601-3313. Beginning in 2015, a paper processing fee of \$25 will be implemented on top of the renewal fee.

An attorney who fails to register by July 31 will be assessed a \$150 late payment penalty. A second late payment of \$150 will be assessed if registration is not completed by August 31.

STUDENT LOANS

Most recent law school graduates carry a significant amount of debt in the form of student loans. Here is a quick guide to help you manage your student loans.

When the Grace Period Ends

Most student loans provide a grace period after graduation. During this period, which is typically three to six months, your loans remain in deferment and you do not need to make payments on the loan. However, at the end of the grace period the reality of paying back your loans will come due. Don't wait until you get your first bill before you decide to look into how to manage paying back your student loans.

- To check on how long your grace period is look at the fine print in your promissory note or call your loan servicer
- Update your loan servicer of any changes to your address. Even if you don't get notice of your first payment, it is still due.
- If you are unemployed or underemployed and cannot afford to make a payment when your first bill comes due, then you should request forbearance (or continued deferment if you're eligible) or switch to a repayment plan that is based on your income. If you miss your first payment, your credit score will take a hit.
- Make sure to choose an appropriate payment plan well before your first payment is due so that your loan servicer will have enough time to process your request.

Managing Your Loans

Federal Loans

- How to determine what type of loans you have and who is servicing each of your loans:
 - National Student Loan Data System: <http://www.nslds.ed.gov/>
 - Federal Student Aid Information Center: 1-800-4-FED-AID
 - AnnualCreditReport.com (free credit report each year from the three major credit reporting agencies)
- Repayment Plans:
 - Choosing the right repayment plan is critical to managing your loans and avoiding default. Federal loans offer 4 repayment plans:
 - Standard Repayment (10-year term)
 - Extended Repayment (10- to 30-year term)
 - This plan will lower your payments
 - Income-Based Repayment (payments based on income)
 - You must have a partial financial hardship to qualify for this repayment plan

- Repayment is based on 15% of your Adjusted Gross Income and can significantly reduce your monthly payments
 - Graduated Repayment (low payments are increased every two years)
 - For more detailed information go to the Department of Education's website: <http://studentaid.ed.gov/repay-loans/understand/plans>
 - To sign up for a repayment plan, you must go through your loan servicer.
 - Loan Consolidation: Bringing all your loans under one loan servicer through the federal Direct Loans Program can help you with managing your loans. You may also be able to qualify for particular repayment plans or loan forgiveness programs not offered by other loan servicers.
 - There is no application fee to consolidate your federal education loans into a Direct Consolidation Loan!
 - The interest rate will be fixed and is based on the weighted average of the interest rates on the loans being consolidated, rounded up to the nearest one-eighth of 1%.
 - If you have **Federal Perkins Loans**, than you must carefully consider if you want to give up the benefits offered under that loan program in order to consolidate your loans with the federal Direct Loans Program. Perkins Loans are given to students who are economically disadvantaged and offer special deferment and forbearance options. You should contact the school where you received the loan to find out if you are eligible for a deferment or forbearance based on economic hardship or other circumstances.
 - Loan Consolidation for the federal Direct Loan Program is done online. Visit: <https://loanconsolidation.ed.gov/AppEntry/apply-online/appindex.jsp>

Private Loans

Private loans are not backed by the federal government; and therefore, they cannot be consolidated into the federal government's Direct Loan Program. Private loans often have variable interest rates, which expose you to higher payments if interest rates increase. Unfortunately, private loans don't offer as many repayment options as federal loans. If you are looking to lower your payments, you should contact your loan servicer and inquire about your options. Remember, lowering your monthly payment will usually mean having to pay more in the long run.

Some private lenders will allow you to consolidate your private student loans. This may be helpful to organize your payments more easily or to lock in a particular interest rate. Qualifying for a private loan consolidation is based on your credit score. Make sure you consider the additional fees associated with a private loan consolidation along with the interest rate to determine if the consolidation is right for you.

Depending on your credit score and your assets you may qualify for a home equity loan to pay off your private student loan. A home equity loan also exposes you to greater risk if you default so you should use caution before signing up for a home equity loan to cover your student loans.

Tax Benefits

Don't forget to take advantage of Student Loan Interest Deduction on your federal income taxes. It allows you to deduct up to \$2,500 in interest paid on a qualified student loan during the tax year. Most student loans count as long as they were used to pay for higher education expenses. Make sure you receive a 1098-E from your loan services so you have an accurate amount of the interest you paid (if you paid less than \$600.00, then you must call your loan services to get a copy).

Loan Repayment Assistance

Many programs exist to help young attorneys with paying back their student loan debt, especially if you start out working in a public interest or government job.

Check with your Law School to see what programs are offered to graduates.

- The University of Pittsburgh School of Law - <http://www.law.pitt.edu/resources/tuition/lrap>
- Duquesne University School of Law - <http://www.duq.edu/academics/schools/law/alumni-and-friends/loan-repayment-assistance-program>

The Department of Justice's *Attorney Student Loan Repayment Program* – for public defenders or assistant district attorneys: <http://www.justice.gov/oarm/aslrp.html>

Legal Services Corporation's Herbert S. Garten Loan Repayment Assistance Program – for attorneys practicing in civil legal aid programs for the poor: <http://grants.lsc.gov/apply-for-funding/lrap>

Student Loan Forgiveness

The federal government (and some States) offers programs that allow you to have your student loan debt forgiven after you've worked in a particular field of employment for a certain time. The main program applicable to attorneys is the *Public Service Loan Forgiveness Program* (PSLF).

- PSLF Program: If you work for a non-profit agency or the government for 10 years while making your loan payments, then the remaining balance of your loans are forgiven. The forgiven debt is not taxable. This program is designed to work with the income-based repayment plan where your payments are lower than the standard repayment plan of 10 years. **Caution:** 10 years may be a long time for some people who don't plan to stay in public interest or government jobs for their entire career, so young attorneys should plan accordingly when choosing a repayment plan.
 - You must consolidate your loans with the federal Direct Loans program in order for your payments to start qualifying for forgiveness, so if you plan to stay in public interest work for at least 10 years, then you should consolidate immediately.

- For more information visit the Department of Education's website: <http://studentaid.ed.gov/repay-loans/forgiveness-cancellation/charts/public-service#what-is-the-public>
- Forgiveness under the Income-based Repayment Plan: if you have not repaid your loan in full after making the equivalent of 25 years of qualifying monthly payments, any outstanding balance on your loan will be forgiven. (You may have to pay income tax on any amount that is forgiven)

Discharge of Student Loans

Discharging your student loans is very difficult and practically speaking very rarely happens for individuals with a law degree. You may obtain a discharge of your student loans if:

- You attended a school that closed;
- You didn't get a refund when it was due;
- Your school falsely certified that you'd benefit from the education but you didn't qualify for the profession in which you got your degree.
- You are disabled (you must prove total and permanent disability); or,
- You die.

You can apply for a discharge through your loan servicer.

Bankruptcy – you cannot discharge your student loan debt (either government or private loans) through a Chapter 7 bankruptcy unless you can show you have an undue hardship and that you've made a reasonable attempt to pay back the loan. Undue hardship is a present and future inability to repay the debt and maintain a minimal standard of living even after exhausting options for repayment relief and cutting living costs. This is a very high standard to meet; just receiving disability payments does not automatically mean you qualify for a hardship discharge.

Rehabilitation of Loan (Getting Out of Default)

You have two ways to get yourself out of default on your student loans: you can consolidate your loans or you can rehabilitate them.

- Consolidating your loans to get out of default:
 - If you have not consolidated with the federal Direct Loans Program, then you can consolidate your loans even if you are in default. You may choose the Income-based Repayment Plan so your payments are manageable. (You will be required to pay a certain amount while your IBR plan payment is being determined; however, you can forebear this payment if necessary) You are only allowed to consolidate your loans with the federal Direct Loans Program once.
- Rehabilitating your loan to get out of default:
 - Only do this if you cannot consolidate your loans again (i.e. you already consolidated all your loans into a Direct Consolidated Loan with the federal Direct Loans Program). You can only rehabilitate once per loan.

- To rehab your loans you will have to get on a rehab plan:
 - Must make 9 monthly payments over a 10 month period (so you can miss only one payment); Payment amount is determined based on what you can afford, although the lender will try to get you to agree to more; Once you've made your 9 payments, your loan is rehabilitated making you eligible to get back on the income-based repayment plan. Also, the default should come off your credit report.
- You will need to apply for a rehabilitation payment plan directly through your loan servicer.

Keep Up-to-Date on News and Policies Affecting your Student Loans

- Student Loan Ranger Blog - <http://www.usnews.com/education/blogs/student-loan-ranger>
 - Helpful blog on all things student loans, with a focus on upcoming government policy changes at the federal level.
- Equal Justice Works - <http://www.equaljusticeworks.org/ed-debt>
 - A non-profit organization dedicated to helping lawyers help their communities. Specific advice for lawyers on student loan management, including free webinars and an e-book is available for purchase.
- SALTtm - <https://www.saltmoney.org>
 - A free membership program that helps students with managing their student loan debt.
- FindAid.org
 - A comprehensive source of student financial aid information, advice and tools.
- The Federal Student Aid Office - <http://studentaid.ed.gov/repay-loans>
 - Part of the Department of Education, the site offers lots of help and links on how to manage your loans.

MY FIRST JOB

PROFESSIONAL CONCERNS

Dress and Decorum

Though it may seem intuitive to the average lawyer, the way you present yourself is extremely important, primarily because, whether you like it or not, those around you interpret it as a reflection of who you are. How you dress, your demeanor, your posture, and your attitude are the first thing your clients, the court, opposing counsel, prospective employers, juries, and business partners notice about you. Therefore it is extremely important that you present yourself in a way that exudes confidence, respect, and self-worth. This subsection is intended to guide you through appropriate attire and presentation.

Believe it or not, there are no fashion police in the bar. However, there are certain expectations when it comes to attire. If you make a slight effort you'll not only be received well, you'll receive compliments. As a general rule, what you wear at the Court of Common Pleas or at the office may not be advisable to wear at the Superior Court, or at prospective client meeting. Dress appropriately for the situation. But in most cases for men, you will want to wear a suit regardless of the occasion, so we'll start there.

Though cumbersome at times, color coordination is essential. First things first, do not mix black with brown. This is generally a golden rule for both men and women. So, yes gentleman, you need to buy socks in more than one color. To make things easiest for yourself, when it comes to socks and stockings, generally they should match your pants or your skirt. As for shoes, belts, and other accessories (purses, brief cases, tie clips, cuff links and other jewelry), the rules can fluctuate.

Brown shoes for instance, are perfectly acceptable for navy, olive, blue, tan, and brown suits but should not be worn with gray or black. On the other hand, black shoes should be worn with gray or black, but can also be worn for lighter blue (but not with navy), olive, and tan suits as well. The same rules hold true for belts and brief cases but generally, both should match your shoes.

As for metals, if your belt buckle is silver, so should your tie clip and cuff links or any other metallic accessory or piece of jewelry, and vice versa if your belt buckle is gold. They should all match. Generally speaking, gold better compliments brown, olive, tan and sometimes navy. Silver compliments grays, blacks, and blues. However, there is no fast and hard rule when it comes to such accessories, so if you like it, wear it.

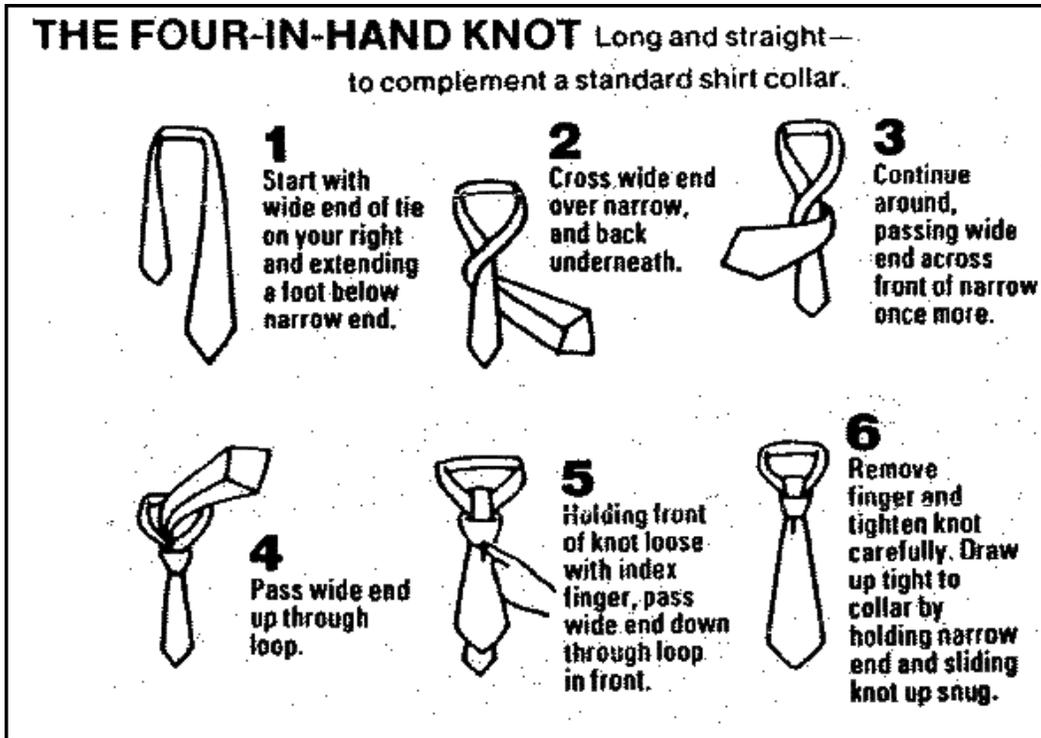
What about patterned cloth? This is an extremely under-discussed item with men's wear. Unless it is your goal to look like a sheet of graph paper, if you are wearing a striped suit, it is definitely not advisable to wear a striped shirt and striped tie. It may however, be advisable to wear a plain suit with a plain tie and a plain shirt. More on that topic in a moment. As a general

rule, if you are wearing a plain suit, you may wear a patterned shirt with either a plain tie or a tie with a neutral pattern that does not clash in design with your shirt. For instance, if you are wearing a window checked shirt, a window checked tie would likely look silly. If however, you are wearing a patterned suit, it is best to wear a plain shirt, and either a plain tie or tie with a neutral pattern.

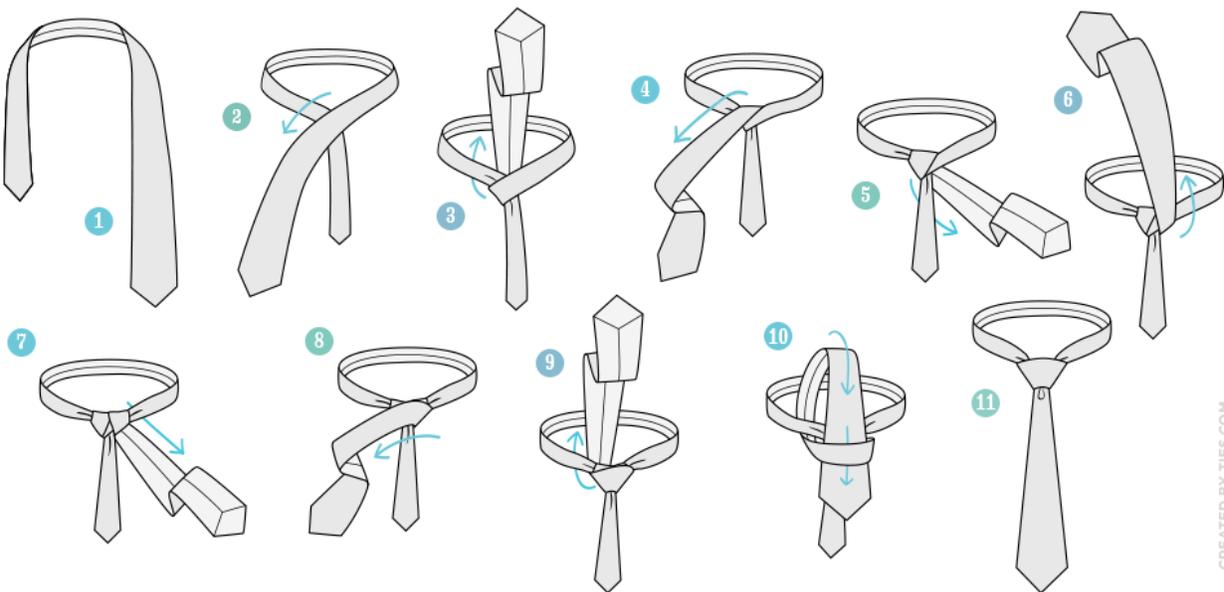
Speaking of ties, learn how to tie one. It is no longer ok for you to have a buddy tie your tie, wear it for a day, remove it, and hang it on your closet doorknob still tied for future use. You may not notice the difference, but everyone else does, and you don't want to be that guy. There are several ways to tie a tie. And generally speaking how you tie your tie should be a product of three outside details: 1. The type of collar on your shirt, 2. The shape of your face, and 3. Perhaps most importantly, the occasion. It is also worth noting here that if your collar has buttons at the point, they generally should not be worn with a tie. Though many gentlemen do not realize it, this is actually a casual shirt not intended for more formal occasions. The style originated with polo players who wanted their collar points to stay out of their face while galloping up and down on horseback; not for lawyers appearing before the Supreme Court. So use caution.

There are several ways to tie a tie, but the first three below are by far the most common. The author has intentionally left out some of the repetitive knots, such as the Half-Windsor (which is, as the title suggests, half of a Windsor knot) and the Prince Albert (which is just one more loop on the Four-In-Hand knot). Though there are several extravagant knots (e.g. the Merovingian, the Onassis, The Trinity, and the Truelove knots, to name a few) these are rather exotic, if not downright strange to some people, so I only mention the Eldridge as a possible knot for an extravagant occasion at which you would prefer not to wear a bowtie.

The Four-in-hand: By far the most common knot and the easiest to tie. Generally, you can get away with knowing just this knot, but really it should only be worn for regular court appearances or days in the office. If you are attending a social event, a partner's meeting, or going somewhere else that you would like to impress someone, you're best bet is to try something else. The four-in-hand should only be worn with a narrow or standard shirt collar (collar points are 1-2 inches apart) and typically looks better on individuals with a wider face.

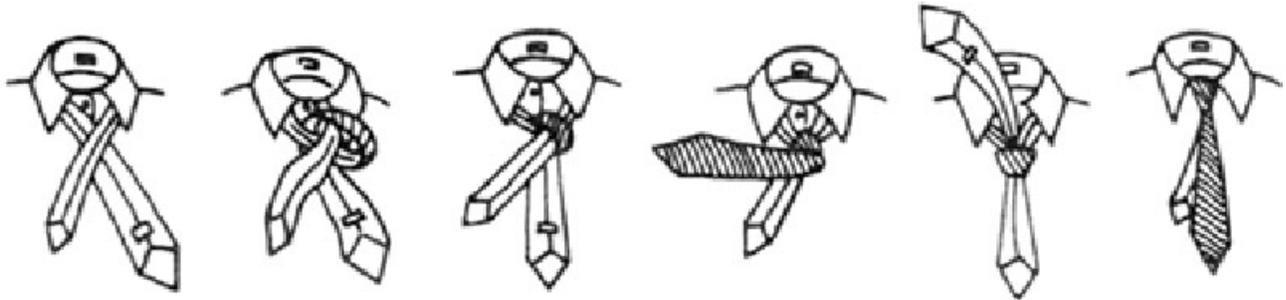


The Windsor knot: Have you ever watched sports center? Of course you have. Ever notice that the commentators have knots on their ties that are thick enough to be used as a pillow? That's called a Windsor knot and some people take them too far. Regardless of the knot you choose to wear, the bottom point of the big side of your tie should go no further, nor no higher, than your belt buckle. The more appropriate Windsor knot is still quite thick and triangular, but allows enough room on your tie for it to hang to your belt buckle. The Windsor should only be worn with wider collars or spread collars (collar points that are 3 1/2 to 6 inches apart and wider (e.g. cutaway collars)). It also better suits gentleman with a thinner shaped-face.



CREATED BY TIES.COM

The Shelby-Pratt knot: A very versatile knot, you should know this one. It is interesting because it ties around the collar with the back of the tie showing but no one is the wiser because the knot finishes right side up. This knot forms a nice triangular shape but is far thinner than the Windsor. This knot is really a go to knot as it can be worn for nearly any occasion and does well on both narrow and wide collars as well as wide and thin shaped faces.



