



POINT OF LAW

The E-Newsletter of the Young Lawyers Division of the Allegheny County Bar Association

FALL 2021

BAR LEADERSHIP INITIATIVE CLASS OF 2020-2021 COMPLETES ALLEGHENY COUNTY VOTING INFORMATION CLASS PROJECT

By Gwyneth Gamble and Sarah Simkin

The Bar Leadership Initiative (BLI) was developed in September 2001 as a collaboration between the Young Lawyers Division (YLD) of the Allegheny County Bar Association (ACBA) and ACBA at large. The program is designed to train a new generation of leaders that will hopefully rise through the ranks of the ACBA by encouraging young lawyers to engage with their local colleagues and hone their community leadership skills. The year-long program provides an introduction into the many divisions and committees that compose the ACBA, enabling participants to choose engagements that suit their interests and careers. In years past, pre-COVID-19, the BLI year has culminated with the participants attending Bench-Bar, one of the ACBA's premier networking events.

As one of the central tenets of the BLI program is to harness the passion of this group of young attorneys for

community growth and participation, every year the BLI cohort designs, carries out, and completes a class project. The class project is meant to be a benefit to the local bar as well as to the local community and is the capstone that represents the class as a whole. Each project is wholly carried out by the BLI class, with the guidance of the YLD Chair-Elect's insights and suggestions. Since the project's success rests only on the shoulders of the cohort, it is an excellent first opportunity in collaboratively planning an event or creating a resource for the community.

The BLI class of 2020-2021 chose to tackle an issue that was both topical and lent itself well to the remote collaboration required by COVID-19: a compendium of accessible information for Allegheny County voters. Each member contributed research and Zoom meetings and Google Documents made coordination possible.

BLI class participant Danielle M. Parks described the cohort's project as a means of educating the general public on the different offices in their individual voting precincts, detailing what positions they can vote for and each position's responsibilities, term limits, and when each seat is up for reelection. Parks said, "We realized a lot of us didn't know the difference between a borough and a township," and realized the level of savvy in the community was likely lower. (If you're curious: in Pennsylvania a "borough," similar to a "town" is a self-governing entity usually smaller than a city; a "township" is an area that is not governed by a city or a borough.)

The goal of the project is to empower voters by telling them which positions they can vote for and the important local community functions elected officials perform. According to the Pew Research Center, only two-thirds of eligible voters participated in the 2020 national election, and many fewer come out for the off-year elections. As a result, many citizens are not exercising their right to choose local officials, from judges to council members, who determine many of the

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BLACK LIVES MATTER: A YEAR IN REVIEW

By Asra Hashmi



On the one-year anniversary of the murder of George Floyd, the Young Lawyers Division (YLD) of the Allegheny County Bar Association hosted an impassioned discussion on the Black Lives Matter (BLM) movement moderated by 1Hood Media's Farooq Al-Said. 1Hood Media is a collective of socially-conscious artists and activists who utilize art to raise awareness of issues of racial and social justice in Pittsburgh. In looking back on the year, Al-Said discussed candidly his experience as a Black man in the City of Pittsburgh and the progress that has been made in seeking racial equality, but he gave an honest account how much work remains to be done in our community. After living in multiple cities and countries, Al-Said's outside perspective of being a Black man moving to Pittsburgh was eye-opening. He discussed the segmented nature of the neighborhoods in Pittsburgh and the City's very layout

lending itself to racial divides. And, while some historically Black neighborhoods are seeing gentrification that some believe is reenergizing and unifying the City, Black residents have been leaving the City at an unprecedented rate. Al-Said posed to attendees the tough question: How can Pittsburgh be both the most livable city and by multiple studies one of the worst cities to live if you're Black?

With a heavy focus on audience participation, the question-and-answer segment served as a platform for attendees to exchange ideas, hear the experiences of others, and share thoughts on how to be effective allies and facilitators of change. Al-Said noted that the most important thing that we can do as a community is to keep the open, honest, and candid conversations going. By exchanging ideas, keeping an open mind, and

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HEIGHTENED INTERNATIONAL DATA PRIVACY ENFORCEMENT DURING THE PANDEMIC

By Anokhy Desai

During the pandemic, we have seen a marked increase in world-wide privacy intrusions, including ransomware attacks and other organizational breaches, as bad actors took advantage of widespread panic during the past year and a half. Wayne Rash, *Ransomware Group Targets Hospitals at Height of Pandemic*, Forbes (Oct. 29, 2020); Joseph Cox, *Bot Lets Hackers Easily Look Up Facebook Users' Phone Numbers*, Vice (Jan. 25, 2021). Many of these privacy intrusions constitute violations of the General Data Protection Regulation (GDPR).