The Eldredge Knot: The prince of knots, this is a hard one, and I really am only including it for those who of you who may be looking to try a new knot for a very special occasion. This is not something you should wear to a client meeting or at the office. Tying this knot is tricky, but if done correctly, can look magnificent and is guaranteed to turn heads. It will also require almost the entire small end of your tie, which tucks under the collar. This knot should not be worn with patterned ties of any kind and generally will only work with a tie constructed from a thin material.

ELDREDGE TIE KNOT



Dress and decorum for female attorneys can be a bit more complicated, because as the options for dress get larger, so do the number of questions. Generally for women there is a larger spectrum of what is acceptable for "business casual offices." Therefore, it can get very casual very quickly. The best piece of advice would be to consult the firm or office manual regarding appropriate dress.

Speak with other associates/senior women regarding what is appropriate attire. At most firms, if a suit is not required everyday they request that a suit (or a blazer) be kept at the office for client meetings. Also, courtroom attire is typically the same for men as for women - it would be inappropriate to not be in a suit in court.

As for formal attire, women (and men) should look polished, clean, and well maintained. Suits should be tailored. Hair and make-up shouldn't be over the top. Some caution on wearing too much perfume. A woman should wear tights and closed toe-shoes when wearing a skirt in the colder winter months.

Because there are so many more clothing options for professional women than men, women tend to push the boundaries of acceptable dress more frequently than men. A good rule of thumb is to dress like your boss or another well-respected senior partner in the firm. It is always better to air on the side of over-dressed than under-dressed. No one has ever been reprimanded for wearing a well-tailored suit.

You can get away with lighter colored suits in the warmer months, but a dark suit is still preferred for court-appearances, regardless of the season. Again, open-toe shoes are generally disfavored but if you insist on wearing open-toe shoes, you should restrict yourself to “peep toes” during the warmer months.

Finally, there are some points that need to be made to the young lawyer entering the courtroom for the first time. You should not stand up from your seat and address the court while simultaneously buttoning your jacket. Also, if you find yourself preparing for a jury trial, it's best to leave the cuff links, fancy jewelry, and fancier suits and ties (including knots) at home.

Malpractice Insurance

This manual is intended to provide the young lawyer with valuable information in order to avoid the pitfalls of practice. As such, it is worth mentioning that for many young lawyers, malpractice insurance is a must. The PA Rules of Professional Conduct require a lawyer to disclose to a new client in writing that the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year if said lawyer does not carry such coverage.

This could make for a very uncomfortable conversation for the young solo-practitioner. Therefore, if you are not in-house or government, it would be a good idea to find out what your firm's malpractice insurance policy covers, and if you are a solo attorney, it is strongly advised that you speak with a reputable malpractice insurance carrier for a quote and to purchase a policy as soon as possible. This will not only protect you and your business, it also serves to protect the public.

Information on where to purchase many different types of insurance, including malpractice insurance, can be found at <http://www.acba.org/ACBA/Members/USI-Affinity.asp>.

Social Networking

We all should be aware by now of the many benefits that our technological generation has produced. But with those privileges comes a very grave responsibility. Social networks have provided many lawyers with an outlet to advance client service and public understanding of legal issues and have also provided a great means for keeping contact with colleagues you no longer see on a regular basis and for forming new business relationships.

However, social networks mixed with poor decision making have also destroyed the lives and careers of many practitioners. Something as simple as an undiscerning photograph or remark can be a very deciding factor to a prospective employer, a prospective client, a jury panel, a judge, and even worse, the Disciplinary Board. There are very real and life-changing consequences that can come about from distributing certain information to the world, and the finality that often accompanies these consequences is debilitating. So please, use common sense when making remarks or posting pictures online. If it's something that you wouldn't want your parents, boss, or the Disciplinary Board to see, odds are you shouldn't post it at all.

Retirement Planning

For some lawyers, the world of investments, retirement planning, and making the right choices for your financial future can seem perplexing, or in some cases, simply an afterthought. This guide is intended to give the novice employee (in any sector of the legal profession or alternative career paths) a simple guide and resource to understand the basics of retirement planning in order to ensure your financial future.

Saving for Retirement

Although most of us recognize the importance of sound retirement planning, few of us embrace the nitty-gritty work involved. With thousands of investment possibilities, complex rules governing retirement plans, and so on, most people don't even know where to begin. Here are some suggestions to help you get started.

Determine your retirement income needs

Some experts suggest that you need anywhere from 60% to 90% of your current income to enable you to maintain your current standard of living in retirement. But this is only a general guideline. To determine your specific needs, you may want to estimate your annual retirement expenses. Use your current expenses as a starting point, but note that your expenses may change dramatically by the time you retire. If you're nearing retirement, the gap between your current expenses and your retirement expenses may be small. If retirement is many years away, the gap may be significant, and projecting your future expenses may be more difficult. Remember to take inflation into account. The average annual rate of inflation over the past 20 years has been approximately 2.5%. (Source: Consumer price index (CPI-U) data published by the U.S. Department of Labor, 2013.) And keep in mind that your annual expenses may fluctuate throughout retirement. For instance, if you own a home and are paying a mortgage, your expenses will drop if the mortgage is paid off by the time you retire. Other expenses, such as health-related expenses, may increase in your later retirement years. A realistic estimate of your expenses will tell you about how much annual income you'll need to live comfortably.

Calculate the gap

Once you have estimated your retirement income needs, take stock of your estimated future assets and income. These may come from Social Security, a retirement plan at work, a part-time job, and other sources. If estimates show that your future assets and income will fall short of what you need, the rest will have to come from additional personal retirement savings.

Figure out how much you'll need to save

By the time you retire, you'll need a nest egg that will provide you with enough income to fill the gap left by your other income sources. But exactly how much is enough? The following questions may help you find the answer:

- At what age do you plan to retire? The younger you retire, the longer your retirement will be, and the more money you'll need to carry you through it.
- What kind of lifestyle do you hope to maintain during your retirement years?
- What is your life expectancy? The longer you live, the more years of retirement you'll have to fund.

- What rate of growth can you expect from your savings now and during retirement? Be conservative when projecting rates of return.
- Do you expect to dip into your principal? If so, you may deplete your savings faster than if you just live off investment earnings. Build in a cushion to guard against these risks.

Build your retirement fund: Save, save, save

When you know roughly how much money you'll need, your next goal is to save that amount. First, you'll have to map out a savings plan that works for you. Assume a conservative rate of return (e.g., 5 to 6%), and then determine approximately how much you'll need to save every year between now and your retirement to reach your goal. The next step is to put your savings plan into action. It's never too early to get started (ideally, begin saving in your 20s). To the extent possible, you may want to arrange to have certain amounts taken directly from your paycheck and automatically invested in accounts of your choice (e.g., 401(k) plans, payroll deduction savings). This arrangement reduces the risk of impulsive or unwise spending that will threaten your savings plan. If possible, save more than you think you'll need to provide a cushion.

Use the right savings tools

Employer-sponsored retirement plans like 401(k)s and 403(b)s are powerful savings tools. Your contributions come out of your salary as pretax contributions (reducing your current taxable income) and any investment earnings grow tax deferred until withdrawn. Some 401(k), 403(b), and 457(b) plans also allow employees to make after-tax "Roth" contributions. There's no up-front tax advantage, but qualified distributions are entirely free from federal income taxes. In addition, employer-sponsored plans often offer matching contributions, and may be your best option when it comes to saving for retirement. IRAs also feature tax-deferred growth of earnings. If you are eligible, traditional IRAs may enable you to lower your current taxable income through deductible contributions. Withdrawals, however, are taxable as ordinary income (except to the extent you've made nondeductible contributions). Roth IRAs don't permit tax-deductible contributions but allow you to make completely tax-free withdrawals under certain conditions. With both types, you can typically choose from a wide range of investments to fund your IRA. Annuities are generally funded with after-tax dollars, but their earnings grow tax deferred (you pay tax on the portion of distributions that represents earnings). There is also no annual limit on contributions to an annuity.

Note: *Distributions from retirement plans, IRAs, and annuities prior to age 59½ may be subject to a 10% penalty tax unless an exception applies.* You have several options for saving for your retirement. How do you know what to do? Here's one common approach:

First contribute to employer-sponsored retirement plans, at least enough to get full company match

- Employer match is "free" money (you may forfeit match if you don't work for a given length of time)
- Dollars grow tax deferred until withdrawn
- Systematic payments from your paycheck--you'll hardly notice

- Most plans allow pretax contributions resulting in an immediate savings
- Certain plans may allow Roth contributions—tax free when withdrawn, earnings tax free if "qualified distribution"
- But, investment choices might be limited

Then contribute to IRAs

- Many investment options
- Traditional IRA contributions may or may not be tax deductible; Roth IRA contributions made with after-tax dollars
- Dollars grow tax deferred until withdrawn
- Roth IRA contributions tax free when withdrawn earnings tax free if "qualified distribution"
- Can contribute up to \$5,500 in 2014 (unchanged from 2013) (individuals age 50 and older may contribute an additional \$1,000)

Other options: annuities, stock plans, life insurance, other investments (e.g., stock, mutual funds), nonqualified deferred compensation, salary continuation plans

- Annuities, life insurance and other options have unique tax advantages
- Current lower capital gains tax rates make some equity investments more attractive for retirement planning
- Some options may be complex, and timing of taxable events may be difficult to control

401(k) Plans

Qualified cash or deferred arrangements (CODAs) permitted under Section 401(k) of the Internal Revenue Code, commonly referred to as "401(k) plans," have become one of the most popular types of employer-sponsored retirement plans.

How does a 401(k) plan work?

With a 401(k) plan, you elect either to receive cash payments (wages) from your employer immediately, or defer receipt of a portion of that income to the plan. The amount you defer (called an "elective deferral" or "pretax contribution") isn't currently included in your income; it's made with pretax dollars. Consequently, your federal taxable income (and federal income tax) that year is reduced. And the deferred portion (along with any investment earnings) isn't taxed to you until you receive payments from the plan.

Example: *Melissa earns \$30,000 annually. She contributes \$4,500 of her pay to her employer's 401(k) plan on a pretax basis. As a result, Melissa's taxable income is \$25,500. She isn't taxed on*

the deferred money (\$4,500), or any investment earnings, until she receives a distribution from the plan.

You may also be able to make Roth contributions to your 401(k) plan. Roth 401(k) contributions are made on an after-tax basis, just like Roth IRA contributions. Unlike pretax contributions to a 401(k) plan, there's no up-front tax benefit, but qualified distributions from a Roth 401(k) account are entirely free from federal income tax.

When can I contribute?

You can contribute to your employer's 401(k) plan as soon as you're eligible to participate under the terms of the plan. In general, a 401(k) plan can make you wait up to a year before you're eligible to contribute. But many plans don't have a waiting period at all, allowing you to contribute beginning with your first paycheck. Some 401(k) plans provide for automatic enrollment once you've satisfied the plan's eligibility requirements. For example, the plan might provide that you'll be automatically enrolled at a 3% pretax contribution rate (or some other percentage) unless you elect a different deferral percentage, or choose not to participate in the plan. This is sometimes called a "negative enrollment" because you haven't affirmatively elected to participate--instead you must affirmatively act to change or stop contributions. If you've been automatically enrolled in your 401(k) plan, make sure to check that your assigned contribution rate and investments are appropriate for your circumstances.

How much can I contribute?

There's an overall cap on your combined pretax and Roth 401(k) contributions. You can contribute up to \$17,500 of your pay (\$23,000 if you're age 50 or older) to a 401(k) plan in 2014. If your plan allows Roth 401(k) contributions, you can split your contribution between pretax and Roth contributions any way you wish. For example, you can make \$10,000 of Roth contributions and \$7,500 of pretax 401(k) contributions. It's up to you. But keep in mind that if you also contribute to another employer's 401(k), 403(b), SIMPLE, or SAR-SEP plan, your total contributions to all of these plans--both pretax and Roth--can't exceed \$17,500 (\$23,000 if you're age 50 or older). It's up to you to make sure you don't exceed these limits if you contribute to plans of more than one employer.

Can I also contribute to an IRA?

Yes. Your participation in a 401(k) plan has no impact on your ability to contribute to an IRA (Roth or traditional). You can contribute up to \$5,500 to an IRA in 2014, \$6,500 if you're age 50 or older (or, if less, 100% of your taxable compensation). But, depending on your salary level, your ability to make deductible contributions to a traditional IRA may be limited if you participate in a 401(k) plan.

What are the income tax consequences?

When you make pretax 401(k) contributions, you don't pay current income taxes on those dollars (which means more take-home pay compared to an after-tax Roth contribution of the same amount). But your contributions and investment earnings are fully taxable when you receive a distribution from the plan. In contrast, Roth 401(k) contributions are subject to income taxes up front, but qualified distributions of your contributions and earnings are entirely free from federal income tax. In general, a distribution from your Roth 401(k) account is qualified only if it satisfies both of the following requirements:

- It's made after the end of a five-year waiting period
- The payment is made after you turn 59½, become disabled, or die

The five-year waiting period for qualified distributions starts with the year you make your first Roth contribution to the 401(k) plan. For example, if you make your first Roth contribution to your employer's 401(k) plan in December 2014, your five-year waiting period begins January 1, 2014, and ends on December 31, 2018. Each nonqualified distribution is deemed to consist of a pro-rata portion of your tax-free contributions and taxable earnings.

What about employer contributions?

Many employers will match all or part of your contributions. Your employer can match your Roth contributions, your pretax contributions, or both. But your employer's contributions are always made on a pretax basis, even if they match your Roth contributions. That is, your employer's contributions, and investment earnings on those contributions, are always taxable to you when you receive a distribution from the plan.

Should I make pretax or Roth contributions?

Assuming your 401(k) plan allows you to make Roth 401(k) contributions, which option should you choose? It depends on your personal situation. If you think you'll be in a similar or higher tax bracket when you retire, Roth 401(k) contributions may be more appealing, since you'll effectively lock in today's lower tax rates. However, if you think you'll be in a lower tax bracket when you retire, pretax 401(k) contributions may be more appropriate. Your investment horizon and projected investment results are also important factors. A financial professional can help you determine which course is best for you. Whichever you decide--Roth or pretax--make sure you contribute as much as necessary to get the maximum matching contribution from your employer. This is essentially free money that can help you reach your retirement goals that much sooner.

What happens when I terminate employment?

Generally, you forfeit all contributions that haven't vested. "Vesting" means that you own the contributions. Your contributions, pretax and Roth, are always 100% vested. But your 401(k) plan may generally require up to six years of service before you fully vest in employer matching

contributions (although some plans have a much faster vesting schedule). When you terminate employment, you can generally leave your money in your 401(k) plan until the plan's normal retirement age (typically age 65), or you can roll your dollars over tax free to an IRA or to another employer's retirement plan.

What else do I need to know?

- Saving for retirement is easier when your contributions automatically come out of each paycheck
- You may be eligible to borrow up to one-half of your vested 401(k) account (to a maximum of \$50,000) if you need the money
- You may be able to make a hardship withdrawal if you have an immediate and heavy financial need. But this should be a last resort—hardship distributions are taxable events (except for Roth qualified distributions), and you may be suspended from plan participation for six months or more
- If you receive a distribution from your 401(k) plan before you turn 59½, (55 in certain cases), the taxable portion may be subject to a 10% early distribution penalty unless an exception applies
- Depending on your income, you may be eligible for an income tax credit of up to \$1,000 for amounts contributed to the 401(k) plan
- Your assets are generally fully protected from creditors in the event of your, or your employer's, bankruptcy.

403(b) Plans

A 403(b) plan is an employer-sponsored retirement plan for certain employees of public schools, tax-exempt (501(c)(3)) organizations, and churches. The employer can purchase annuity contracts for eligible employees, or establish custodial accounts to be invested in mutual funds or other investments. In the case of annuity contracts, a 403(b) plan is sometimes referred to as a tax-sheltered annuity (TSA) plan. (Church plans are subject to several special rules not covered here.)

How does a 403(b) plan work?

Depending on the specific type of 403(b) plan, contributions may be made by the employee, the employer, or both the employee and employer. Many 403(b) plans are similar to 401(k) plans: you elect either to receive cash payments (wages) from your employer immediately, or to defer receipt of all or part of that income to your 403(b) account. The amount you defer (called an "elective deferral") can be either pretax or, if your plan permits, after-tax Roth contributions. Employer contributions, if made, may be a fixed percentage of your compensation, or may match a specified percentage of your contribution, or may be discretionary on the part of the

employer. One unique characteristic of 403(b) plans is that your employer is allowed to make contributions to your account for up to five years after you terminate employment.

Who can participate?

In general, if any employee is eligible to make elective deferrals, then all employees must be allowed to do so. This is called the "universal availability rule." However, your employer can exclude certain groups of employees from participation (for example, employees who normally work less than 20 hours per week, or who are eligible under another deferral plan--for example, a 401(k) plan--of the employer). Your employer may also require that you attain age 21 and/or complete up to two years of service before you're eligible for employer contributions. Some 403(b) plans provide for automatic enrollment once you've satisfied the plan's eligibility requirements. For example, the plan might provide that you'll be automatically enrolled at a 3% pretax contribution rate (or some other percentage) unless you elect a different deferral percentage, or choose not to participate at all. If you've been automatically enrolled in your 403(b) plan, make sure that your assigned contribution rate and investments are appropriate for your circumstances.

What are the contribution limits?

You can defer up to \$17,500 of your pay to a 403(b) plan in 2014. If your plan allows Roth contributions, you can split your contribution between pretax and Roth contributions any way you wish. Unlike 401(k) plans, employee elective deferrals to 403(b) plans aren't subject to discrimination testing (which in 401(k) plans can often significantly limit the amount higher-paid employees can defer). If your plan permits, you may also be able to make "catch-up" contributions to your account. You can contribute up to an additional \$5,500 in 2014 if you'll be age 50 or older by the end of the year. If you have 15 years of service with your employer (even if you haven't attained age 50) a special Section 403(b) rule may also allow you to make annual catch-up contributions of \$3,000, up to \$15,000 lifetime. If you're eligible for both rules, then any catch-up contributions you make count first against your 15-year \$15,000 lifetime limit. If you also contribute to a 401(k), 403(b), SIMPLE, or SARSEP plan maintained by the same or a different employer, then your total elective deferrals to all of these plans--both pretax and Roth--can't exceed \$17,500 in 2014, plus catch-up contributions. It's up to you to make sure you don't exceed the limits if you contribute to plans of more than one employer. Total contributions to your 403(b) account--both yours and your employer's--can't exceed \$52,000 in 2014 (or 100% of your compensation, if less). Age 50 catch-up contributions are not included in this limit, but special Section 403(b) catch-up contributions are. (Aggregation rules may apply if you also participate in a qualified retirement plan.)

Can I also contribute to an IRA?

Yes. Your participation in a 403(b) plan has no impact on your ability to contribute to an IRA. You can contribute up to \$5,500 to an IRA in 2014, \$6,500 if you'll be age 50 or older by the end of the year (or, if less, 100% of your taxable compensation). However, depending on your

income level, your ability to make deductible contributions to a traditional IRA may be limited if you contribute to a 403(b) plan. (Your income level and tax filing status may also impact your ability to contribute to a Roth IRA.)

Income tax considerations

When you make pretax 403(b) contributions, you don't pay current income taxes on those dollars (which means more take-home pay compared to an after-tax contribution of the same amount). But your contributions and investment earnings are fully taxable when you receive a distribution from the plan. In contrast, your after-tax Roth 403(b) contributions are subject to income taxes up front, but are tax free when distributed to you from the plan. And, if your distribution is qualified, then any earnings are also tax-free. In general, a distribution from your Roth 403(b) account is qualified only if it's made after the end of a five-year waiting period, and the payment is made after you turn 59½, become disabled, or die. If your distribution is nonqualified, then you're deemed to receive a pro-rata portion of your tax-free Roth contributions and your taxable earnings. Your employer's contributions are always made on a pretax basis, even if they match your Roth contributions. That is, your employer's contributions, and any investment earnings on those contributions, are always taxable to you when you receive a distribution from the plan. If you receive a payment from your 403(b) account before you turn 59½ (55 in certain cases), the taxable portion may also be subject to a 10% early distribution penalty, unless an exception applies.

When can I access my money?

In general, you can't withdraw your elective deferrals from your 403(b) until you reach age 59½, become disabled, or terminate employment (deferrals to annuity contracts prior to 1989 aren't subject to these restrictions). Some plans allow you to make a withdrawal if you have an immediate and heavy financial need ("hardship"), but this should be a last resort--not only is a hardship distribution a taxable event, but you may be suspended from plan participation for six months or more. If your plan allows after-tax (non-Roth) contributions, your plan can let you withdraw these dollars at any time. Employer contributions to 403(b) custodial accounts are subject to similar withdrawal restrictions. But employer contributions and pre-1989 deferrals to 403(b) annuity contracts are subject to somewhat more lenient distribution rules. Check with your plan administrator for your plan's specific rules. If your plan permits loans, you may be able to borrow up to one-half of your vested 403(b) account balance (to a maximum of \$50,000) if you need the money.

What happens when I terminate employment?

Generally, you forfeit all employer contributions that haven't vested. "Vesting" means that you own the contributions. Your plan may require up to six years of service before you're fully vested in employer contributions, although some plans have much faster vesting schedules. (Your own contributions are always 100% vested.) You can generally leave your money in your 403(b) account, transfer it to a new 403(b) account, roll your dollars over to an IRA or to another employer's retirement plan, or take a distribution.

What else do I need to know?

- You must begin taking distributions “required minimum distributions or RMDs from your 403(b) account after you reach age 70½ (or after you terminate employment, if later). (The RMD rules don't apply to contributions made prior to 1987.)
- If your employer offers 403(b)s from various vendors, you may be able to transfer your assets from one contract to another while you're still employed. This can be helpful if you're dissatisfied with a particular vendor's investment offerings.
- Your 403(b) account is fully protected from creditors under federal law in the event of your bankruptcy. If your plan is covered by ERISA, then your account is generally protected from all of your creditors' claims.

Understanding IRAs

An individual retirement arrangement (IRA) is a personal savings plan that offers specific tax benefits. IRAs are one of the most powerful retirement savings tools available to you. Even if you're contributing to a 401(k) or other plan at work, you should also consider investing in an IRA.

What types of IRAs are available?

The two major types of IRAs are traditional IRAs and Roth IRAs. Both allow you to contribute as much as \$5,500 in 2014 (unchanged from 2013). You must have at least as much taxable compensation as the amount of your IRA contribution. But if you are married filing jointly, your spouse can also contribute to an IRA, even if he or she does not have taxable compensation. The law also allows taxpayers age 50 and older to make additional "catch-up" contributions. These folks can contribute up to \$6,500 in 2014 (unchanged from 2013). Both traditional and Roth IRAs feature tax-sheltered growth of earnings. And both give you a wide range of investment choices. However, there are important differences between these two types of IRAs. You must understand these differences before you can choose the type of IRA that's best for you.

Note: *Special rules apply to qualified individuals impacted by certain natural disasters, and certain reservists and national guardsmen called to active duty after September 11, 2001.*

Learn the rules for traditional IRAs

Practically anyone can open and contribute to a traditional IRA. The only requirements are that you must have taxable compensation and be under age 70½. You can contribute the maximum allowed each year as long as your taxable compensation for the year is at least that amount. If your taxable compensation for the year is below the maximum contribution allowed, you can contribute only up to the amount that you earned. Your contributions to a traditional IRA may

be tax deductible on your federal income tax return. This is important because tax-deductible (pretax) contributions lower your taxable income for the year, saving you money in taxes. If neither you nor your spouse is covered by a 401(k) or other employer-sponsored plan, you can generally deduct the full amount of your annual contribution. If one of you is covered by such a plan, your ability to deduct your contributions depends on your annual income (modified adjusted gross income, or MAGI) and your income tax filing status. For 2014, if you are covered by a retirement plan at work and:

- Your filing status is single or head of household, and your MAGI is \$60,000 or less, your traditional IRA contribution is fully deductible. Your deduction is reduced if your MAGI is more than \$60,000 and less than \$70,000, and you can't deduct your contribution at all if your MAGI is \$70,000 or more.
 - Your filing status is married filing jointly or qualifying widow(er), and your MAGI is \$96,000 or less, your traditional IRA contribution is fully deductible. Your deduction is reduced if your MAGI is more than \$96,000 and less than \$116,000, and you can't deduct your contribution at all if your MAGI is \$116,000 or more.
 - Your filing status is married filing separately, your traditional IRA deduction is reduced if your MAGI is less than \$10,000, and you can't deduct your contribution at all if your MAGI is \$10,000 or more.
- For 2014, if you are not covered by a retirement plan at work, but your spouse is, and you file a joint tax return, your traditional IRA contribution is fully deductible if your MAGI is \$181,000 or less. Your deduction is reduced if your MAGI is more than \$181,000 and less than \$191,000, and you can't deduct your contribution at all if your MAGI is \$191,000 or more.
- What happens when you start taking money from your traditional IRA? Any portion of a distribution that represents deductible contributions is subject to income tax because those contributions were not taxed when you made them. Any portion that represents investment earnings is also subject to income tax because those earnings were not previously taxed either. Only the portion that represents nondeductible, after-tax contributions (if any) is not subject to income tax. In addition to income tax, you may have to pay a 10 percent early withdrawal penalty if you're under age 59½, unless you meet one of the exceptions. If you wish to defer taxes, you can leave your funds in the traditional IRA, but only until April 1 of the year following the year you reach age 70½. That's when you have to take your first required minimum distribution from the IRA. After that, you must take a distribution by the end of every calendar year until you die or your funds are exhausted. The annual distribution amounts are based on a standard life expectancy table. You can always withdraw more than you're required to in any year. However, if you withdraw less, you'll be hit with a 50 percent penalty on the difference between the required minimum and the amount you actually withdrew.

Learn the rules for Roth IRAs

Not everyone can set up a Roth IRA. Even if you can, you may not qualify to take full advantage of it. The first requirement is that you must have taxable compensation. If your taxable compensation in 2014 is at least \$5,500, you may be able to contribute the full amount. But it

gets more complicated. Your ability to contribute to a Roth IRA in any year depends on your MAGI and your income tax filing status.

- If your filing status is single or head of household, and your MAGI for 2014 is \$114,000 or less, you can make a full contribution to your Roth IRA. Your Roth IRA contribution is reduced if your MAGI is more than \$114,000 and less than \$129,000, and you can't contribute to a Roth IRA at all if your MAGI is \$129,000 or more.
- If your filing status is married filing jointly or qualifying widow(er), and your MAGI for 2014 is \$181,000 or less, you can make a full contribution to your Roth IRA. Your Roth IRA contribution is reduced if your MAGI is more than \$181,000 and less than \$191,000, and you can't contribute to a Roth IRA at all if your MAGI is \$191,000 or more.
- If your filing status is married filing separately, your Roth IRA contribution is reduced if your MAGI is less than \$10,000, and you can't contribute to a Roth IRA at all if your MAGI is \$10,000 or more. Your contributions to a Roth IRA are not tax deductible. You can invest only after-tax dollars in a Roth IRA. The good news is that if you meet certain conditions, your withdrawals from a Roth IRA will be completely income tax free, including both contributions and investment earnings. To be eligible for these qualifying distributions, you must meet a five-year holding period requirement. In addition, one of the following must apply:
 - You have reached age 59½ by the time of the withdrawal
 - The withdrawal is made because of disability
 - The withdrawal is made to pay first-time home buyer expenses (\$10,000 lifetime limit)
 - The withdrawal is made by your beneficiary or estate after your deathQualified distributions will also avoid the 10 percent early withdrawal penalty. This ability to withdraw your funds with no taxes or penalties is a key strength of the Roth IRA. And remember, even nonqualified distributions will be taxed (and possibly penalized) only on the investment earnings portion of the distribution, and then only to the extent that your distribution exceeds the total amount of all contributions that you have made. Another advantage of the Roth IRA is that there are no required distributions after age 70½ or at any time during your life. You can put off taking distributions until you really need the income. Or, you can leave the entire balance to your beneficiary without ever taking a single distribution. Also, as long as you have taxable compensation and qualify, you can keep contributing to a Roth IRA after age 70½.

Choose the right IRA for you

Assuming you qualify to use both, which type of IRA is best for you? Sometimes the choice is easy. The Roth IRA will probably be a more effective tool if you don't qualify for tax-deductible contributions to a traditional IRA. However, if you can deduct your traditional IRA contributions, the choice is more difficult. Most professionals believe that a Roth IRA will still give you more bang for your dollars in the long run, but it depends on your personal goals and circumstances. The Roth IRA may very well make more sense if you want to minimize taxes during retirement

and preserve assets for your beneficiaries. But a traditional deductible IRA may be a better tool if you want to lower your yearly tax bill while you're still working (and probably in a higher tax bracket than you'll be in after you retire). A financial professional or tax advisor can help you pick the right type of IRA for you.

Note: You can have both a traditional IRA and a Roth IRA, but your total annual contribution to all of the IRAs that you own cannot be more than \$5,500 in 2014 (\$6,500 if you're age 50 or older).

Know your options for transferring your funds

You can move funds from an IRA to the same type of IRA with a different institution (e.g., traditional to traditional, Roth to Roth). No taxes or penalty will be imposed if you arrange for the old IRA trustee to transfer your funds directly to the new IRA trustee. The other option is to have your funds distributed to you first and then roll them over to the new IRA trustee yourself. You'll still avoid taxes and penalty as long as you complete the rollover. You may also be able to convert funds from a traditional IRA to a Roth IRA. This decision is complicated, however, so be sure to consult a tax advisor. He or she can help you weigh the benefits of shifting funds against the tax consequences and other drawbacks.

Note: The IRS has the authority to waive the 60-day rule for rollovers under certain limited circumstances, such as proven hardship, within 60 days from the date you receive the funds.

Comparison of Traditional IRAs and Roth IRAs

	Traditional IRA	Roth IRA
Maximum yearly contribution (2014)	Lesser of \$5,500 or 100% of earned income (\$6,500 if age 50 or older)	Lesser of \$5,500 or 100% of earned income (\$6,500 if age 50 or older)
Income limitation for contributions	No	Yes
Tax-deductible contributions	Yes. Fully deductible if neither you nor your spouse is covered by a retirement plan. Otherwise, your deduction depends on your income and filing status.	No. Contributions to a Roth IRA are never tax deductible
Age restriction on contributions	Yes. You cannot make annual contributions beginning with the year you reach age 70½.	No
Tax-deferred growth	Yes	Yes; tax free if you meet the

		requirements for a qualified distribution.
Required minimum distributions during lifetime	Yes. Distributions must begin by April 1 following the year you reach age 70½.	No. Distributions are not required during your lifetime.
Federal income tax on distributions	Yes, to the extent that a distribution represents deductible contributions and investment earnings.	No, for qualified distributions. For nonqualified distributions, only the earnings portion is taxable.
10% penalty on early distributions	Yes, the penalty applies to taxable distributions if you are under age 59½ and do not qualify for an exception	No, for qualified distributions. For nonqualified distributions, the penalty may apply to the earnings portion. (Special rules apply to amounts converted from a traditional IRA to a Roth IRA.)
Includable in taxable estate of IRA owner at death	Yes	Yes
Beneficiaries pay income tax on distributions after IRA owner's death	Yes, to the extent that a distribution represents deductible contributions and investment earnings.	Generally no, as long as the account has been in existence for at least five years.

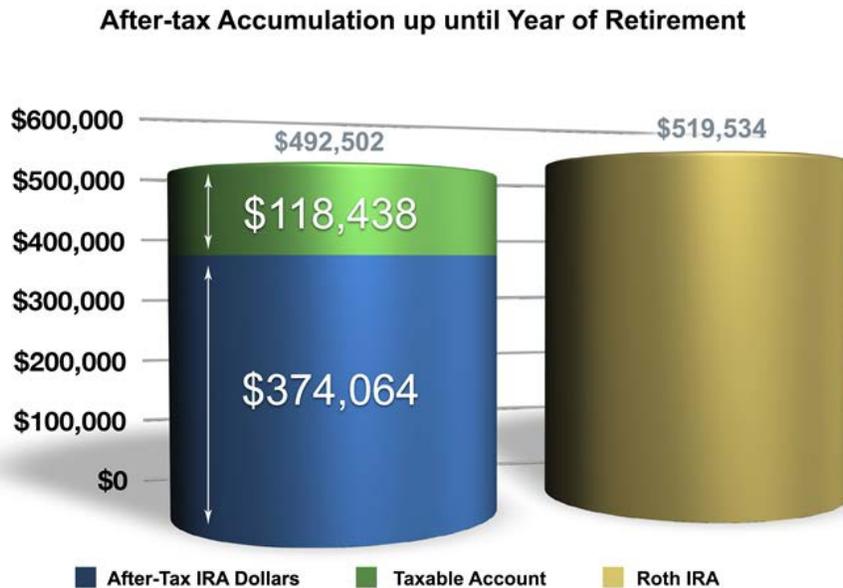
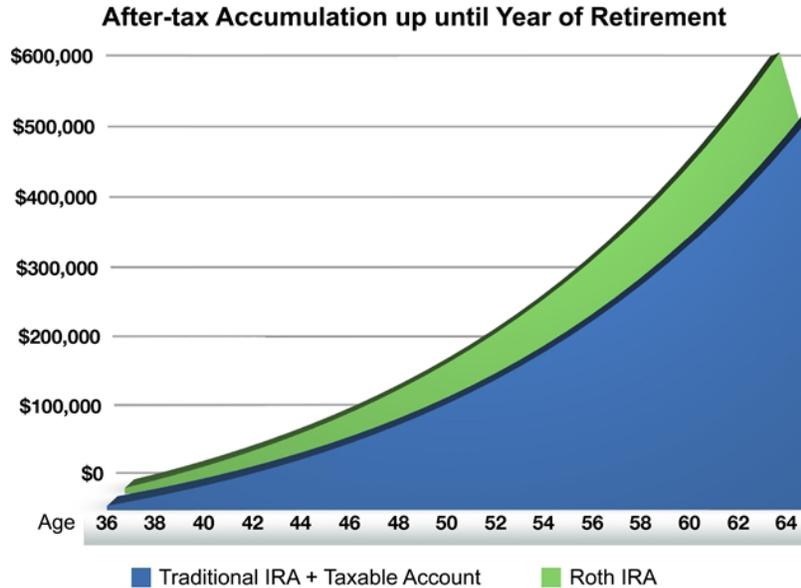
IRA Future Value Illustration

These charts compare after-tax values for a Roth vs. a traditional IRA based on the assumptions that follow.

Current IRA balance: \$0 Estimated annual rate of return: 7%

Annual contribution: \$5,500 Estimated income tax before retirement: 35%

Years until retirement: 30 Years Estimated income tax at retirement: 28



Result at retirement: Value of Roth IRA: \$519,534. After-tax value of traditional IRA plus taxable account: \$492,503.

Assumptions:

The same annual contribution is made at the end of each year until retirement. Earnings are compounded annually. This illustration assumes that all traditional IRA contributions are fully tax deductible. However, note that if either the IRA owner or the IRA owner's spouse participates in an employer-sponsored retirement plan, the deductibility of contributions is subject to limitations based on tax filing status and modified adjusted gross income. This illustration assumes that an amount equal to the tax deduction each year is invested in a

taxable account. Withdrawals from traditional IRAs are subject to federal income tax to the extent that they consist of deductible contributions and investment earnings. Withdrawals made before age 59½ may also be subject to a 10 percent penalty. Contributions to a Roth IRA are not tax deductible. Depending on an individual's tax filing status and modified adjusted gross income, allowable contributions to a Roth IRA may be limited. Qualified distributions from a Roth IRA are not subject to federal income tax. Nonqualified withdrawals of earnings before age 59½ may be subject to income tax and a 10 percent penalty.

Note: *This is a hypothetical example and is not intended to reflect the actual performance of any specific investment, nor is it an estimate or guarantee of future value. Investment fees and expenses, which are generally different for taxable and tax-deferred investments, have not been deducted. If they had been, the results would have been lower. The lower maximum tax rates on capital gains and qualified dividends would make the taxable investment more favorable than is shown in this chart. When making an investment decision, investors should consider their personal investment horizons and income tax brackets, both current and anticipated, as these may further impact the results of this comparison.*

Preparing for a Review

Asking for a Raise

You can ask for a raise at any time, but it is best to wait until you have been in the position at least one year. Before you ask for a raise you need to do some research about your firm. Find someone who will let you know what the firm considers when granting a raise. You need to determine who makes these decisions and who is best to approach for the ask. It could be your direct supervisor, the managing partner or your team leader. Employers look at a number of things including billable hours, origination, quality of work, hours spent in the office, case management, client satisfaction, receivables, etc. Once you have figured out what determinations about raises are based on, you can begin to review in which areas you are strong and in which you are weak. Be prepared to discuss how to improve your weaknesses and tout your strengths. When touting your strengths it can be good to have copies of emails or cards from clients praising your work, dedication or efforts.

If you are not granted a raise, be sure to ask what areas of improvement that employer would like to see you work on. You should then ask to set a follow up meeting to discuss your progress. You can include in the request to readdress the issue of the raise at the follow up meeting if you want.

A word of caution, be aware of what other are making around you. If you don't know what others are making, be reasonable in the amount you request. Requesting too much can leave a sour taste with your employer.

PROFESSIONAL ORGANIZATIONS

This section concerns the “why” and “how to” join a sampling of professional organizations within Allegheny County, in the Commonwealth of Pennsylvania, and beyond. How will these organizations help further your career? Below are some benefits of joining these organizations.

Why?

Networking

Involving yourself in professional organizations will help you build your “network.” What is your network? A group of peers, mentors, and sponsors who can help you reach your personal, professional, social and philanthropic goals. By taking an active role in organizations, you can meet like-minded people who can become friends, sounding boards, or even your future co-worker or boss.

Enhancing Your Career

Associations frequently have job listings that are available exclusively to their members, and association events are oftentimes the place where unlisted jobs are informally announced. Being an active member will not only provide you with access to these opportunities, but also allow you to build personal relationships with individuals who can help you along in your career, whether you are looking for your first job, looking for a lateral move, or seeking to make partner.

Broadening Your Knowledge-Base

Associations have access to significant resources, and being an active member affords access to a lot of them. From helping you to meet continuing legal education requirements, to providing topical updates and seminars on emerging areas of law, to providing a forum for publications and articles on your field, professional organizations help you stay informed and educated.

How?

American Bar Association (ABA)

By joining the ABA, you can join national Sections, Divisions, and Forums in your preferred area, get involved in Committees, task forces, and initiatives in specialty areas, and utilize the exclusive career resources page. You will also get exclusive discounts and access to exclusive ABA publications and research.

If you passed the bar, are licensed as a U.S. attorney, and graduated within the past two years, you do not have to pay any dues. After your second year of practice, dues increase per year. To join the American Bar Association, visit www.americanbar.org and follow the links to join under the “Membership” tab.

Allegheny County Bar Association (ACBA)

If you are a practicing attorney in Allegheny County, becoming an active member in the ACBA is one of the best things you can do to enhance your career. Membership in the ACBA includes access to over 60 Committees, Divisions, and substantive law Sections, as well as discounted rates on numerous programs and services. Whatever your practice focus or area of interest, the ACBA provides resources to assist in all of your professional endeavors.

Similar to the ABA, newly admitted attorneys do not have to pay dues for their first year. To join, download an application under the “Membership” tab on www.acba.org.

A club young lawyers might want to join is the ACBA Toastmasters Club. A chapter of Toast Masters International, it meets on the first, second, and third Mondays of the month at 12 p.m. in the ACBA auditorium, ninth floor, City-County Building.

Pennsylvania Bar Association (PBA)

The PBA offers numerous state-wide Committees and Substantive Law Sections, as well as discounts to many retailers and third-party businesses aimed at helping attorneys’ businesses. The PBA also releases Ethics Opinions, free legal research options, practice-management, educational materials, publications, and pro-bono services.

To join the PBA, click “Join PBA Now” on www.pabar.org.

Women’s Bar Association of Western Pennsylvania (WBA)

“The WBA was formed in 1988 in response to an incident during a trial in open court, where a federal court judge refused to permit a female attorney to be addressed by her birth surname,

which she chose to use professionally. This overt act of discrimination by a member of the judiciary gave birth in 1988 to the formation of the Ad Hoc Committee to Eliminate Gender Bias, the predecessor of the WBA. Further recognizing that the county bar association had no female attorneys in its governing body at that time, a group of prominent women attorneys organized the WBA to address the unique needs and concerns of women attorneys, to encourage women to seek judicial roles through appointments and election, and to end the gender and racial bias in the courts¹.”

The WBA offers a number of Committees to serve on, as well as mentoring and networking opportunities, CLEs, and events aimed at issues facing women in the legal profession.

To join, click the “Membership” tab on www.wbawpa.com.

Special Interest Areas

Association of Corporate Counsel (ACC)

Minority Corporate Counsel Association (MCCA)

Hispanic National Bar Association

National Asian Pacific American Bar Association

National Bar Association

National Conference of Women’s Bar Associations

National Lesbian and Gay Law Association

National Native American Bar Association

North American South Asian Bar Association

¹ Courtesy Women’s Bar Association of Western Pennsylvania

Work Life Balance

Work-Life Balance is a challenge not just for new attorneys, but also throughout the profession. While it differs from role-to-role, it is important to remember to take some time for yourself and to take care of yourself. If you do not take care of yourself, how can you take care of your clients?