The GDPR is a European Union (EU) privacy regulation that was put into effect on May 25, 2018. It replaced the Data Protection Directive as the most comprehensive privacy regulation protecting those in the European Economic Area. The GDPR is important for U.S. businesses, as it applies to any organization that, in essence, stores or processes personal information about EU citizens or residents. This means that even entities with no presence in the EU must follow the regulation if they process the personal information of EU residents. In addition to providing data subjects with the right to be forgotten, transparency, access, erasure, and portability, the GDPR also allows individuals to object to the processing of their personal information for marketing, sales, or non-service related purposes, which was a big win for privacy and consumer protection advocates.

GDPR noncompliance can lead to a fine of up to €20 million or 4% of



annual global turnover. The GDPR Enforcement Tracker, a private website run by the international law firm CMS, lists over 850 fines levied since the date of enforcement in 2018, with approximately 305 fines imposed in 2021 alone. The tracker can be accessed at www.enforcementtracker.com. In two notable examples, the Irish Data Protection Commission imposed a €225 million fine on the California-based instant messaging app WhatsApp in September of 2021 for violating the GDPR by failing to provide its users and non-users with requested information and transparency of that information, and the Luxembourg Data Protection Authority fined Amazon €746 million this July for failing to process personal data in compliance with GDPR. Joseph Duball, *Irish DPC levies 225M euro fine against WhatsApp*, IAPP (Sept. 2, 2021); *Luxembourg DPA Fines Amazon 746 Million Euros for GDPR Violations*, Hunton Andrews Kurth (July 30, 2021).

But the Data Protection Authorities of the European Data Protection Board

(EDPB) and EU member states are not only bringing enforcement actions against global companies. Just last month, the Spanish Data Protection Agency imposed a €1,000 fine on a small hairdressing salon for “insufficient fulfillment of information obligations” because of its use of video surveillance without a warning sign or other notice to entering customers. *Resolución De Procedimiento Sancionador*, Agencia Española Protección Datos (Sept. 13, 2021).

Keeping this in mind, Pennsylvania attorneys who draft privacy provisions for or represent organizations with an international reach, even with only a handful of EU customers, should be mindful of their data practices and should contact an attorney specializing in GDPR interpretation when in doubt. If your client’s organization is compliant with the 2020 amendment and expansion of the California Consumer Privacy Act (CCPA), it is likely already following GDPR-approved data practices like performing annual audits, assigning a Data Protection Officer, updating its data map and reviewing its data flows, implementing privacy by design in new processes, and updating its consent procedures. ■



Anokhy Desai is a law student at the University of Pittsburgh and information security policy graduate student at Carnegie Mellon University. She focuses on data privacy and

cybersecurity, and can be contacted at a.desai@pitt.edu.

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aspects of their daily lives (including how local tax money is spent).

Even for those who do vote regularly, voting “well” and from an informed viewpoint can be a challenge with the dizzying array of options, many of which are encountered for the first time in the voting booth without an opportunity to research the candidates for less-known positions such as constable or tax collector. Natalia Holliday, another member of the BLI class of 2020-2021, said the 2020 election mail-in ballots helped spark the idea. “Finally, I had it all laid out in front of me. I could look up all the candidates on my own time and make my best and most-informed vote.”

The BLI project takes this idea and makes it more general, listing out all of the municipalities in Allegheny County and creating “ballots” for each level of government that each municipality votes for – federal, state, judicial, county, and municipal (which includes school boards). Holliday said, “Our goal was to create a resource that organizes and consolidates the blizzard of information everyone in Allegheny County gets overwhelmed by each election season, to make the process easier and to encourage more people to vote and to vote well. All you have to do is find the town you live in and look at what positions get elected. You’re on your own for researching the specific candidates, but that part is much easier when the information you need is laid out, simply and cleanly, right in front of you.”

The form of the project will be a downloadable PDF booklet of these

“ballots” that the public can use to look up information for their area. Each political subdivision has every local government position listed together with term lengths and limits, election years, and more, such as the school district and annual budget. A glossary of terms explains each position. For those unsure where to start, the Allegheny County website can use your address to tell you what local government jurisdiction you reside in. The booklet is searchable and has helpful links for navigation between sections. The end product is purely informational and non-partisan. By listing the open offices instead of the current candidates, BLI ensured that their project would remain relevant for years to come.

Previous project highlights have included a guide for Allegheny County’s new attorneys and law school graduates that outlined networking resources, information on specific practice areas, and how to secure that first job (BLI class of 2013-2014); a “Judges Book” that includes biographical and procedural information about each Judge on the Allegheny County Court of Common Pleas (BLI class of 2010-2011); a project titled “Operation MVP” that sent over 3,500 books to active military personnel, donated 50 boxes to troops overseas, and created a website of resources to aid current military personnel, veterans, and their families; and a legal guide to direct families experiencing a medical crisis to resources for help or support, and how to protect their legal and employment rights while balancing the crisis they are facing (in 2011 this project won first place in the American Bar Association “Award of Achievement” category for public service programs). Other past cohorts have planned fundraiser events for various charities.