This topic is an annual favorite with most professional organizations and there are a multitude of resources, information and workshops out there to learn more about creating this, at times, elusive balance.

ACBA has a collection of articles and resources on this topic available on the main website as well: [http://www.acba.org/acba/members/WLD/Flextime and Work Life Balance Junior Attorneys.asp](http://www.acba.org/acba/members/WLD/Flextime_and_Work_Life_Balance_Junior_Attorneys.asp).

Lawyers Concerned for Lawyers (“LCL”) is resource that is available to you and your immediate family members. LCL is an independent, non-profit corporation run by lawyers and judges for lawyers and judges that provides a safe environment for working through issues such as drug or alcohol abuse, depression or other serious emotional problems. LCL services are confidential, supportive and free. If you are concerned about a colleague or family member or would like more information, please contact LCL.

Website for Pennsylvania is: <http://www.lclpa.org>.

Confidential Hotline: 1-888-999-1941

MY FIRST CLIENT

TAKING YOUR FIRST DEPOSITION

Taking your first deposition can be an intimidating procedure. However, keeping these principles in mind will help guide you through the process.

What information do you need?

Going in, you have to already know what the key information is that you need to obtain in the deposition. It is important that you have determined what you hope to accomplish through the deposition. Beyond discovering what happened, be clear on what two or three points you want to establish through a witness's testimony. If the case goes to trial, usually only a very small part of the deposition is ever used, and the value of a deposition may be for impeachment purposes.

Make an outline

It is typically better to use a general outline for a deposition rather than a detailed list of every expected question. The mistake most young attorneys make with an overly detailed outline is that they stick too closely to it rather than to listen to the answers given and following with appropriate questions. If you have a clear understanding of what it is you're hoping to get out of the deposition, what follow-up questions should be asked will come naturally. Always review the outline before ending the deposition to confirm that you did not forget to ask any questions or cover any topics.

Phrasing your language

Your questioning style may be open-ended like a direct examination, narrow and controlling like a cross-examination, or a combination of the two. You should be prepared to adjust your style of questioning in case they are objected to. Part of how questions should be asked depends on what the purpose is. For example, if you know that a witness will not be available at trial, you should treat the deposition as you would cross-examination at trial. However, if the witness will be available at trial, your purpose may be more to elicit the witness's story and acquire as much information as possible.

Be prepared for objections

There are only two valid objections in a deposition: form and privilege. If the objection is to form, a witness still must answer the question. As a general rule, you should completely ignore the objections or statements from opposing counsel. Also, you should never argue with opposing counsel; often, they are just trying to throw you off track or interrupt your rhythm. If opposing counsel continues to object, ask if counsel is instructing the witness not to answer. If counsel is not instructing the witness not to answer, continue and obtain the answer to your question. If counsel is instructing the witness not to answer and there is not a clearly valid privilege claim, you should contact the judge or magistrate to resolve the issue. Such action can

rein in opposing counsel. If the judge is not available, consider whether the issue is important; if not, move on. But if it is an important issue, contact the judge later or make a motion as soon as possible. Regardless, to the extent you can avoid it, never argue with opposing counsel.

General background. Always ask whether a witness has ever testified at trial or deposition or has ever been a party to a lawsuit. If they have testified before, obtain as much information as you can such as what the case was about, the forum, attorney names, and case name; then request or subpoena the transcript of those proceedings or obtain it from other attorneys or the court reporter. This material may let you see how the witness will perform at trial and may reveal that the witness previously testified to something relevant and possibly inconsistent.

Discovery-related questions. You can ask a witness questions to confirm the scope of discovery. For example, if a witness is a company representative, you may want to ask if the witness recalls receiving a litigation-hold notice, produced documents, or was contacted to produce documents. You also can ask whether a witness searched its files, shared drives, personal computer, personal and mobile electronic devices, and more. If a witness is a third party, you might want to ask whether it has any relevant documents at home, on its personal computer, and in its home files and whether it kept handwritten notes or saves its calendar.

Length. There is no set length for a good deposition, and they certainly do not have to be long. Rather, always keeping in mind the principle of “what’s your purpose” you may need to ask only a few questions. However, the reality is that most depositions will take at least thirty minutes.

You’re creating a record. Keep in mind that you are creating a record- either written transcript or videotape. Phrase your questions directly so that they will be understood when read back later. Ask straightforward questions so there is no confusion later on what you meant. While you may be tempted to lighten the mood, never make jokes on the record; the humor will not come through at trial as it did in person.

Don’t reinvent the wheel. If you work at a law firm with other attorneys, it is likely that someone has a model outline you can use. If you are a solo practitioner, ask a friend or look for one on the internet. You will likely have to modify the outline so it meets your purpose, but that process is much easier than starting from scratch.

Be confident. Even though you will be nervous, because everyone is, it is important that you portray confidence!

KEEPING SHAREHOLDERS HAPPY

Best Billing Practices- The Art of Billing

Billing can be annoying, but it is important that you recognize that this is a significant part of how your job performance is evaluated. Take your billing seriously. Several firms make billing information available to all the partners or shareholders, so someone that doesn't know what great work you are producing may not recognize what a valued associate you are if you are not showing the same performance in your billable hours. You are doing the work already, you just need to take the time to make sure that your billing reflects all that hard work and you get the credit you deserve.

Every client will have different billing practices- learn these and be familiar with them. You don't want to shortchange your work by failing to follow a client's billing practices. Seek out someone in your firm who works for the same clients you do and ask them if they will let you see a time sheet so you can see an example of how to bill for that client. If the bills are available to you to review, that's even better. Take the time to master the art of billing and you can relieve yourself of a lot of end of the month or year pressure to make billing requirements. It is also wise to let people know you are unfamiliar with billing and seek out advice and support from more senior associates. Don't be afraid to ask questions about billing, everyone recognizes that billing has its own learning curve. Shareholders will appreciate that you are trying to master billing!

Time Management and Assignment Efficiency- Your Diary is your Best Friend!

Time management can be very difficult. Every day is full of unexpected surprises and you may find that you can go for days without crossing off a single item off of Monday's to-do list. The most important thing you can do to make sure you are on top of things is to use your diary. Every time you receive a letter or any court document, diary the response date, when you need to have a draft of the response completed, or any other important dates. Outlook or a Google calendar is very helpful for keeping track of your diary.

Most letters you will receive will be seeking some information, make sure you diary to respond appropriately. Diarizing everything a few days in advance of the response date is helpful to make sure that assignment is on your radar. Shareholders will appreciate receiving a draft of the assignment before the day it is due- some may even require to receive the assignment in advance of the deadline. Make diarizing all deadlines, motions, and due dates a habit so that you can stay on top of your workload. If you have an assistant, let them know that you want everything diaried and how you want it diaried.

Also, don't let your files get dusty; every file should be on a diary. You should set a diary for you to review each file about every two weeks. Even if the case is languishing on the docket, it is still important to maintain contact with your client even if you just write them a letter to say nothing is happening in the case. They will appreciate being updated on the case's status.

I'M GOING TO COURT

FEDERAL COURT

Federal Court System

District (Trial) Court → Court of Appeals → United States Supreme Court

Basic Information

The federal court system has a very detailed webpage that explains everything from establishing federal jurisdiction, to the structure of the federal court system and the typical procedures you should expect to follow when litigating a case in federal court.

Webpage: <http://www.uscourts.gov/FederalCourts.aspx>

Jurisdiction

Federal courts hear cases involving the constitutionality of a law; the laws and treaties of the U.S.; ambassadors and public ministers; disputes between two or more states; admiralty law; and bankruptcy cases. In addition, certain categories of legal disputes may be resolved in special courts or entities that are part of the federal executive or legislative branches, and by state and federal administrative agencies.

Although the details of the complex web of federal jurisdiction that Congress has given the federal courts are beyond the scope of this brief guide, it is important to understand that there are two main sources of cases coming before the federal courts: "federal question" jurisdiction, and "diversity" jurisdiction.

Federal courts also have jurisdiction over all bankruptcy matters, which Congress has determined should be addressed in federal courts rather than the state courts. Through the bankruptcy process, individuals or businesses that can no longer pay their creditors may either seek a court-supervised liquidation of their assets, or they may reorganize their financial affairs and work out a plan to pay off their debts.

Federal Judges are Appointed

Federal Supreme Court justices, court of appeals judges, and district court judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution. The Constitution sets forth no specific requirements to be a federal judge. However, members of Congress, who typically recommend potential nominees, and the Department of Justice, which reviews nominees' qualifications, have developed their own informal criteria. Federal judges are appointed for a life term.

Docketing

Federal courts use a comprehensive, centralized online docketing system: the Public Access to Court Electronic Records system, which is more commonly known as PACER. Litigants or any interested party can access case information, including pleadings and transcripts, by creating a pay-as-you-search account on PACER. Webpage: www.pacer.gov.

Judicial Clerkships

Federal judges and appellate staff attorney offices use an online recruitment procedure called OSCAR (Online System for Clerkship Application and Review) to post law clerk positions and accept applications. Judges and staff attorney offices that are not hiring can maintain an OSCAR profile to advise potential applicants of their hiring status. If you are interested in a federal clerkship, you should create an OSCAR account immediately. Some federal clerkships advertise two years in advance of the start date of the position.

Webpage: <https://oscar.uscourts.gov/home>

Local Courthouses

Allegheny County falls within the United States District Court for the Western District of Pennsylvania. The courthouse is located in downtown Pittsburgh at 700 Grant Street. For a list of the local district court judges and their particular chamber's rules click: <http://www.pawd.uscourts.gov/Pages/chamber02.htm>

STATE COURT

State Court System

Magisterial District Judge → Court of Common Pleas → Superior Court *or* Commonwealth Court
→ Pennsylvania Supreme Court

Jurisdiction

Magisterial District Judges have limited jurisdiction, and may only preside over summary criminal cases, traffic citations, non-traffic citations, criminal preliminary arraignments, criminal preliminary hearings, criminal bail hearings, landlord/tenant matters, civil disputes not exceeding \$12,000, emergency relief from abuse petitions under the Protection From Abuse Act, and marriage ceremonies.

The Court of Common Pleas Judges have general jurisdiction and can preside over any type of matter. In Allegheny County the judges are assigned to one of four divisions: Civil, Criminal, Family (adult section and/or juvenile section), or Orphans.

The Superior Court and the Commonwealth Court handle direct appeals, as a matter of right, from the trial courts.

The Supreme Court has jurisdiction to review decision from the intermediate appellate courts. The Supreme Court has discretion to grant or deny parties the right to appeal (*allocatur*). Parties must first formally request in a petition entitled Request for Allowance of Appeal that their case be heard. On average, the Supreme Court only accepts about 2% percent of requests.

State Judges are Elected

Magisterial District Judges are elected by the citizens of the magisterial district in which they serve. The term of a District Judge is six years. In order to become a District Judge, individuals must: (a) be 21 years of age, a resident of the Commonwealth of Pennsylvania, a resident of his/her magisterial district for a one-year period prior to election, and be certified by the Administrative Office of Pennsylvania Courts as successfully completing a rigorous training and education program administered by the Minor Judiciary Education Board; or (b) be an attorney admitted to the Bar in Pennsylvania.

Common Pleas and Appellate Judges are also elected. Judges and justices may serve an unlimited number of 10-year terms until they reach the mandatory retirement age of 70, provided they are retained or re-elected by the voters. The merit retention provision of Pennsylvania's constitution allows all but magisterial district judges to be retained with a simple "yes" or "no" vote without ballot reference to political affiliation. This provision was designed

to remove judges from the pressures of the political arena once they begin their first term of office. Vacancies that exist before an election may be filled by gubernatorial appointment until an election is held. These selections are subject to Senate confirmation. Judicial elections occur in odd-numbered years.

Docketing

The Pennsylvania state court system uses an online docketing system that is less sophisticated than the federal system: The Unified Judicial System of Pennsylvania Web Portal. Unlike the federal system, litigants cannot currently access copies of pleadings or transcripts. You can access basic information about the status of the case, and the service is free to the public.

Webpage: <http://ujportal.pacourts.us/default.aspx>

Allegheny County also has its own online docket, which allows litigants to e-file pleadings and access previously filed documents. This system is used by the civil, orphans, and family courts. There are fees associated with some of the online search features.

Webpage: <https://dcr.alleghenycounty.us/>

Judicial Clerkships

Many Allegheny County Common Pleas judges have lifetime clerks; thus these positions are rare. The more rural counties do hire young attorneys for common pleas clerkships from time-to-time. In the state appellate system, each chamber has a few lifetime clerks and a few term clerks. These positions are rarely, if ever, advertised. If you are interested in a state appellate court clerkship, you should reach out directly to the chambers to determine the individual chamber's hiring procedures.

Local Courthouses

The state courts for the Fifth Judicial District of Pennsylvania (aka Allegheny County) are located in downtown Pittsburgh, Pennsylvania 15219:

Magisterial District Judges

City of Pittsburgh: Municipal Courts Building, 600 First Avenue

Other Locations: detailed chart

at https://www.alleghenycourts.us/district_judges/offices.aspx

Trial Courts

Civil Division: City-County Building, 414 Grant Street

Criminal Division: County Courthouse, 436 Grant Street

Family Division: Family Courts Building, 440 Ross Street

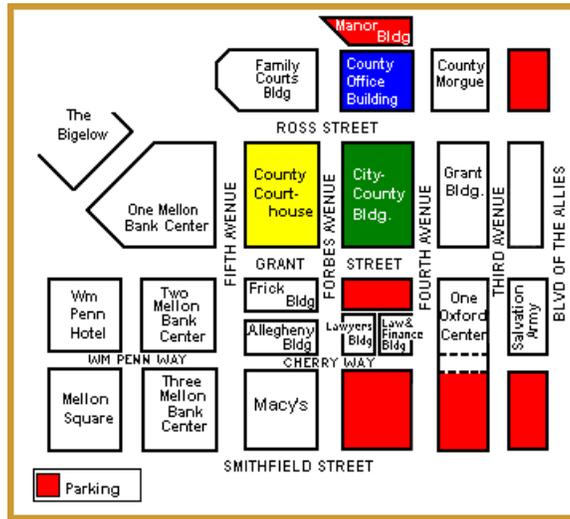
Orphans: 1700 Frick Building, 437 Grant Street

Appellate Courts

Superior Court: 600 Grant Building, 310 Grant Street

Supreme Court: 801 City-County Building, 414 Grant Street

The county website provides detailed directions and this map:



COMMON FILINGS

I. Initiation of the lawsuit- There are two ways to initiate a civil law suit in Pennsylvania:

a. Praecipe for Writ of Summons

- i. A document that instructs the prothonotary (principal clerk of the civil courts) to issue a writ of summons, which is a court-issued document, under seal, that notifies the defendant that suit has been commenced against him.
- ii. Must be served upon the defendant(s).
- iii. Useful in situations in which there is not yet enough detail to draft a complaint, or if there is not enough time to draft a complaint and the statute of limitations needs to be tolled.
- iv. **Responsive filings to a Writ of Summons:**
 1. Praecipe for Rule to File a Complaint
 - a. A document that instructs the party filing the Writ of Summons that they have 20 days to file a complaint, or else will suffer a judgment for non-pros.
 - b. A mechanism to force the plaintiff to file a complaint.
 2. Judgment of non pros
 - a. A judgment entered by praecipe pursuant to Rules 1037(a) and 1659 for failure to file a complaint.
 - b. No judgment of non pros for failure to file a complaint shall be entered by the prothonotary unless the praecipe for entry includes a certification that a written notice of intention to file the praecipe was mailed or delivered. (Pa. R.Civ.Pro. 237.1(a)(2))
 - c. Must wait at least ten days after the date of the filing of the written notice of intent to file praecipe for non pros.

b. Complaint

- i. A document that sets forth for the court a claim for relief from damages caused, or wrongful conduct engaged in, by the defendant. The complaint outlines all of the plaintiff's theories of relief, or causes of action (e.g., Negligence, Battery, assault), and the facts supporting each Cause of Action.
- ii. Pennsylvania is a "fact pleading" jurisdiction. (Opposed to "notice pleading.") Thus, the following criteria must be met:
 1. All material facts must be stated in a concise, summary form
 2. All averments of fraud or mistake must be averred with particularity
 3. Averments of time, place, and items of special damage must be specifically stated

4. The pleading must state specifically whether any claim or defense is based upon a writing and, if so, a copy of the writing must be attached or if it is not accessible the pleader shall so state, give the reason it is not attached, and set forth the substance of the writing.
5. * Allegations regarding state of mind may be averred generally.

iii. Responsive filings to a complaint

1. Answer

- a. A written pleading filed by a defendant to respond to a complaint in a lawsuit.
- b. A responsive pleading must admit or deny each paragraph or each averment of fact in the preceding pleading.
- c. Averments to which a responsive pleading is required are admitted when not denied specifically or by implication. (See Pa. R. Civ. P. 1029(a), (b))
- d. A denial lacking the requisite specificity is deemed a **general denial** and shall have the effect of an **admission**, except:
 - i. A statement by a party that "after reasonable investigation, the party is without knowledge or information sufficient to form a belief as to the truth" of an averment shall have the effect of a **denial**; and
 - ii. In an action seeking monetary relief for bodily injury, death, or property damage, averments in a pleading may be denied generally, except the following averments of fact, which must be denied **specifically**:
 1. Averments relating to the identity of the person by whom a material act was committed, and the agency or employment of such person;
 2. Averments relating to the ownership, possession, or control of the property or instrumentality involved;
 3. Averments in support of any additional relief demanded in the pleading; and
 4. Averments in preliminary objections.

2. New Matter

- a. Typically contained in the same document as the Answer
- b. Are newly claimed facts or legal issues raised by a defendant to defend himself/herself/itself beyond just denying the allegations in the complaint filed by the

plaintiff? Such new matters are called "affirmative defenses."

- c. These defenses include but are not limited to: accord and satisfactions; arbitration and award; consent; discharge in bankruptcy; duress; estoppel; failure of considerations; fair comment; fraud; illegality; immunity from suit; impossibility of performance; justification; laches; license; payment; privilege; release; res judicata; Statute of Frauds; statute of limitations; truth; and waiver. (See Pa. R. Civ. P. 1030(a))
- d. A party may also set forth as new matter any other material facts which are not merely denials of the averments of the preceding pleading. [Pa. R. Civ. P. 1030(a)]
- e. Waiver of Defenses
 - i. A party waives all defenses that are not presented by preliminary objections answer, new matter, or reply, except for the defenses of assumption of the risk, comparative or contributory negligence, demurrer, failure to join an indispensable party, or other, non-waivable, defenses or objections.

3. Counterclaim

- a. A defendant may set forth in the answer, under the heading "Counterclaim," any cause of action that the defendant has against the plaintiff at the time of filing the answer.
- b. A counterclaim may demand relief exceeding in amount, or different in kind, from that demanded by plaintiff.

iv. Praecipe for default judgment

- 1. On praecipe of the plaintiff, a judgment entered against the defendant for failure to file within the required time a pleading to a complaint. (See Rule 1037(b))

II. Preliminary Objections:

- a. Preliminary objections are the Pennsylvania equivalent of a Federal Rule 12(b) motion. Preliminary objections may be filed by any party to any pleading, limited to the following grounds:
 - i. Lack of personal or subject matter jurisdiction
 - ii. Improper venue or service
 - iii. Failure of pleading to conform to the Pennsylvania Rules
 - iv. Inclusion of scandalous or impertinent matter
 - v. Insufficient specificity in pleading
 - vi. Legal insufficiency of pleading (demurrer)
 - vii. Lack of capacity to sue
 - viii. Failure to join a necessary party or misjoinder of a cause of action

- ix. Pendency of a prior action
 - x. Agreements for alternative dispute resolution
 - b. All objections for the above reasons must be raised at one time
 - c. Two or more preliminary objections may be raised in one pleading. (See Pa. R. Civ. P. 1028(b))
 - d. All objections not raised by preliminary objection are waived, except objections for demurrer, failure to join an indispensable party, or lack of subject matter jurisdiction. (See Pa. R. Civ. P. 1032)
- III. **Reply**
 - a. A reply pleading *by the plaintiff* is required to any new matter or counterclaim filed by the defendant
- IV. **Amendments**
 - a. A party has an absolute right to file an amended pleading within 20 days after service of a copy of preliminary objections. The filing of an amended pleading will cause the original preliminary objections to be deemed moot. (See Pa. R. Civ. P. 1028c))
 - b. In addition, a party may, with leave of court or consent of the other party, change the form of action, correct the name of a party, or amend the pleading. The amended pleading may aver transactions or occurrences that happened before or after the filing of the original pleading, even where they give rise to a new cause of action or defense
- V. **Motions**
 - a. A formal request made to a judge for an order or judgment
 - b. Motions are made in court all the time for many purposes: to continue (postpone) a trial to a later date, to get a modification of an order, for temporary child support, for a judgment, for dismissal of the opposing party's case, for a rehearing, for sanctions (payment of the moving party's costs or attorney's fees), or for dozens of other purposes.
 - c. Most motions require a written petition, a written brief of legal reasons for granting the motion (often called "points and authorities"), written notice to the attorney for the opposing party and a hearing before a judge
 - d. Specific information regarding motions practice in Allegheny County can be found at:
 - i. <https://www.alleghenycourts.us/civil/motions.aspx>
 - ii. https://www.alleghenycourts.us/civil/general_procedures.aspx
 - iii. https://www.alleghenycourts.us/civil/special_motions.aspx
- VI. **Petitions**
 - a. A formal written request to a court for an order of the court. It is distinguished from a complaint in a lawsuit, which asks for damages and/or performance, by the opposing party.
 - b. Petitions include demands for writs, orders to show cause, modifications of prior orders, continuances, dismissal of a case, a decree of distribution of an estate, appointment of a guardian, and a host of other matters arising in legal actions.
- VII. **Pre-trial statement**

- a. (Local Rule 212)
 - i. Each party shall file and serve upon all other parties a written pretrial statement in conformity with the requirements of Pa.R.C.P. 212.2.
 - ii. The deadline for each party to file and serve its pretrial statement is published with the trial list in the Pittsburgh Legal Journal.
 - iii. Generally, Plaintiffs are required to fulfill the requirements of Pa.R.C.P. 212.2 forty five (45) days prior to the commencement of the trial term in which the case is listed, and all other parties are required to fulfill the requirements of Pa.R.C.P. 212.2 thirty (30) days prior to the commencement of the trial term in which the case is listed.

HOW TO FILE

STATE COURT

Allegheny County has an online filing system, which can be found at, the website for the Department of Court Records: <https://dcr.alleghenycounty.us/>

While you can file most documents online, make sure to verify on the website that the document can be filed online. To file online, you can pay by credit card or set up a draw down account. Remember that if you file your complaint online, you will still have to follow the necessary steps for sheriff's service of the complaint.

Not all petitions and motions need to be filed, but all need to be served to opposing counsel in the amount of time specified by the Rules of Civil Procedure and the Allegheny County Local Rules. If you have any questions about filing or e-filing in Allegheny County, call the Allegheny County Department of Court Records at (412) 350-4200.

Every other county will have its own rules, procedures, and times for presenting motions- make sure you review these rules to guide you through filing and appropriate service! If you have questions, call the court administrator or prothonotary for that county for guidance. Being polite to the court personnel is always wise, especially if you are calling court personnel in a county where you do not regularly practice.

Rules of Motion Practice

Allegheny County's Motions Practice is governed by the Local Rules. Here is a guide for some rules to review to understand Motions Practice:

GENERAL PROCEDURES & REQUIREMENTS	LOCAL RULE
Requirements Governing the Physical Characteristics of Pleadings, Petitions, Motions, and Other Legal Papers	205.2(a)
Requirements that Pleadings and Other Legal Papers be Accompanied by a Cover Sheet	205.2(b)
Procedures for the Disposition of Petitions	206.4(c)
Procedures for the Disposition of Motions	208.3(a)
Requirements Governing the Form and Content of a Brief	210
Procedure for the Disposition of Preliminary Objections	1028(c)
Procedure for the Disposition of a Motion for Judgment on the Pleadings	1034(a)
Procedure for the Disposition of a Motion for Summary Judgment	1035.2(a)

Special Motions Judge:

For any General Docket case that is not on a published trial list, motions and petitions relating to the following matters shall be presented to the Special Motions Judge:

- Discovery;
- Pleadings (other than preliminary objections) including amendments, joinder of parties, late joinder of additional defendants;
- Preliminary objections filed by an additional defendant if the Special Motions Judge entered an order permitting the late joinder;
- Withdrawal and disqualification of counsel;
- Discontinuances, consolidation, severance, coordination of actions in different counties (Pa.R.C.P. No. 213.1), placing/striking cases at issue;
- Entry and opening of judgments of non pros;
- Transfers between Arbitration and General Docket;
- Certificates of merit (Pa.R.C.P. No. 1042.1 et seq.); and
- Dismissal upon affidavit of noninvolvement (Pa.R.C.P. No. 1036).
- Except as provided in the following subdivisions (ii); (iii); and (iv), all motions involving Arbitration cases shall be heard by the Special Motions Judge.
 - in forma pauperis petitions will be presented to the Motions Judge.

Happy Hour:

One of the most famous practices in Allegheny County is Senior Judge R. Stanton Wettick, Jr.'s "Happy Hour". Judge Wettick is Allegheny County's Special Motions Judge. Generally, he hears motions related to discovery disputes and complex cases. At Happy Hour, Judge Wettick will call for all uncontested motions to come forward and then he will hear argument on the contested motions. Make sure to confirm that Judge Wettick will be hearing motions on the Friday you plan to present the motion, especially around the holiday season.

All uncontested matters may be presented to the Special Motions Judge on Fridays when the Judge is hearing motions at 10:00 A.M., 12:00 Noon, and 2:00 P.M. Please call 412-350-5953 and press "2" to hear which Fridays the Judge is hearing motions.

Contested General Docket Motions:

The moving party may obtain a Friday argument date and time, in person or by telephone, from the Assignment Room (700 City-County Building, 412.350.5463) between 1:30 P.M. and 4:30 P.M.; or the moving party may place the matter on a 2:00 P.M. Add-On List on a Friday when the Judge is hearing motions any time after 8:30 A.M. on the Friday on which it will be argued. The Add-On List is located in Courtroom 815.

NOTE: There is no limit on the number of cases that can be placed on the Add-On List. Consequently, a party may schedule an argument by giving at least ten (10) days notice to the other parties that a matter will be placed on the Add-On List.

Contested Arbitration Motions

The original and a copy of any motion shall be taken to an Arbitration Department Clerk (702 City County Building). The clerk will place on the original and the copy of the motion a time and date (usually on a Friday at 10:00 A.M.) for an argument before the Special Motions Judge. The clerk will file the original with the Department of Court Records and return the copy to the party filing the motion. This party shall immediately serve copies of the motion on all other parties with notice of the date and time of the argument.

NOTE: The Arbitration Office's scheduling a motion for an argument on a date after the date of the Arbitration hearing does not continue the Arbitration hearing unless the moving party obtains a continuance pursuant to paragraph (c) (iii).

General Civil Motions:

In any General Docket case that is not on a published trial list, any motions that are not required to be presented to the Motions Court (see motions-general) or to the Special Motions

Court (see subdivision (a) above) may be presented to either the Motions Court or the Special Motions Court.

Motions Court is held every day in the City-County building at 9:30 AM and 1:30 PM. The motions judges will rotate, and make sure to check the schedule to verify that motions are being held on the day you plan to present your motion. Every motion must contain a notice of presentation and a certificate of service OR include the written consent of opposing counsel or the opposing party if unrepresented, that the notice of service requirement was waived. The notice of presentation and certificate of service shall appear on a separate page, immediately following the coversheet. In addition, each motion shall include a proposed order of court, which should be affixed as the last page of the motion or petition. Ten (10) days' notice of presentation of any motion is required absent an emergency or consent by the opposing party to a shorter notice period. Motions which have not been properly served on the other party or attorney will not be heard.

Motions filed after an Arbitration award has been appealed shall be presented to the Special Motions Judge unless they affect the timing of the trial of the case, in which event they shall be presented to the Calendar Control Judge.

Calendar Control Motions:

Local Rule 208.3(a) (3) states what motions are heard by the **Calendar Control Judge**

- I. Motions in any case that has been listed for trial on a published trial list shall be presented to the Calendar Control Judge. This includes all motions that would otherwise have been heard by the Motions Court or the Special Motions Court.

NOTE: The docket will show if a case has been listed for trial on a published trial list. For docket entries, go to dcr.alleghenycounty.us (no www. or .com) and click on "Search"

- II. In any case, including a case that is not on a published trial list, all motions relating to the following matters shall be presented to the Calendar Control Judge:
 - a. The compromise, settlement, and discontinuance of an action to which a minor is a party

NOTE: See Local Rule 2039 for the procedures governing a petition presented pursuant to Pa.R.C.P. No. 2039.

- b. The compromise, settlement, and discontinuance of an action to which an incapacitated person is a party.
- c. NOTE: See Local Rule 2064 for the procedures governing a petition presented pursuant to Pa.R.C.P. No. 2064.

These motions are traditionally heard by Judge Folino. Requests for the continuance of an Arbitration case will be presented to the Calendar Control Judge. Your first request to continue an arbitration hearing can be submitted using an Adjournment of Hearing Form, (a "Green Sheet") which is available at the Courthouse. The party seeking a continuance will present to the Calendar Control Judge an Adjournment of Hearing Form which may be obtained from an Arbitration Clerk in 702 City County Building.

NOTE: For cases that have not been previously continued, if all parties agree, the Chief Arbitration Clerk has the authority to sign the "Green Sheet" continuing the case.

FEDERAL COURT

If your law firm handles federal matters, one of the first things you should do as a new lawyer is get admitted to the Western District of Pennsylvania. The Western District of Pennsylvania's Local Rule 83.2 A governs admission to practice in the United States District Court for the Western District of Pennsylvania. Once you are admitted, you will then be eligible to receive an ECF number from the Court's online filing system. You must have an ECF number to file any document or pleadings in federal court so it is important to get this as soon as possible.

Many pleadings and documents can be filed online in federal court, and this is widely utilized by attorneys who practice in federal court. Familiarizing yourself with the ECF system is a good idea, even if you don't do your own filing. There may be a time when you need to file and are without support staff.

Motions and formatting procedures are governed by the Western District's Local Rules and each Judge's Chamber Rules. Some things to be on notice for is whether a judge has certain page limits on filings, a judge's requirements for the Initial Rule 26(f) conference, and a judge's requirements for proposed case management orders.

PRACTICE AREAS

IN-HOUSE COUNSEL

Legal departments in an organization vary based on the needs and structure of each individual organization. In the case of a legal department, generally the smaller the department, the larger amount of responsibility each lawyer will handle. Before accepting a role within an organization, it is important to be clear on the type of department and level of responsibility you will be tasked with. Some typical set-ups include:

- Sole in-house lawyer
 - You will be it – all “legal” matters will be within your domain.
 - A true generalist, be prepared to work on a vast variety of issues and types of law.
- Legal department of generalists
 - This is similar to a small general practice in a law firm, except with the caveats particular to in-house work
 - There will be other lawyers (normally not too many others though), but no specialists
- Specialists within a larger legal department
 - In this situation, you will be expected to specialize in a particular area (i.e. employment, IP, litigation)
 - Keep in mind that you may still field some more general legal questions than would be normal in a law firm.

Helpful hints particular to beginning in-house work

- Learn the business
 - Learn stakeholders names and how they fit into the structure of the business
 - Learn the business itself
- Partner with the business
 - Try to prevent legal vs. business mentality
 - Explain the rationale for your reasoning
- Manage Risk
 - In particular for in-house roles, it is important the legal department does not become the department of “no”. Part of the role of in-house lawyer is to think creatively to resolve situations in a way that both protects the business and allows the business to move forward.
 - Stay calm when confronted with a problem
- Be pleasant
 - More likely to actually hear from your business partners
 - Keep in mind that you may be one of the only lawyers that your co-workers come in regular contact with – give us a good reputation!
- Keep your audience in mind

- Many stakeholders do not have the time or inclination for a long legal analysis of issues, but instead want to know the quick, executive summary
 - If not conversing with another lawyer, you will likely not need the legal citations or legal-ese
- Maintain your network
 - Depending on the structure, you may be the only lawyer that works directly for your organization – which means a network of colleagues that you can contact easily will be crucial when confronted with a new or unusual situation

BANKRUPTCY

Bankruptcy laws help people who can no longer pay their creditors obtain a fresh start – by liquidating assets to pay their debts, or by creating a repayment plan. These laws also protect troubled businesses and provide for orderly distributions to business creditors through reorganization or liquidation.

Most cases are filed under the three main chapters of the Bankruptcy Code – Chapter 7, Chapter 11, and Chapter 13. Federal courts have exclusive jurisdiction over bankruptcy cases. Thus, a bankruptcy case cannot be filed in a state court.

Commencing a Bankruptcy

Normally, a bankruptcy is commenced by the debtor filing a petition with the bankruptcy court. A petition can be filed by an individual, by a husband and wife together, or by a corporation or other entity. Bankruptcy is "all or nothing," in that the debtor must list all assets, income, liabilities and the names and addresses of all creditors and how much each creditor is owed.

Automatic Stay

The automatic stay is a statutory injunction that is automatic at the instant of the bankruptcy filing. Upon filing of a bankruptcy petition, the following are prohibited:

- Demand letters, calls or emails to the debtor;
- Phone calls to the debtor demanding payment;
- Acceleration of debt or notices of default;
- Dilution or squeeze-out remedies affecting a debtor's interest in a joint venture, partnership or corporation;
- Filing lawsuits against the debtor or continuing prosecution of lawsuits that were already filed;
- Posting property for foreclosure or conducting foreclosure sales;
- Perfection of security interests in collateral by filing UCC's or by filing deeds of trust;
- Taking possession of collateral (e.g. repossessing vehicles);
- Setting off any debt owing to the debtor against any claims against the debtor.

However, the automatic stay does not prevent actions against guarantors, non-debtors or non-estate property.

The automatic stay can be lifted upon motion to the bankruptcy court.

There are a few exceptions to the automatic stay, such as police powers of governmental entities and safe harbor provisions.

Chapter 7

A Chapter 7 "liquidation" bankruptcy is an orderly, court-supervised procedure by which a trustee takes over the assets of the debtor's estate, reduces them to cash and makes distributions to creditors. A creditor holding an unsecured claim will receive a distribution from the bankruptcy estate only if the case is an asset case and the creditor files a proof of claim with the bankruptcy court.

In order to be eligible to file Chapter 7, the debtor must be an individual, a partnership or a corporation or other business entity. *11 U.S.C §§ 101(41), 109(b)*. Amendments to the Bankruptcy Code enacted in to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 require the application of a "means test" to determine whether individual consumer debtors qualify for relief under chapter 7. If such a debtor's income is in excess of certain thresholds, the debtor may not be eligible for chapter 7 relief.

One of the primary purposes of bankruptcy is to discharge certain debts to give an individual debtor a "fresh start." The debtor has no liability for discharged debts. In a chapter 7 case, however, a discharge is only available to individual debtors, not to partnerships or corporations. *11 U.S.C. § 727(a)(1)*. Although an individual chapter 7 case usually results in a discharge of debts, the right to a discharge is not absolute, and some types of debts are not discharged. Moreover, a bankruptcy discharge does not extinguish a lien on property.²

How Chapter 7 Works

A chapter 7 case is commenced by the debtor filing a petition with the bankruptcy court serving the area where the individual lives or where the business debtor is organized or has its principal place of business or principal assets. The debtor must also file with the court: (1) schedules of assets and liabilities; (2) a schedule of current income and expenditures; (3) a statement of financial affairs; and (4) a schedule of executory contracts and expired leases. *Fed. R. Bankr. P. 1007(b)*. Debtors must also provide the trustee with a copy of their tax returns for the most recent tax year as well as tax returns filed during the case. *11 U.S.C § 521*. Individual debtors with primarily consumer debts have additional document filing requirements. They must file: (1) a certificate of credit counseling and a copy of any debt repayment plan developed through credit counseling; (2) evidence of payment from employers, if any, received 60 days before filing; (3) a record of any interest the debtor has in federal or state qualified education or tuition accounts. *Id.* A husband and wife may file a joint petition or individual petitions. *11 U.S.C. § 302(a)*. Bankruptcy forms can be downloaded from www.uscourts.gov/bkforms/index.html.

² <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter7.aspx>

Chapter 9

Only a municipality may file under Chapter 9, which includes cities and towns, as well as villages, counties, taxing districts, municipal utilities and school districts.

The City of Detroit filed Chapter 9 bankruptcy in July 2013.

The purpose of chapter 9 is to provide a financially-distressed municipality protection from its creditors while it develops and negotiates a plan for adjusting its debts. Reorganization of the debts of a municipality is typically accomplished either by extending debt maturities, reducing the amount of principal or interest, or refinancing the debt by obtaining a new loan.

Chapter 11

Almost anyone can file for bankruptcy under chapter 11. Individuals, corporations, partnerships, joint ventures and limited liability companies are all eligible to be chapter 11 debtors. There are no debt or income requirements or limitations for filing bankruptcy under chapter 11.

In order to commence a chapter 11, a debtor must file a petition with the bankruptcy court serving the area where the debtor has a domicile or residence. A petition may be voluntary or involuntary.

Upon filing a voluntary petition for relief under chapter 11 or, in an involuntary case, the entry of an order for relief, the debtor automatically assumes an additional identity as the "debtor in possession." *11 U.S.C. § 1101*. The term refers to a debtor that keeps possession and control of its assets while undergoing a reorganization under chapter 11, without the appointment of a case trustee. A debtor will remain a debtor in possession until the debtor's plan of reorganization is confirmed, the debtor's case is dismissed or converted to chapter 7, or a chapter 11 trustee is appointed. The appointment or election of a trustee occurs only in a small number of cases. Generally, the debtor, as "debtor in possession," operates the business and performs many of the functions that a trustee performs in cases under other chapters. *11 U.S.C. § 1107(a)*.

Generally, a written disclosure statement and a plan of reorganization must be filed with the court. *11 U.S.C. §§ 1121, 1125*. The disclosure statement is a document that must contain information concerning the assets, liabilities, and business affairs of the debtor sufficient to enable a creditor to make an informed judgment about the debtor's plan of reorganization. *11 U.S.C. § 1125*. The information required is governed by judicial discretion and the circumstances of the case. In a "small business case" (discussed below) the debtor may not need to file a separate disclosure statement if the court determines that adequate information is contained in the plan. *11 U.S.C. § 1125(f)*. The contents of the plan must include a classification of claims and must specify how each class of claims will be treated under the plan. *11 U.S.C. § 1123*. Creditors whose claims are "impaired," i.e., those whose contractual rights are to be modified or who will be paid less than the full value of their claims under the plan, vote on the plan by ballot. *11 U.S.C. § 1126*. After the disclosure statement is approved by the court and the ballots are collected and tallied, the court will conduct a confirmation hearing to determine whether to confirm the plan. *11 U.S.C. § 1128*.

In the case of individuals, chapter 11 bears some similarities to chapter 13. For example, property of the estate for an individual debtor includes the debtor's earnings and property acquired by the debtor after filing until the case is closed, dismissed or converted; funding of the plan may be from the debtor's future earnings; and the plan cannot be confirmed over a creditor's objection without committing all of the debtor's disposable income over five years

unless the plan pays the claim in full, with interest, over a shorter period of time. *11 U.S.C. §§ 1115, 1123(a)(8), 1129(a)(15).*

Chapter 12

This chapter provides for the adjustment of debts of a “family farmer” or “family fisherman.”

Bankruptcy Court Jurisdiction / Bankruptcy Code

28 USC § 1334 – statutory jurisdiction to hear cases “arising in,” “arising under,” or “related to” cases under Title 11. Bankruptcy courts have nonexclusive jurisdiction over (1) all civil disputes based on bankruptcy law, (2) all civil disputes based on non-bankruptcy law but arising in a bankruptcy case, and (3) all civil disputes related to a bankruptcy case.

The bankruptcy process is governed by the Federal Rules of Bankruptcy Procedure and the Bankruptcy Code originally designed in 1978 and modified in 1984 and again in 2005.

Key Bankruptcy Documents

- Bankruptcy Schedules / Petition
- Statement of Financial Affairs (“SOFA”)
- Disclosure Statements / Plans
- Notice of Assets in Chapter 7
 - o Trigger to file a proof of claim
- Notice of Section 341 Meeting of Creditors
 - o The trustee conducts the meeting of creditors – the Debtor must appear and answer questions under oath about his/her/its assets and liabilities.
 - o Creditors have an opportunity to ask the Debtor questions about their bankruptcy schedules, income, etc.

Chapter 13

Chapter 13 is often referred to as the “wage earner’s plan.” It enables individuals who earn regular income to repay all or a part of their debts. There are advantages of filing under chapter 13 instead of chapter 7. Most significantly, a chapter 13 can halt foreclosure proceedings and cures delinquent mortgage payments over time. Another advantage of chapter 13 is that it allows individuals to reschedule secured debts and extend them over the life of the chapter 13 plan.