The BLI class of 2020-2021:

- Kevin Brett
- Adam Cetra
- Ben Cohen
- Alaina Coury
- Allison Erndl
- Ian Everhart
- Jesse Exilus
- Gwenth Gamble Jarvi
- Ameilia Goodrich
- Natalia Holliday
- Rebecca Johnson
- Danielle Parks
- Alex Popovanak
- Tara Sease
- Sarah Simkin

The Allegheny County Voting Guide can be accessed at www.acbayld.org/alleggheny-county-voting-guide. ■



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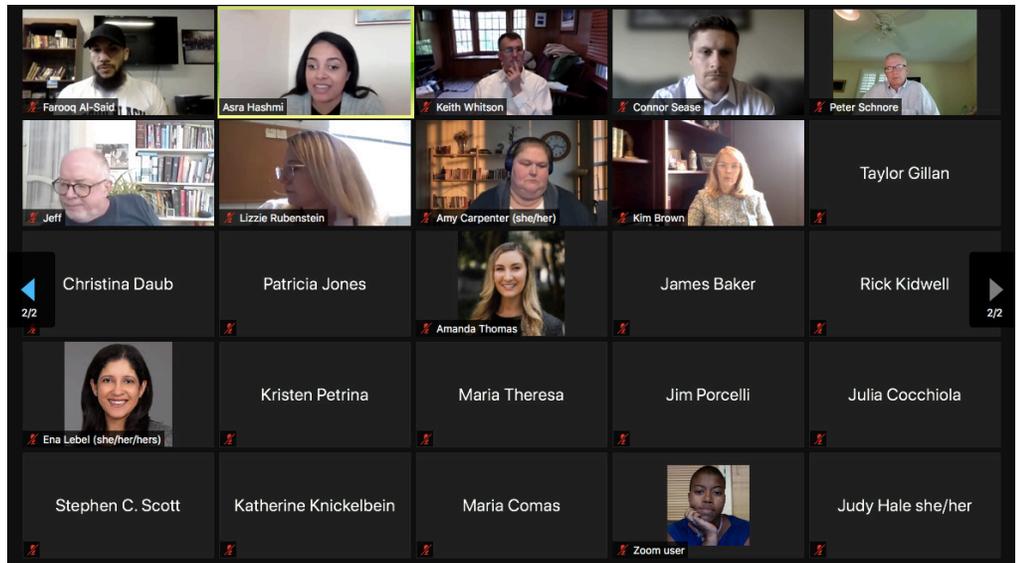
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hearing about the experiences – perhaps unlike your own – of others is helping make progress toward racial equality.

The diverse group of attendees were engaged from start to finish in a two-hour discussion that could have easily gone on for hours. Missed out or would like to see more programs like this one? The YLD has voted to approve the Anti-Racism Subcommittee as a standing YLD committee moving forward. The mission of this subcommittee is to educate our members and the broader community on the history of systemic racism and our collective responsibility to take action by being vocally and actively anti-racist and including these issues in all YLD programming. This subcommittee has created the Racial Justice Corner, a portion of the YLD Sidebar that will run monthly and discuss the impacts of different issues that disproportionately affect Black and other minority communities, along with links to primary sources of statistics and information.

The Anti-Racism Subcommittee is gearing up for another active year so keep your eye on the YLD Sidebar for upcoming events and the Racial Justice Corner to get involved and keep these crucial conversations going. ■



Presented by the Young Lawyers Division Ad Hoc Anti-Racism Committee, all members and the public at large were invited to a candid discussion on race relations in Pittsburgh on May 25. Moderated by Farooq Al-Said of IHood Media, the event took a look back at the past year in the Black Lives Matter movement, examining how far the community has come and the work that remains. The interactive discussion also covered current events shaping the future of Pittsburgh.



Asra Hashmi is an associate at the Pittsburgh office of Jackson Lewis P.C., and she currently serves as Chair of the ACBA Young Lawyer's Division. Ms. Hashmi's

practice focuses on employment-related litigation. She can be reached at asra.hashmi@jacksonlewis.com.

SUBMIT AN ARTICLE FOR POINT OF LAW
THE YLD'S ABA AWARD-WINNING NEWSLETTER

YLD members are encouraged to write about the practice of law or any substantive legal issue of interest. Additionally, writers are encouraged to write responses to any article appearing in this issue. Featured authors will have their article – up to 1,000 words long – published along with a brief bio.

Articles and inquiries may be submitted to YLDCommunications@gmail.com.