Chapter 13 Eligibility

Any individual, even if self-employed or operating an unincorporated business, is eligible for chapter 13 relief as long as the individual's unsecured debts are less than \$360,475 and secured debts are less than \$1,081,400. *11 U.S.C. § 109(e)*. A corporation or partnership does not qualify to be a chapter 13 debtor. *Id.*

How Chapter 13 Works

A chapter 13 is commenced by filing a petition with the bankruptcy court serving the area where the debtor has a domicile or residence. The debtor must also file with the court: (1) schedules of assets and liabilities; (2) a schedule of current income and expenditures; (3) a schedule of executory contracts and unexpired leases; and (4) a statement of financial affairs. *Fed. R. Bankr. P. 1007(b)*. The debtor must also file a certificate of credit counseling, evidence of payment from employers, a statement of monthly net income and a record of any interest the debtor has in federal or state qualified education or tuition accounts. See *11 U.S.C. § 521*. The debtor must also provide the chapter 13 trustee with a copy of the tax return or transcripts for the most recent tax year as well as tax returns filed during the case. *Id.* A husband and wife may file a joint petition or individual petitions. *11 U.S.C. § 302(a)*.

The Official Forms may be purchased at legal stationery stores or downloaded from the Internet at www.uscourts.gov/bkforms/index.html. They are not available from the court.

In order to complete the Official Bankruptcy Forms that comprise the petition, statement of financial affairs, and schedules, the debtor must compile the following information:

1. A list of all creditors and the amounts and nature of their claims;
2. The source, amount, and frequency of the debtor’s income;
3. A list of all of the debtor’s property; and
4. A detailed list of the debtor’s monthly living expenses, i.e., food, clothing, shelter, utilities, taxes, transportation, medicine, etc.

Married individuals must gather this information for their spouse regardless of whether they are filing a joint petition. The bankruptcy code dictates that all household income must be disclosed, regardless if only one spouse has filed for bankruptcy.

Appointment of Trustee

When an individual files a chapter 13 case, an impartial trustee is appointed to administer the case. *11 U.S.C. § 1302*. The chapter 13 trustee evaluates the case and serves as a disbursing agent, collecting payments from the debtor and making distributions to creditors. *11 U.S.C. § 1302(b)*. In the Western District of PA (“WDPA”), Ronda Winnecour is the standing Chapter 13 Trustee. <http://www.13network.com/trustees/pit/pithome.asp>

All debtors in the WDPA must make their payments to Trustee Winnecour, who then disburses the funds to creditors.

Role of the U.S. Trustee

The U.S. Trustee is a component of the Dept. of Justice, who is responsible for overseeing the administration of bankruptcy cases and private trustees under *18 U.S.C. §586 and 11 U.S.C. §101, et seq.* http://www.justice.gov/ust/eo/ust_org/index.htm

The Pittsburgh, PA office of the U.S. Trustee serves the WDPA. Joseph S. Sisca is the Assistant U.S. Trustee. His office is located at:

Liberty Center
1001 Liberty Avenue
Suite 970
Pittsburgh, PA 15222
Phone: (412) 644-4756
Fax: (412) 644-4785

United States Bankruptcy Court for the Western District of PA

Court Locations

- 1) Pittsburgh – U.S. Steel Tower, 54th Floor
- 2) Erie – 17 South Park Row
- 3) Johnstown – Penn Traffic Building

Official Website:

<http://www.pawb.uscourts.gov>

WDPA Bankruptcy Judges

Chief Judge, Jeffery A. Deller

Judge Thomas P. Agresti

Judge Carlota M. Böhm

Judge Gregory L. Taddonio

<http://www.pawb.uscourts.gov/judges-info>

Chamber Procedures

Each Bankruptcy Judge has specific procedures and forms, which can be found on their respective websites.

Self-Scheduling

- Judge Deller and Judge Taddonio request self-scheduling.
 - o <http://www.pawb.uscourts.gov/content/chief-judge-jeffery-deller>
 - o <http://www.pawb.uscourts.gov/content/judge-gregory-l-taddonio>
- Judge Bohm and Judge Agresti do not.

Local Bankruptcy Rules

<http://www.pawb.uscourts.gov/local-rules-effect-july-1-2013>

The local bankruptcy rules cover topics from scheduling hearings, filing of proposed orders, notice and service, obtaining passwords for the case filing / electronic case filing (“CM/ECF”) database, filing fees and the loss mitigation program in WDPA.

Loss Mitigation Program in WDPA

Recently, the WDPA implemented the loss mitigation program, (“LMP”) which is a structured forum for debtors and creditors to reach consensual resolutions when residential property is at risk of foreclosure.

At any time after the commencement of the case until three (3) days before the first date scheduled for the First Meeting of Creditors, the debtor may request the commencement of the LMP by filing a motion substantially in the form of Local Bankruptcy Form 39, or the creditor may request the commencement of the LMP by filing a motion substantially in the form of Local Bankruptcy Form 40. .PA.LBR 9020-2.

A debtor who files a motion to commence the LMP (Local Bankruptcy Form 39), shall immediately make adequate protection payment to the creditor in an amount that is at least sixty percent (60%) of the monthly principal and interest payment that is contractually due, plus one hundred percent (100%) of any required monthly escrow payment. If the creditor objects to the amount of the adequate protection payment proposed by the debtor, after adequate notice, the Bankruptcy Court shall hold a hearing to consider the objection. PA.LBR 9020-3(f).

“EASI” – Electronic Access to Sales Information

The Electronic Access to Sales Information (EASI) system is designed to provide a central location where attorneys and trustees can post bankruptcy sales information in relation to businesses, equipment, motor vehicles, real estate, and other assets for sale in the Bankruptcy Court for the WDPA. The information posted can then be searched and viewed by the general public.

Pursuant to PA.LBR 6004-1(c)(2) (effective March 1, 2012), in addition to the advertising and notice requirements, information concerning any proposed sale shall be placed on the Bankruptcy Court’s website using the EASI system. The asset shall be posted to the EASI system not less than fourteen (14) days before the scheduled date of the sale. To maximize notice, assets may be posted on the EASI system more than thirty (30) days prior to the scheduled date of the sale.

To access the EASI information input page, go to the CM/ECF login page at: <https://ecf.pawb.uscourts.gov/cgi-bin/login.pl>. After successfully logging on to CM/ECF, click on the bankruptcy link at the top of the page. Next click on the EASI link, which is located under the Bankruptcy tab.

Obtaining a Log-in to the Case Management / Electronic Case Files system:

Go to:

<http://www.pawb.uscourts.gov/obtaining-logins-cmecf> and follow the instructions.

Logins to the CM/ECF system can be obtained after the following requirements have been fulfilled:

1. Logins are currently given only to attorneys.
2. An attorney must be **admitted** to the Bar of the Western District of PA, or Pro Hac Vice on a specific case.
3. An attorney must:
 - i. Attend **training** in WDPB Bankruptcy Court, or
 - ii. Have been granted a login to any Federal Court's CM/ECF system.
4. The **Registration Form and User Agreement** must be completed and mailed to the Court.

Complete a set of practice exercises (**Evaluation**) in the Training Database.

CIVIL LITIGATION

State Court:

Court of Common Pleas of Allegheny County
414 Grant Street
Pittsburgh, PA 15219

<https://www.alleghencourts.us/Home/Default.aspx>

Pennsylvania Code Online:

<http://www.pacode.com/>

Federal Court:

U.S. District Court Western District of Pennsylvania
700 Grant Street
Pittsburgh, PA 15219

<http://www.pawd.uscourts.gov/>

Federal Rules of Civil Procedure:

<http://www.law.cornell.edu/rules/frcp>

Western District of Pennsylvania Local Rules:

<http://www.pawd.uscourts.gov/Documents/Forms/lrmanual.pdf>

****Procedure is extremely important in practicing civil litigation. Make sure to familiarize yourself with the rules of the court of where you are practicing- never assume that rules will be the same in each court or in each county!****

The Allegheny County Law Library is an excellent resource for attorneys. It is located on the ninth floor of the Grant Street side of the City County Building.

It is also important to remember to be courteous to opposing counsel, you never know when you will be in a position to need opposing counsel to accommodate you.

CRIMINAL LAW

The Courthouses

Allegheny County falls within the Fifth Judicial District of Pennsylvania. A majority of the courthouses are located in downtown Pittsburgh. The adult criminal courthouse is located at 436 Grant Street, while the juvenile delinquency courthouse is located at 550 5th Avenue. The City of Pittsburgh criminal magistrate hearings are held at Pittsburgh Municipal Court located at 660 First Avenue. The Allegheny County Jail is located at 950 Second Avenue.

Webpage: <https://www.alleghenycourts.us/Home/Default.aspx>

The Parties

The Commonwealth of Pennsylvania is represented by a prosecuting attorney from the Allegheny County District Attorney's Office. The District Attorney's Office is located on the third and fourth floors of the adult criminal courthouse. Webpage: <http://www.da.allegheny.pa.us/>

A defendant may be represented by an attorney from the Public Defender's Office, the Office of Conflict Counsel, or the private defense bar. The Public Defender's Office is located on the fourth floor of the County Office Building on Forbes Avenue downtown.

Webpage: <http://www.alleghenycounty.us/opd/index.aspx>.

When a conflict of interest arises within the Public Defender's Office, the Public Defender's Office may refer the case to the Office of Conflict Counsel. Conflict Counsel will then either represent the defendant or ensure that the defendant receives a court-appointed attorney. Conflict Counsel is comprised of several full-time staff attorneys and is responsible for maintaining a list of private attorneys who are willing to receive court appointments. Conflict Counsel does not have a webpage.

Private attorneys can receive cases as court-appointments from Conflict Counsel or be retained directly by the defendant. To locate contact information for any attorney, you can use Pennsylvania's Disciplinary Board attorney lookup feature: <http://www.padisciplinaryboard.org/look-up/pa-attorney-search.php>

Sources of Substantive Crimes

All Pennsylvania crimes have all been codified in various statutes (i.e. no common law offenses), and many of the statutes were derived from the Model Penal Code. Crimes can be found in a variety of Titles, but primarily, criminal law attorneys deal with these three titles: The Crimes Code in Title 18, The Drug Act in Title 35, and The Motor Vehicle Code in Title 75.

The Basics of Title 18

If you need basic information about criminal law, including definitions (100s), explanations of culpability (300s), a list of the available justification defenses (500s), the inchoate crimes (900s), or the grading of offenses (1100s), you should consult the first few chapters of Title 18.

Grading of Offenses, 18 Pa.C.S. §§ 1101 – 1109

Homicide

Homicide= \$50K max fine and mandatory life sentence, except for inchoate and 3rd degree which is a maximum 40 years in jail

Felonies

Felony 1 = \$25K max fine and 20 years in jail

Felony 2 = \$25K max fine and 10 years in jail

Felony 3 = \$15K max fine and 7 years in jail

Misdemeanors

M1 = \$10K max fine and 5 years in jail

M2 = \$5K max fine and 2 years in jail

M3 = \$2,500 max fine and 1 year in jail

Other Dispositions / Consequences

Summary = \$300 max fine and 90 days in jail

Restitution = court can impose joint and several restitution on the defendant

Court Costs = The Court can require a defendant to pay court costs or may elect to waive this fee. In Allegheny County costs typically range from \$500 to \$1500 per case, depending on the case's procedural history and witness list.

Probation Fees = The Court must require a defendant to pay the cost of probation / parole supervision. In Allegheny County, the cost of probation supervision is roughly \$1.00 per day.

While it may not be required, defense counsel should inform the defendant of the potential for certain other "collateral" consequences of a conviction. See *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010). Examples of financial consequences include being ordered to pay fines, the costs of prosecution, probation supervision fees, and restitution. Examples of non-financial

consequences could include: a driver's license suspension, being prohibited from possessing firearms, immigration issues, an inability to serve as a juror or vote in future elections, being subject to a sexual offender registration requirement, loss of a professional license, loss of a retirement pension, eviction from subsidized housing, or getting another "strike" toward Pennsylvania's three strikes law.

The Criminal Process for Adults

Arrest (physically on scene or by summons)

A defendant can be arrested on scene and lodged in the jail. Incarcerated defendants are entitled to a preliminary hearing within 10 days. Alternatively, the defendant can receive a summons and be told when to report for the preliminary arraignment / preliminary hearing, in which case the hearing may be weeks or months later. If the officer cannot find the defendant later to serve the subpoena on a summons arrest, then Rule 565 allows the prosecutor to file the charges directly in the Court of Common Pleas, bypassing the preliminary hearing phase. This process is referred to as requesting an “NEI warrant.” (Pa.R.Crim.P. 565)

The Criminal Complaint

The document that starts the case is called a criminal complaint. This document is typically the only “discoverable information” that the prosecutor and defense attorney will have when the parties attend the preliminary hearing. The defense normally does not receive any additional discovery materials at the preliminary hearing phase. The complaint should include a recitation of the facts in support of specified charges. (Pa.R.Crim.P. 504)

Preliminary Arraignment

The purpose of the preliminary arraignment is to set bail. Types of bail include monetary and non-monetary with conditions or restrictions. A preliminary arraignment must occur “without unnecessary delay,” which is usually within a day or so of a physical arrest. If the actor was merely sent a summons, the arraignment will likely occur concurrent with the preliminary hearing. (Pa.R.Crim.P. 520 to 540.)

Preliminary Hearing

All cases occurring within the City of Pittsburgh are heard at Pittsburgh Municipal Court (a.k.a. City Court) on First Ave in Downtown Pittsburgh. Any case occurring outside of the City limits will be heard at the District Magistrate's office where the incident occurred. Pittsburgh Municipal Court is equipped with an audio digital recording system, which can be listened to later by a court reporter and transcribed, if needed. The suburban magistrates however, do not have a recording system. Thus, you must arrange for your own court reporter if you want a transcript of the proceedings.

The Commonwealth must establish that a crime has been committed and the defendant likely committed it. The Commonwealth must only establish a “prima facie” case and all evidence is viewed in the light most favorable to them. (Pa.R.Crim.P. 541 to 551.) Defense counsel has several options at the preliminary hearing, including negotiating a plea to summary

offenses or a full withdrawal, waiving the hearing (Rule 541), postponing the hearing, (Rule 542(G)), or conducting the hearing.

Defense attorneys frequently negotiate directly with the arresting officer at the preliminary hearing level. Defense counsel is cautioned however, that even if defense counsel and the officer reach an agreement, defense counsel must still get the prosecutor to approve the deal, as a police officer cannot bind the Commonwealth to a deal. Another plea option unique to Pittsburgh Municipal Court is the "Expedited Disposition Process." For some non-violent crimes, the prosecutor will offer a plea deal at City Court. The defendant can appear for the preliminary hearing, be formally arraigned, receive additional discovery, and plea all in one day.

A defense attorney may wish to waive a preliminary hearing for several reasons. The attorney should consider whether they want a transcript of the hearing, which may later be used a trial. They may also be able to negotiate the reduction of charges (e.g. aggravated assault to simple assault) or the reduction of bond (e.g. \$10K to ROR) in exchange for agreeing to waive the preliminary hearing.

Alternatively, a defense attorney may wish to postpone the case for various reasons. The defendant may want to try to repay the restitution, to stay away from victim, or engage in some other agreement for a reduction of charges. The defendant may want to get a new defense attorney or need a conflict counsel attorney. Lastly, the defendant may simply want to delay the case to avoid what the defendant perceives as a likely unfavorable outcome.

On the other hand, prosecutors may need to postpone the case because a lab report is not ready or the victim, witness, and/or officer is unavailable. The Magistrate will usually give the Commonwealth two or three continuances, before he or she will entertain a motion to dismiss.

If both parties elect to move forward with the hearing, the hearing should be held in accordance with Pa.R.Crim.P. 542. The attorney for the Commonwealth may appear at a preliminary hearing, but is not required to do so. In Allegheny County, however, the Commonwealth routinely has a prosecutor assigned to handle magistrate hearings. When no attorney appears on behalf of the Commonwealth, the affiant may be permitted to ask questions of any witness who testifies. The defendant shall be present at any preliminary hearing except as provided in these rules, and may: (1) be represented by counsel; (2) cross-examine witnesses and inspect physical evidence offered against the defendant; (3) call witnesses on the defendant's behalf, other than witnesses to the defendant's good reputation only; and (4) offer evidence on the defendant's own behalf, and testify.

At the conclusion of the hearing, the magistrate shall determine from the evidence presented whether there is a prima facie case that an offense has been committed and the defendant has committed it. In any case in which a summary offense is joined with a misdemeanor, felony, or murder charge, the issuing authority shall not proceed on the

summary offense except as provided in Rule 543(F). Stated differently, the magistrate will either dismiss the charges (Rule 543(E)), take jurisdiction and find the defendant guilty of a summary offense (Rules 543(F)), or hold the charges over for trial and give the defendant a subpoena to appear for a Formal Arraignment (Rule 542(C)).

Evidentiary issues, especially hearsay, frequently arise at the magistrate level. Rule 542(E) states that “hearsay as provided by law shall be considered by the issuing authority in determining whether a prima facie case has been established. Hearsay evidence shall be sufficient to establish any element of an offense requiring proof of the ownership of, non-permitted use of, damage to, or value of property.”

Lastly, what if the defendant does not appear after being served a subpoena? Rule 543(D) allows the Commonwealth to proceed forward with a hearing in the defendant’s absence.

Formal Arraignment

At the formal arraignment, the defendant is officially notified of the charges that the Commonwealth will seek to prove at trial. In Allegheny County, this process is very informal and defense attorneys can usually waive their defendant’s presence. According to the Rules of Criminal Procedure, the Formal Arraignment starts the 30 day clock for filing pretrial motions. (Pa.R.Crim.P. 559 to 566; 571.)

Pretrial Conference

This pre-trial conference is done differently in each county. In Allegheny County, this conference usually involves meeting with the ADA assigned to the case to discuss issues with the case, review the defendant’s sentencing guidelines, and pick a date for trial. (Pa.R.Crim.P. 570.) The Judge is usually not present for this conference. Although police officers, witnesses, and victims do not attend this conference, the defendant is required to appear. This hearing is essentially a status conference.

Trial Preparation / Oral Colloquy

To prepare for trial, the defense attorney and the defendant must discuss: the defense’s theme or theory of the case, the trial type (jury, non-jury, or stipulated), whether the defendant will testify on his own behalf, and whether the defendant wishes to call character witnesses. The defendant will be required to state, on the record, that she/he has discussed all of the issues with defense counsel.

Jury or Nonjury

A major aspect of trial preparation for both sides of the aisle is deciding between a jury and a non-jury trial. Things to consider in making this choice include the judge assigned to

preside over the matter, the type of charges, the defendant's/victim's wishes, and the strengths and weaknesses of the case. The Commonwealth can insist on a jury trial, even if the defendant does not want one, and vice-versa.

In Pennsylvania, any adult criminal defendant who is facing more than six months incarceration on a single charge can demand a jury trial. The defendant is not entitled to a jury trial for a summary offenses or for some ungraded misdemeanor offenses, including first-time DUIs and possession of a small amount of marijuana. Conversely, juveniles are not entitled to a jury trial regardless of the seriousness of the case, unless they are being tried as an adult.

The jury selection process varies in each county, but likely conforms to either the voir dire system or the list system. Pa.R.Crim.P. (E)(1)-(2). In Allegheny County, historically we have employed a version of the voir dire system where the prosecution and defense counsel take turns interviewing the prospective juror. According to Rule 631(A), the trial judge and court reporter should be present during jury selection, but the defendant and counsel for both sides frequently agree to waive their presence.

Alternative Dispositions

Diversionsary Treatment Courts

In Allegheny County, there are various treatment courts associated with the probation department and/or county jail system, some of which allow the defendant to avoid the recommended mandatory sentences. Examples include Drug Court, DUI Court, Pride Court, Mental Health Court, Veteran's Court. Referral to a treatment court is the defense attorney's responsibility, and should be done as early as possible. For more information about the diversionsary courts, check out the Justice Related Services webpage at <http://www.alleghenycounty.us/dhs/justicerelatedservices.aspx>

Accelerated Rehabilitative Disposition

The Allegheny County ARD Probation Program was designed to supervise the first time, non-violent offender who has been given a second chance at having a clean criminal record. Participants in the ARD Program are expected to serve a term of supervision under the condition that they will complete a set of stipulations as ordered by the Court. If the defendant successfully completes all of the terms of the probation, then he or she is entitled to have their record expunged.

Terms of supervision are in increments of six months and by law shall not exceed two years. Conditions of supervision depend on the charged offense and may require the offender to complete one or more of the following: DUI classes, substance abuse treatment, community service, domestic abuse classes, anger management classes, retail theft classes, mental health treatment, restitution, and court costs.