NOTARI-ZOOMING IN A PANDEMIC: REMOTE NOTARIZATION COMES TO PENNSYLVANIA

By Ian Everhart

Since the time of William Penn, notaries in the Keystone State have been under the obligation to meet their clients face-to-face. The Pennsylvania General Assembly reaffirmed this requirement just a few years ago, when Act 73 of 2013, enacting the Revised Uniform Law on Notarial Acts, provided that “the individual . . . executing the signature shall appear personally before the notarial officer.” 57 Pa. Cons. Stat. § 306.

Advocates and the banking and business community had urged the legislature to adapt to technology and catch up to an emerging trend, as other states authorized remote notarization, which permits a person to “personally appear” before a notary through a video chat interface. Proposals in several recent legislative sessions fizzled, but the exigencies of the pandemic – when a face-to-face meeting might transmit a deadly disease--brought a new sense of urgency to the issue.

Remote notarization was first allowed in some circumstances as a result of an executive order issued under the Emergency Management Services Code, temporarily suspending the personal appearance requirement under the governor’s authority to “[s]uspend the provisions of any regulatory statute . . .” 35 Pa. Cons. Stat. § 7301(f)(1). The General Assembly then passed Act 15 of 2020, which authorized remote notarization for the duration of the pandemic emergency. Act 97 of 2020, signed on October 29, 2020, makes remote notarization permanent.

This new statute allows notarizations “facilitated by communication



technology for a remotely located individual,” but notaries should not simply fire up Zoom, FaceTime, or Skype. Notaries must notify the Department of State which technology they intend to use, and the Department is empowered to regulate which technologies can be used. 57 Pa. Cons. Stat. § 306.1(f). Any remote notarization must be recorded and preserved for at least ten years. 57 Pa. Cons. Stat. § 306.1(e)(2)(i).

Remote notaries may not accept the typical forms of photo identification commonly used in many face-to-face notarizations: simply holding up a driver’s license to the camera does not comply with the law. A remote notary patron can be identified only by preexisting personal knowledge and familiarity, a credible witness physically appearing before the notary, or through use of “identity proofing” services (which make inquiries based on a person’s public record history, sometimes also used in the financial

industry). 57 Pa. Cons. Stat. § 306.1(b)(1).

Finally, a Pennsylvania notary must be physically present in the Commonwealth to act as a notary, but may perform a notarial act for a patron located anywhere, including outside the United States if there is some jurisdictional connection to the United States. 57 Pa. Cons. Stat. § 306.1(b)(4).

Since March of 2020, we have become all too familiar with “meetings” that consist of an array of tiny faces on our computer screens. Under these laws, Pennsylvania notaries can now “meet” with their clients anywhere worldwide, making remote notarization a lasting positive legacy of the pandemic. ■



Ian Everhart is an attorney at Beier, Beier & Beier in downtown Pittsburgh. From 2015-2019, he served as assistant counsel at the Pa. Department of State, where his clients included the Division of Notaries.

RECENT YLD EVENTS

RISING THROUGH THE RANKS



The ACBA YLD Diversity Committee presented “Rising through the Ranks” on May 20, which focused on educating diverse, young lawyers about getting on the partnership track early in their legal careers. The event featured an open discussion about the importance of being a business asset, understanding law firm economics, having partner personality, selling oneself, the special obstacles that diverse attorneys encounter on their path to becoming a partner and much more. The event also presented an opportunity for diverse young lawyers to connect with well-seasoned attorneys who were once in their shoes and are able and willing to serve as mentors throughout their careers.

ADMISSIONS CEREMONY



Chief District Judge of the U.S. District Court for the Western District of Pennsylvania Mark Hornak conducted the oath at the U.S. District Court for the Western District of Pennsylvania Admissions Ceremony that took place virtually on May 24. Congratulations new lawyers! Those admitted in attendance were Alexandra Nicole Boyer, David B. Catalane Jr., Angela R. Fochtman, Michael Richard Gavin, Ryan Nye Gailey, Michelle Mane Seman and Rebeca Himena Miller.

FAIRY TALE MOCK TRIAL



All community members and their children were invited to attend the “Fairy Tale Mock Trial” virtually on June 5. The YLD Public Service Committee in conjunction with the Allegheny County Library Association put together an exciting program that involved the children as jurors in a mock trial setting during the case of “The Three Bears v. Gold E. Locks,” who was on trial for such crimes as breaking and entering, trespassing and theft. Several YLD members graciously volunteered their time to play the various roles, complete with costumes and props.



PASSING OF THE GAVEL



The YLD ‘Passing of the Gavel’ Ceremony took place on Oct. 5. Immediate Past-Chair Amanda Scarborough passed the gavel to incoming Chair Asra Hashmi. Current and past YLD members also attended including Laura Bunting, Lacey Ecker, Andrew Rothey and current ACBA President Joe Williams.