Typically, the defendant must meet with an ARD Coordinator at the Court of Common Pleas to review the terms of the program, complete the requisite paperwork, and select a date for the ARD Hearing. The defendant will then have to return to court to appear before the ARD Hearing Judge who will formally accept the defendant into the ARD Program. The defendant's probation will begin on the day that they appear before the ARD Hearing Judge. The defendant will be required to make his first restitution payment and/or court costs payment on the date of the ARD Hearing as well. For more information about ARD, consult Pa.R.Crim.P. 300-320.

Expungements

As the Department of Court Records website explains, according to Pennsylvania Law, 18 Pa.C.S. § 9122, under limited circumstances individuals may obtain permission to remove criminal records from the files of the Department of Court Records, Criminal Division, and other criminal justice agencies.

Prior to 2008, only non-convictions could be expunged, regardless of severity of the offense or the punishment. Non-convictions include verdict of not guilty, dismissal, withdrawal of charges, nolle prosequi, Accelerated Rehabilitative Disposition, or Probation Without Verdict pursuant to the Controlled Substances Act. Now a defendant may expunge a conviction for a summary offense provided the defendant has been free of arrest or prosecution for five (5) years following the conviction for that offense.

Visit the Department of Court Records, Criminal Division to receive the standard forms necessary to file a petition. It may take up to one (1) year for the expungement process to be completed after a judge signs an Order of Expungement.

Sentencing in a Nutshell

The Sentencing Basics

The basic rules for sentencing in Pennsylvania state court can be found in several different locations, which must be read together:

42 Pa.C.S. § 9701, et. seq. sets forth the sentencing code

204 Pa. Code §§ 303.1 - 303.18 sets forth the sentencing matrix

Title 61, Chapters 39, 41, and 45 pertain to inmate confinement in state prison

In order to understand sentencing, the attorney should first become familiar with some key terms:

PRS – Prior Record Score is calculated based on the defendant's prior criminal history, including all adult convictions and some juvenile adjudications. The score ranges from zero (0) to five (5). A score of zero means the defendant has no significant history, and a score of five

means that the defendant has at least five prior record score points, if not more, but has not been classified RFEL or REVOC.

RFEL – Repeat Felony Offender assessed when the defendant has prior F1/F2 convictions amounting to a PRS of 6 or higher, and who are not REVOC

REVOC – Repeat Violent Offender assessed when the defendant has two or more previous convictions or adjudications for “4 point offenses” and whose current charge carries an OGS of 9 or higher

OGS – Offense Gravity Score is calculated based on the type of crime the defendant is alleged to have committed; ranges from 1 to 14.

MIT, ST, AGG – Represents the mitigated, standard, and aggravated sentencing ranges.

RS – Restorative Sanctions is probation

IP – Intermediate Punishment is typically house arrest or inpatient rehab

BC – Boot Camp means that the defendant may be eligible for state boot camp

Deadly Weapon Enhancement

Some offenses committed with a “deadly weapon” are subject to a deadly weapon enhancement, i.e. increased penalty. The term deadly weapon is defined broadly to include a firearm, bomb, knife, metal knuckles, blackjack, or any other device designed as a weapon (204 Pa. Code. § 303.10(a)). If the enhancement applies, you must use the special sentencing matrix set forth in 204 Pa. Code § 303.17 (possessed) and § 303.18 (used).

Statutory Maximums

The sentencing matrix only gives the starting number for sentencing range. The end number must be at least twice the minimum, but can be up to the statutory maximum. Giving a maximum above the “doubled minimum” is referred to as a sentencing “tail.” For example, compare the following two sentencing options for a felony in the third degree: 18 to 36 months vs. 18 to 84 months. Both sentences are legal, the first imposes the “doubled minimum,” while the latter imposes a long “tail.” The statutory maximums are located in many different places depending on the crime, but are primarily found in the Crimes Code at 18 Pa.C.S. § 1101 – 1105, The Drug Act at 35 Pa.C.S. § 780-113 (first offense) or § 780-115 (second offense), or the Motor Vehicle Code at 75 Pa.C.S. § 3803. Some specific crimes, however, have increased maximums, like rape (18 Pa.C.S. § 3121), involuntary deviate sexual intercourse (18 Pa.C.S. § 3123), and human trafficking (42 Pa.C.S. § 9720.2).

Mandatory Sentences

In addition to the traditional sentencing guidelines, the attorney must also determine whether any mandatory sentences apply to the facts. Some mandatory sentences may be “waived” by the Commonwealth or require the Commonwealth to give advance notice to the defendant. Many examples appear in 42 Pa.C.S §§ 9711 - 9720.

The Community v. County Jail v. State Prison

Probation and parole are both served in the community. Probation is a community based sentence in its own right, and does not contain any jail component. Parole, on the other hand, follows a required minimum period of incarceration. Incarcerated inmates can be granted release to continue to serve the remainder of their original jail sentence in the community. Both probationers and parolees have limited search and seizure rights. The cost of probation supervision is roughly \$1.00 per day in Allegheny County. The probationer or parolee may also be ordered to participate in rehabilitation classes like drug-and-alcohol treatment, anger management, safe driving, or mental health treatment. For more information, consult the county or state offices of probation and parole. State webpage: www.pbpp.state.pa.us/. County webpage: https://www.alleghenycourts.us/criminal/adult_probation/

In order to serve a sentence at the Allegheny County Jail, the defendant's maximum date of incarceration must be less than 2 years. Thus, a typical county jail sentence is 11 ½ to 23 months or 1 year less 1 day to 2 years less 2 days. The defendant may also be permitted to serve his county jail sentence at an approved treatment center like ACTA or Renewal, instead of the jail, if both the Judge and Jail Warden consent to transferring the defendant. These facilities are known as alternative placement facilities. The defendant may also be permitted to serve his sentence on house arrest, a.k.a county intermediate punishment. Jail Webpage: <http://www.alleghenycounty.us/jail/index.aspx>

Any sentence in excess of two years of incarceration will be served in the state prison system. There are 27 state correctional institutions: 1 young adult offender facility (Pine Grove), 1 co-ed Boot Camp (Quehanna), 2 female facilities (Cambridge Springs and Muncy), and 23 others for adult males. The Department of Corrections has a comprehensive webpage, which includes a detailed FAQs handbook and an inmate locator feature. Prison Webpage: www.cor.state.pa.us/

The state prison system also has many programs, which if successfully completed, may entitle the defendant to early release, including: a State Motivational Boot Camp for non-violent offenders (204 Pa. Code §303.12(b) and 61 P.S. § 3901, et. seq.); a State Intermediate Punishment for drug offender treatment (204 Pa. Code § 303.12(c) and 61 P.S. § 4101, et. seq.); and a Recidivism Risk Reduction Incentive fast-track parole program for non-violent offenders (61 P.S. 4501, et. seq.). For questions about these programs, you can email the Department of Corrections at: SIPRRRI@pa.gov.

ESTATES AND TRUSTS

Introduction

This guide is intended for the young lawyer beginning his or her journey into the world of estates and trusts. This area of practice, though focused on client objectives, does not exist in a vacuum. It often requires expertise in other practice areas such as family law, corporate law, real estate, and perhaps most importantly, tax law. Many young lawyers enter the practice only to find that their very limited knowledge regarding more interesting subjects within the practice area is much less utilized than would be expected; such as will contests, for instance. Instead, it is my belief that once a young lawyer has stepped outside of law school they often find themselves ill prepared and lacking in the very most basic understanding of what “Es & Ts” actually entails. Though it is a very rewarding practice area, like many practice areas, it has its pitfalls and tedious principles that can drive any practitioner to madness without first having the proper training and introduction. This short guide is meant to walk the reader through a practical and informative introduction to the practice area and offer key insights into the most basic, and often forgotten, principles of estate and trust practice.

Key Estate Planning

Documents Your Client Needs

There are five estate-planning documents your client may need, regardless of your client’s age, health, or wealth:

1. Durable power of attorney
2. Advanced medical directives
3. Will
4. Letter of instruction
5. Living trust

The last document, a living trust, isn't always necessary, but it's included here because it's a vital component of many estate plans.

Durable power of attorney

A durable power of attorney (DPOA) can help protect your client’s property in the event your client becomes physically unable or mentally incompetent to handle financial matters. If no one is ready to look after your client’s financial affairs when you can’t, your client’s property may be wasted, abused, or lost.

A DPOA allows your client to authorize someone else to act on your client’s behalf, so he or she can do things like pay everyday expenses, collect benefits, watch over your client’s investments, and file taxes. There are two types of DPOAs: (1) an immediate DPOA, which is effective immediately (this may be appropriate, for example, if you face a serious operation or illness), and (2) a springing DPOA, which is not effective unless your client has become incapacitated.

Advanced medical directives

Advanced medical directives let others know what medical treatment your client would want, or allows someone to make medical decisions for your client, in the event your client can't express his/her wishes themselves. If your client doesn't have an advanced medical directive, medical care providers must prolong his/her life using artificial means, if necessary. With today's technology, physicians can sustain you for days and weeks (if not months or even years).

There are three types of advanced medical directives. Each state allows only a certain type (or types). You may find that one, two, or all three types are necessary to carry out all of your client's wishes for medical treatment. (Just make sure all documents are consistent.)

First, a living will allows your client to approve or decline certain types of medical care, even if you will die as a result of that choice. In most states, living wills take effect only under certain circumstances, such as terminal injury or illness. Generally, one can be used only to decline medical treatment that "serves only to postpone the moment of death." In those states that do not allow living wills, your client may still want to have one to serve as evidence of his/her wishes.

Second, a durable power of attorney for health care (known as a health-care proxy in some states) allows your client to appoint a representative to make medical decisions for him/her. He or she will decide how much power their representative will or won't have.

Finally, a Do Not Resuscitate order (DNR) is a doctor's order that tells medical personnel not to perform CPR if your client goes into cardiac arrest. There are two types of DNRs. One is effective only while your client is hospitalized. The other is used while your client is outside the hospital.

Will

A will is often said to be the cornerstone of any estate plan. The main purpose of a will is to disburse property to heirs after your client's death. If your client doesn't leave a will, disbursements will be made according to state law, which might not be what your client would want.

There are two other equally important aspects of a will:

1. Your client can name the person (executor) who will manage and settle their estate. If your client does not name someone, the court will appoint an administrator, who might not be someone your client would choose.
2. Your client can name a legal guardian for minor children or dependents with special needs. If your client doesn't appoint a guardian, the state will appoint one for them.

Letter of instruction

A letter of instruction (also called a testamentary letter or side letter) is an informal, non-legal document that generally accompanies your client's will and is used to express his/her personal thoughts and directions regarding what is in the will (or about other things, such as your burial wishes or where to locate other documents). This can be the most helpful document your client leaves for his or her family members and executor. Unlike the will, a letter of instruction remains private. Therefore, it is an opportunity to say the things you would rather not make public. A letter of instruction is not a substitute for a will. Any directions your client includes in the letter are only suggestions and are not binding. The people to whom your client addresses the letter may follow or disregard any instructions.

Living trust

A living trust (also known as a revocable or inter vivos trust) is a separate legal entity you create for your client to own property, such as your client's home or investments. The trust is called a living trust because it's meant to function while your client is alive. You control the property in the trust, and, whenever you wish, you can change the trust terms, transfer property in and out of the trust, or end the trust altogether. Not everyone needs a living trust, but it can be used to accomplish various purposes. The primary function is typically to avoid probate. This is possible because property in a living trust is not included in the probate estate. Depending on your client's situation and your state's laws, the probate process can be simple, easy, and inexpensive, or it can be relatively complex, resulting in delay and expense. This may be the case, for instance, if you own property in more than one state or in a foreign country, or have heirs that live overseas.

Further, probate takes time, and your client's property generally won't be distributed until the process is completed. A small family allowance is sometimes paid, but it may be insufficient to provide for a family's ongoing needs. Transferring property through a living trust provides for a quicker, almost immediate transfer of property to those who need it. Probate can also interfere with the management of property like a closely held business or stock portfolio. Although your client's executor is responsible for managing the property until probate is completed, he or she may not have the expertise or authority to make significant management decisions, and the property may lose value. Transferring the property with a living trust can result in a smoother transition in management.

Finally, avoiding probate may be desirable if you're concerned about privacy. Probated documents (e.g., will, inventory) become a matter of public record. Generally, a trust document does not.

Planning for Incapacity

What would happen if your client were mentally or physically unable to take care of themselves or their day-to-day affairs? They might not be able to make sound decisions about their health or finances. They could lose the ability to pay bills, write checks, make deposits, sell assets, or otherwise conduct their affairs. Unless they're prepared, incapacity could devastate their

family, exhaust their savings, and undermine their financial, tax, and estate planning strategies. Planning ahead can ensure that your client's health-care wishes will be carried out, and that your client's finances will continue to be competently managed. The following issues should be discussed with your client.

It could happen to them

Incapacity can strike anyone at any time. Advancing age can bring senility, Alzheimer's disease, or other ailments, and a serious illness or accident can happen suddenly at any age. Even with today's medical miracles, it's a real possibility that your client or their spouse could become incapable of handling their own medical or financial affairs.

What if they're not prepared?

Should your client become incapacitated without the proper plans and documentation in place, a relative or friend will have to ask the court to appoint a guardian for them. Petitioning the court for guardianship is a public procedure that can be emotionally draining, time consuming, and expensive. More importantly, without instructions from your client, a guardian might not make the decisions your client would have made. This is an essential point that must be made to your client upon intake.

Advanced medical directives

As discussed above, without legal documents that express your client's wishes, medical care providers must prolong your client's life using artificial means, if necessary. With today's modern technology, physicians can sustain a person for days and weeks (if not months or even years). To avoid the possibility of this happening to your client, you must stress it upon them to have an advanced medical directive completed.

There are three types of advanced medical directives: a living will, a durable power of attorney for health care (or health-care proxy), and a Do Not Resuscitate order (DNR). Each type has its own purpose, benefits, and drawbacks, and may not be effective in some states. You may find that one, two, or all three types of advanced medical directives are necessary to carry out all of your client's wishes for medical treatment. Be sure to check with your client regarding their residence and state of domicile before preparing such a plan.

Living will

A living will allows you to approve or decline certain types of medical care, even if you will die as a result of the choice. However, in most states, living wills take effect only under certain circumstances, such as terminal injury or illness. Generally, a living will can be used only to decline medical treatment that "serves only to postpone the moment of death." Even if your client's state does not allow living wills, you may still want to advise them to have one in order to serve as an expression of your client's wishes.

Durable power of attorney for health care

A durable power of attorney for health care (known as a health-care proxy in some states) allows you to appoint a representative to make medical decisions for you. Your client decides how much power their representative will have.

Do Not Resuscitate order (DNR)

A DNR is a doctor's order that tells all other medical personnel not to perform CPR if you go into cardiac arrest. There are two types of DNRs. One is effective only while you are hospitalized. The other is used while you are outside the hospital.

Protecting your client's property

Without someone to look after your client's financial affairs when they can't, your property could be wasted, abused, or lost. To protect against these possibilities, advise your client to consider putting in place a revocable living trust, durable power of attorney (DPOA), or joint ownership arrangement (or a combination of any or all options).

Revocable living trust

Your client can transfer ownership of their property to a revocable living trust. They name themselves as trustee and retain complete control over their affairs. If however, they become incapacitated, their successor trustee (the person they name to run the trust if they can't) automatically steps in and takes over the management of their property. A living trust can survive your client's death. There are, of course, costs associated with creating and maintaining a trust.

Durable power of attorney (DPOA)

A DPOA allows you to authorize someone else to act on your client's behalf. There are two types of DPOA: an immediate DPOA, which is effective immediately, and a springing DPOA, which is not effective until your client has become incapacitated. Both types of DPOA end at your client's death.

A DPOA should be fairly simple and inexpensive to implement. However, a springing DPOA is not permitted in some states, so again you will want to check with your client regarding their domicile and all other jurisdictions that they maintain a residence.

Joint ownership

A joint ownership arrangement allows someone else to have immediate access to property and to use it to meet your client's needs. Joint ownership is simple and inexpensive to implement. However, there are some disadvantages to the joint ownership arrangement.

Some examples include: (1) your client's co-owner has immediate access to your property regardless of incapacity (e.g. joint checking accounts), (2) your client lacks the ability to direct the co-owner to use the property for their benefit, (3) naming someone who is not your client's spouse as co-owner may trigger gift tax consequences, and (4) if your client dies before the other joint owner, your property interests will pass to the other owner without regard to your client's own intentions, which may be different.

Trust Basics

Whether your client is seeking to manage their own assets, control how their assets are distributed after their death, or plan for incapacity, trusts can help your client accomplish your client's estate planning goals. Their power is in their versatility--many types of trusts exist, each designed for a specific purpose. Although trust law is complex and establishing a trust requires significant legal skill, mastering the basics isn't hard.

What is a trust?

A trust is a legal entity that holds assets for the benefit of another. Basically, it's like a container that holds money or property for somebody else. There are three parties in a trust arrangement:

- The grantor (also called a settlor or trustor): The person(s) who creates and funds the trust
- The beneficiary: The person(s) who receives benefits from the trust, such as income or the right to use a home, and has what is called equitable title to trust property
- The trustee: The person(s) who holds legal title to trust property, administers the trust, and has a duty to act in the best interest of the beneficiary.

You create a trust by having your client execute a legal document called a trust agreement. The trust agreement names the beneficiary and trustee, and contains instructions about what benefits the beneficiary will receive, what the trustee's duties are, and when the trust will end, among other things.

Funding a trust

Your client can put almost any kind of asset in a trust including cash, stocks, bonds, insurance policies, real estate, precious metals, and artwork. The assets they choose to put in a trust will depend largely on their goals. For example, if your client wants the trust to generate income, they should put income-producing assets, such as bonds, in their trust, because bonds pay interest. Or, if they want their trust to create a fund that can be used to pay estate taxes or provide for their family at their death, they might fund the trust with a life insurance policy.

Potential trust advantages:

- Minimize estate taxes
- Shield assets from potential creditors
- Avoid the expense and delay of probate
- Preserve assets for your client's children until they are grown (in case you should die while they are still minors)
- Create a pool of investments that can be managed by professional money managers
- Set up a fund for your own support in the event of incapacity
- Shift part of your income tax burden to beneficiaries in lower tax brackets
- Provide benefits for charity

Potential trust disadvantages

- There are costs associated with setting up and maintaining a trust, which may include trustee fees, professional fees, and filing fees
- Depending on the type of trust your client chooses, they may give up some control over the assets in the trust
- Maintaining the trust and complying with recording and notice requirements can take considerable time
- Income generated by trust assets and not distributed to trust beneficiaries may be taxed at a higher income tax rate than your client's individual rate.

Types of trusts

There are many types of trusts, the most basic being revocable and irrevocable. The type of trust you should use will depend on what you're trying to accomplish.

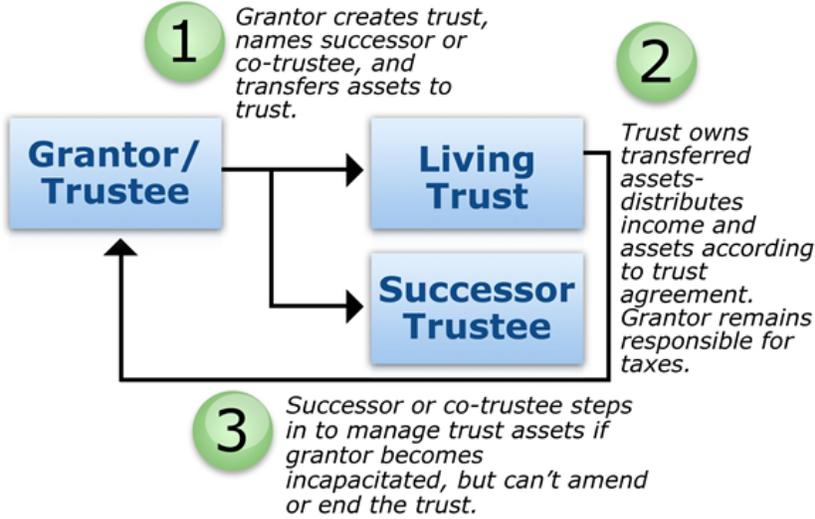
Living (revocable) trust

A living trust is a trust that your client creates while your client is alive.

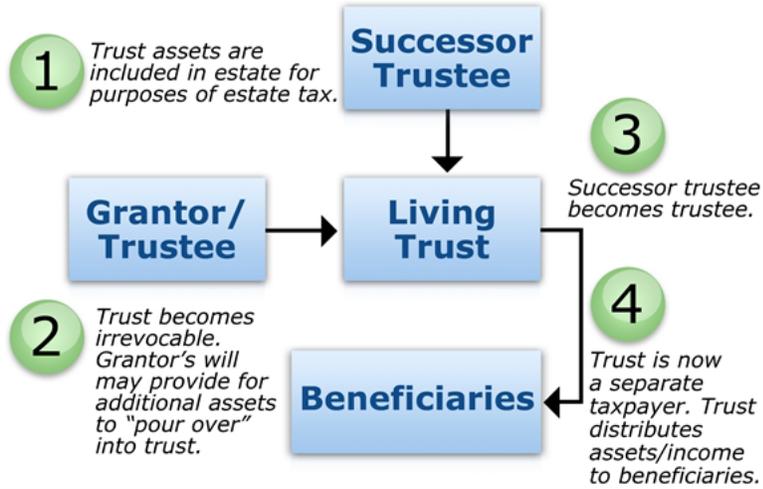
A living trust:

- **Avoids probate:** Unlike property that passes to heirs by your client's will, property that passes by a living trust is not subject to probate, avoiding the delay of property transfers to your client's heirs and keeping matters private
- **Maintains control:** Your client can change the beneficiary, the trustee, any of the trust terms, move property in or out of the trust, or even end the trust and get their property back at any time
- **Protects against incapacity:** If because of an illness or injury you can no longer handle your financial affairs, a successor trustee can step in and manage the trust property for you while you get better. In the absence of a living trust or other arrangement, your family may have to ask the court to appoint a guardian

to manage your property. See the section above regarding Incapacity for further details.



A living trust can also continue after your client’s death—your client can direct the trustee to hold trust property until the beneficiary reaches a certain age or gets married, for instance.



Irrevocable trusts

Unlike a revocable trust, your client can't easily change or revoke an irrevocable trust. Your client usually cannot change beneficiaries or change the terms of the trust. Irrevocable trusts are frequently used to minimize potential estate taxes. The transfer may be subject to gift tax at the time property is transferred into the trust, but the property, plus any future appreciation, is usually removed from your gross estate.

Additionally, property transferred through an irrevocable trust will avoid probate, and may be protected from future creditors.

Credit Shelter Trust

Summary:

Prior to the enactment of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (the 2010 Tax Act), a married couple generally needed to implement a credit shelter trust and, in non-community property states, divide their assets evenly between them, so that they could fully use both spouse's estate tax applicable exclusion amount (also referred to as an exemption).

The 2010 Tax Act provided for portability of a deceased spouse's unused applicable exclusion amount for 2011 and 2012 and the American Taxpayer Relief Act of 2012 (the 2012 Tax Act) permanently extended portability. For deaths occurring in 2011 and later, a surviving spouse may add their deceased spouse's unused applicable exclusion amount to the surviving spouse's estate tax basic exclusion amount without the use of the traditional credit shelter trust. However, a credit shelter trust is still an important estate-planning tool for many tax and nontax reasons:

- Portability may be lost if the surviving spouse remarries and is later widowed again
- The trust can protect any appreciation of assets from estate tax at the second spouse's death
- The trust can provide protection of assets from the reach of the surviving spouse's creditors
- Portability does not apply to the generation-skipping transfer (GST) tax, so the trust may be needed to fully leverage the GST exemptions of both spouses

What is a credit shelter trust?

A credit shelter trust (also called a B trust, family trust, or bypass trust) is an irrevocable trust typically used by a married couple to minimize federal estate taxes on their combined estates.

How does a credit shelter trust work?

Prior to 2011, individuals could only use the estate tax exemption that was allotted to him or her, and any unused exemption would be lost. A married couple could fully use their respective exemptions by splitting a spouse's estate into a marital portion and credit shelter portion (this type of planning is often referred to as A/B trust planning). Here's how it works: A credit shelter trust is funded with assets sufficient to fully utilize the exemption of the first spouse to die. The trust can be funded during the spouses' lifetimes or at the death of the first spouse to die.

The surviving spouse is given restricted access to and control over the assets in the trust. If the surviving spouse is given unrestricted access to and control over the assets in the trust, the assets would be included in his or her estate when he or she dies (which would have negated the sheltering purpose of the trust). The surviving spouse can receive:

- All annual income earned by the trust
- The annual, but non-cumulative right to withdraw the greater of \$5,000 or 5% of the trust principal, for any reason
- The right to invade the trust principal if necessary for his or her health, education, support, and maintenance (referred to as the "ascertainable standards")

The surviving spouse can also be given a power to appoint all or any of the assets in the trust to a limited class of beneficiaries excluding himself or herself, his or her creditors, his or her estate, or the creditors of his or her estate (this is called a "special" or "limited power of appointment"). The surviving spouse can appoint the assets in the trust to the specified beneficiaries in any proportion that he or she desires. This allows the surviving spouse to appoint the assets to the beneficiaries who need the assets the most.

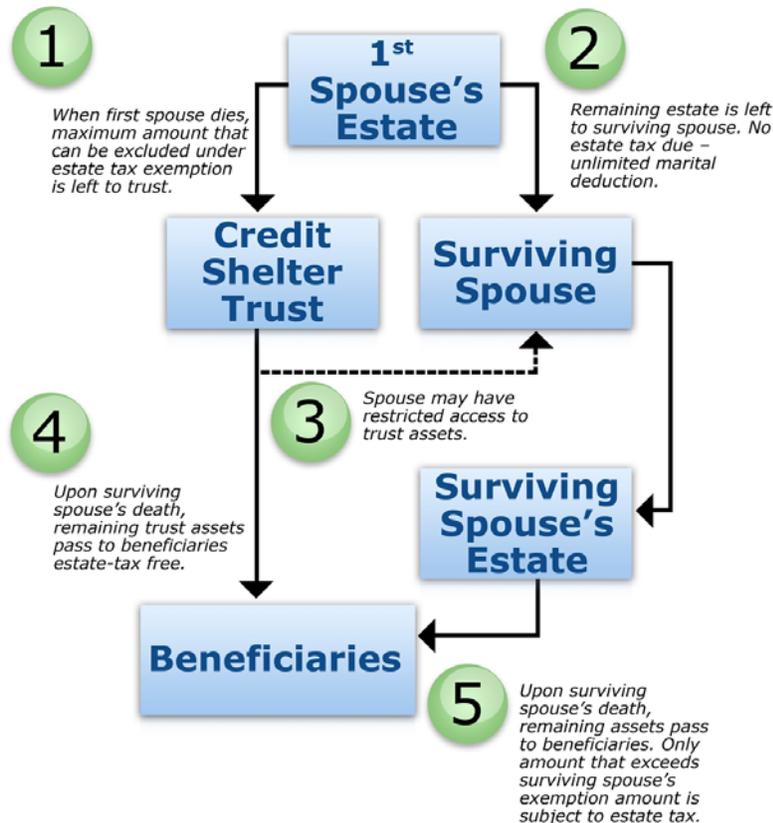
When the surviving spouse dies, the remaining assets in the trust pass estate tax free to the beneficiaries as named by the first spouse to die in the trust document, or as appointed by the surviving spouse.

The 2010 and 2012 Tax Acts allow the executor of a deceased spouse's estate to transfer any unused estate tax exemption to the surviving spouse without the use of a credit shelter trust. The executor of the first deceased spouse's estate must file an estate tax return on a timely basis and make an election to permit the surviving spouse to use the deceased spouse's unused exemption.

Credit Shelter Trust Illustration

Suitable clients

- Spouses with combined assets that exceed the estate tax exemption, which is \$5,340,000 (in 2014, \$5,250,000 in 2013--double these amounts for a married couple).



Advantages

Achieves tax goal while giving surviving spouse maximum access to and control over trust assets

With this type of trust, if the children of the marriage are minors or have special needs, or if the surviving spouse were to otherwise need the money, he or she would be able to access the property that passes to the trust under the deceased spouse's exemption (although access would be limited, see Disadvantages).

Preserves assets for descendants

Because assets that fund the credit shelter trust bypass the surviving spouse's estate, they are preserved for the ultimate intended beneficiaries. This can be especially attractive when there are children from a previous marriage.

Protects assets from future creditor claims

Because a bypass trust is irrevocable, future creditors of the beneficiaries (the surviving spouse or the children) will be unable to reach the assets while they are in the trust. So, this strategy also works well if the children are adults and the parents don't want them to own property

outright for some reason. If this is the case, a spendthrift provision should be included in the trust agreement.

Disadvantages

Surviving spouse's access to the credit shelter trust must be restricted

The deceased spouse can give the surviving spouse access to all, a portion, or none of the income from the credit shelter trust. If access to principal is allowed, it must be limited to health, education, maintenance, or support only. Health, education, maintenance, and support, or "HEMS", are four magic words used by the IRS, and there's some guidance about what they mean, but the surviving spouse will have to be careful when withdrawing principal to make sure the money's use will fall within these parameters.

Adds complexity to the surviving spouse's life

If the surviving spouse is trustee, he or she will have to maintain separate records for the trust, and ensure that he or she does not overstep the trustee's powers. If a neutral trustee is used, the surviving spouse will have to cooperate with the trustee.

Impact of portability

For the estates of persons dying in 2011 or later, the executor may transfer any unused estate tax exemption to the surviving spouse.

While this portability has some appeal, it also has issues:

- In the case of multiple marriages, only the most recent deceased spouse's unused exemption may be used by the surviving spouse.
- Although the estate tax exemption is portable, the GST exemption is not.
- Couples seeking to create trusts for the benefit of their children and more remote descendants cannot take advantage of portability because the first spouse's GST exemption cannot be transferred to the second spouse.
- Any unused exemption is not indexed for inflation. As a result, if the assets transferred to the surviving spouse appreciate, the appreciation may be subject to estate taxation at the surviving spouse's death.
- Assets passing directly to an individual are subject to the claims of creditors, as explained above (see Advantages).
- The executor must make an election on a timely filed estate tax return. Such an election, once made, is irrevocable.

Estate Tax Changes Under the 2010 and 2012 Tax Acts

This portion summarizes the changes made to the federal gift and estate tax and the federal generation-skipping transfer (GST) tax under the Tax Relief, Unemployment Insurance

Reauthorization, and Job Creation Act of 2010 (the 2010 Tax Act) and the American Taxpayer Relief Act of 2012 (the 2012 Tax Act). A chart at the end of the discussion summarizes the effects of this law.

Background

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) was a sweeping piece of legislation that significantly changed the federal gift and estate tax and the GST tax for the years 2001 through 2010. The maximum tax rates gradually decreased from 55% to 45% (35% for gift tax) and the exemptions gradually increased from \$675,000 to \$3.5 million (\$1 million for gift tax). The provisions of EGTRRA repealed the estate and GST taxes (but not the gift tax) for 2010; then, for 2011, EGTRRA provisions expired, effectively reinstating the tax rules that were in effect prior to 2001.

Estates of persons who died in 2010

The 2010 Tax Act reinstated the federal estate tax for 2010, retroactively applying a 35% maximum estate tax rate and a \$5 million estate tax exemption. The 2010 Tax Act also allowed the estates of persons who died in 2010 to opt out of the tax. If an executor chooses to elect out of the estate tax, estate property will receive a modified carryover income tax basis, and not a step-up (or step-down) in basis. Step-up (or step-down) generally means that the tax basis of the estate's assets increases (or decreases) to fair market value at the date of death. The modified carryover basis regime carries over the cost basis of the deceased individual to the heir. It is "modified" because cost basis can be supplemented by a step-up in basis of \$1.3 million of property, with a step-up in basis of an additional \$3 million of property received by a surviving spouse. The GST tax was also reinstated for 2010 with a \$5 million exemption, but with a tax rate of 0%. The gift tax remained the same: a top rate of 35% and a \$1 million exemption.

Exemptions and top tax rates in 2011 and 2012

For 2011 and 2012, the gift and estate tax exemption is \$5 million per person (the \$5 million is indexed for inflation in 2012, and thus is \$5,120,000); the top tax rate for these years is 35%. Similarly, for 2011 and 2012, the GST tax exemption is \$5 million per person (the \$5 million is indexed for inflation in 2012, and thus is \$5,120,000), and the GST tax rate for these years is 35%.

Exemptions and top tax rates in 2013 and later years

For 2013 and later years, the gift and estate tax exemption is \$5 million (as indexed for inflation) per person (\$5,340,000 in 2014, \$5,250,000 in 2013); the top tax rate for these years is 40%. Similarly, for 2013 and later years, the GST tax exemption is \$5 million (as indexed for

inflation) per person (\$5,340,000 in 2014, \$5,250,000 in 2013); the GST tax rate for these years is 40%.

Portability of gift and estate tax exemption

The 2010 Tax Act introduced a new estate-planning concept--exemption portability. In short, the estate of a deceased spouse can transfer to the surviving spouse any portion of the federal estate tax exemption that it does not use. The surviving spouse can then add that amount to the exemption he or she is otherwise entitled to, increasing the total amount that can be passed on tax-free. This new feature makes it easier for married couples to minimize the potential impact of gift and estate tax.

Prior to the 2010 Tax Act, if a spouse died without having planned for his or her exemption, the deceased spouse's estate would have passed tax free to the surviving spouse under the unlimited marital deduction (assuming all assets passed to the surviving spouse), and the deceased spouse's exemption would be lost or "wasted." The surviving spouse's estate could then only transfer an amount equal to his or her own exemption free from federal estate tax. To solve this dilemma, married couples typically set up what is commonly referred to as a credit shelter trust (or bypass trust as already discussed) that sheltered or preserved the exemption of the first spouse to die.

Portability can achieve a similar result without the use of a credit shelter trust.

To use the exemption portability, the estate of the first spouse to die must elect to use portability on the estate tax return. An estate tax return must be filed by the estate of the first spouse to die to use portability even if the return is not otherwise required to be filed. Exemption portability is available only from the last deceased spouse. The exemption of the first spouse will be lost if the surviving spouse remarries and is predeceased by the second spouse. In other words, if the surviving spouse survives Spouse 1, the surviving spouse can use Spouse 1's unused exemption even if the surviving spouse marries Spouse 2. However, if Spouse 2 also predeceases the surviving spouse, the exemption of Spouse 1 can no longer be used. However, the surviving spouse can then use the unused exemption of Spouse 2.

Summary of Provisions 2012 - 2014

	2012	2013	2014
Top Gift and Estate Tax Rate	35	40	40
Top GST Tax Rate	35	40	40
Gift and Estate Tax Exemption	5,120,000	5,250,000	5,340,000
GST Tax Exemption	5,120,000	5,250,000	5,340,000
Is Gift and Estate Tax	Yes	Yes	Yes

Exemption Portable?			
Is GST Tax Exemption Portable	No	No	No

FAMILY LAW

The practice of family law generally falls into three areas: divorce; custody; support.

When parties divorce they must decide how they want to divide their marital assets and if they cannot agree on the division, the court can decide for them. Marital assets are most assets acquired during the marriage, as well as the increase in value of certain assets acquired before the marriage. The considerations made when determining distribution are found at [23 Pa.C.S. § 3502](#).

Custody decision must include both legal custody and physical custody. Legal custody is the ability to make decisions for the child, while physical custody is the ability to take care of the child. NLSA provides a nice breakdown of the different types of custody on its [website](#).

Support includes alimony, alimony pendente lite (“APL”), and child support. APL is spousal support provided before a divorce. There is a calculation done by the court to determine the appropriate amount of APL based on the income of the parties. Alimony is spousal support provided after a divorce is final. It is not provided in all cases and there are many factors that go in to determining whether or not a party is entitled to alimony, the amount of alimony, and the duration of alimony payments. Child Support is determined by a formula that takes into account both parents income, the number of children, and whether custody is shared. Support guidelines are found in the [Pennsylvania Code](#). The Pennsylvania Department of Public Welfare provides an online child support [calculator](#).

Court

The Allegheny County Family Division is located in the Family Law Facility at 440 Ross Street. Custody cases, support conferences and hearings, and Protection From Abuse (“PFA”) hearings all happen in the Family Law Facility. Complaints in Divorce as well as Custody Complaints are filed on the first floor of the City County Building. Initial petitions for support are filed in the Allegheny Building.

Judge Donald L. Walko, Jr. is the only family court Judge not at 440 Ross Street. Judge Walko’s courtroom is in the City County Building, room 706.

Resources

The Court Manual for the family law is an invaluable resource providing the basic procedures as well as local rules and can be found on the Fifth Judicial District of PA [website](#). Each judge has his or her own court room procedures that must be followed and can also found next to each judge’s name on the County [website](#).

Ways to Get Involved

[Family Section of the ACBA](#)

The family law section of the ACBA is a great resource for young attorneys. The monthly section meetings are well attended. This section offers many social events throughout the year.

Pro Bono

There are many opportunities to do Pro Bono work in family law. Pro Bono opportunities allow new lawyers to gain great actual experience while helping those in need. Often times there are opportunities for training as well. Please check out the Allegheny County Bar Foundation [website](#) for pro bono family law opportunities.

WORKERS' COMPENSATION

This is a brief overview of the Practice of Workers' Compensation Law in Allegheny County. While it draws on the experiences of many attorneys, those same attorneys emphasize that there is no substitute for that experience. Many Workers' Compensation Practitioners feel that the practice has declined in recent years, as new attorneys without experience attempt to specialize in Workers' Compensation without any prior attorney experience and without the assistance of an experienced Workers' Compensation Attorney as a mentor.

As we know from law school, law and logic are not always the same. This goes double for Workers' Compensation, perhaps because its roots lie in statutes and not an evolution from common law. Whatever the case, it is not a practice area to be taken lightly, nor is it a practice area to be attempted as a sole practitioner fresh out of law school. Case law and statutory Workers' Compensation Law, with multiple amendments, date from 1915.

What Is Workers' Compensation?

Workers' Compensation is obtaining lost wages and medical expenses for an injured worker. The injured worker need not prove that the injury occurred as a result of the employer's negligent conduct. All that must be proven is that an injury occurred within the course and scope of one's employment.

Resources For New Attorneys

- An experienced practitioner to mentor you as you learn your craft.
 - There is a reason it is called "Law" School and not "Lawyer" School. You have learned the theory, but theory is very different than practice.
 - In law school you are taught to stand when talking to a Judge. In Workers' Compensation Court, you remain seated.
 - In law school you learned about trials as one continuous event that takes a day into a few weeks.
 - Workers' Compensation "trials" last months. They are composed of serial hearings before the Judge where witnesses testify.
 - Many witnesses testify via deposition and the Judge will read the transcript.
 - These depositions are not for discovery, but are considered trial testimony. They must be to the point and are not fishing expeditions like discovery depositions.
- Various Pennsylvania Bar Institute Continuing Legal Education Courses

- The two most important are:
 - Handling the Workers' Compensation Case
 - A basic introduction to Pennsylvania Workers' Compensation Law from A to Z
 - Pennsylvania Workers' Compensation Practice & Procedure
 - Commonly known as "The Bible" course, held every two years
 - Workers' Compensation Attorneys of forty years experience attend this seminar when it is offered every two years
 - Considered the best and most comprehensive primer, in conjunction with Handling the Workers' Compensation Case, on Pennsylvania Workers' Compensation Law
- Workers' Compensation is a highly medical oriented specialty. Practitioners should take Continuing Legal Education Classes to educate themselves on the body and mechanisms of its injury. An experienced mentor is an invaluable resource in planning your education.
- D. Torrey & A. Greenberg, PENNSYLVANIA WORKERS' COMPENSATION: LAW AND PRACTICE (Volume #) § (Section #) (West 3rd Ed. 2008 & Supp. 2012).
- Practitioners on your own side of the aisle are not the only people who can help you. Joining ACBA Workers' Compensation Section will expose you to practitioners from the other side who will prove to be valuable resources. Many Workers' Compensation Attorneys, whether they represent Claimants or Employers and Insurance Companies, will tell you they learned as much from their adversaries as from their peers.
- Seek out groups related to your practice. There are a multitude of resources and organizations for every practice area.

Rules of Practice and Judges

- While there are rules of procedure for Workers' Compensation practice, many Judges will have their own way of doing things. A new practitioner has to be flexible and adapt to what is asked of them.
- While Workers' Compensation may seem to be more informal than practice in the Court of Common Pleas, and it is, Judge's must be accorded the respect of their position.
Remember the number one rule for an attorney: NEVER OFFEND THE JUDGE!
- Workers' Compensation Automation and Integration System—WCAIS
 - Pronounce wick-iss
 - The Pennsylvania Bureau of Workers' Compensation has recently launched a comprehensive online system for handling cases

- Claims, exhibits, correspondence, briefs, and everything else will go through this system. A new attorney can become invaluable to a firm by learning this system inside and out. You may not know all the law, but it is likely you are more comfortable with technology than the senior attorneys in your firm.
- The address for the local Workers' Compensation Office of Adjudication is 411 Seventh Avenue, Third Floor, Room 310, Pittsburgh, PA 15219
 - Hearings on Workers' Compensation Cases in Allegheny County are held here. These hearings are public and can provide an invaluable resource for new attorneys to observe the Judges and more experienced practitioners.