

INSIDE: The Changing Face of Law Firm Management • Memories of a Groundbreaking Jurist

Delaware Lawyer

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CONTENTS



SPRING/SUMMER 2012

EDITORS' NOTE 4

CONTRIBUTORS 4

FEATURES 8

**An Anniversary Roundtable:
Transformations in
Law Firm Management**

**22 Perseverance:
A Legal Pioneer Looks Back**
Hon. Jane Richards Roth

**28 An Anniversary Roundtable:
Three Decades of *Delaware Lawyer***

**40 The Delaware Bar Foundation:
Thirty Years and Counting**
William H. Sudell, Jr.

**44 OF COUNSEL:
Richard A. Levine, Esquire**
Jacqueline Paradee Mette





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This issue pays tribute to the 30th Anniversary of *Delaware Lawyer*, the magazine of the Delaware Bar Foundation. Its editors have chosen a retrospective on the practice of law in Delaware from a variety of perspectives and an update on the Foundation, also celebrating its 30th anniversary.

The first article addresses the changes in the management of law firms over the last 30 years. The discussion group includes five representatives from Delaware's largest law firms discussing recruitment and hiring, the evolving culture of law firms, billable hours and fee structures, managing associates, the changes to support staff of law firms, and the impact of electronic media on such things as records management.

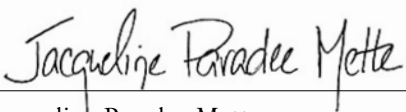
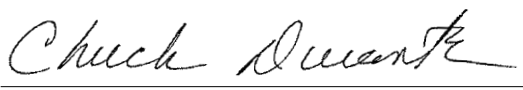
The second article, authored by the Honorable Jane Richards Roth, opens a window on the life of one of Delaware's finest jurists. Judge Roth invites the reader to take a closer look at the complexities of lawyers juggling personal and professional responsibilities, reminding us all that with all of the changes, some things remain remarkably the same.

The third article is also written in a roundtable format, bringing together the Chairs of *Delaware Lawyer's* Board of Editors. It also includes its three lifers — three gentlemen who have been with the magazine since its incep-

tion — Hon. Thomas L. Ambro (author of the article), David C. McBride and Richard A. Levine, the latter of whom has been the Managing Editor of *Delaware Lawyer* for over 30 years.

The fourth article, written by William H. Sudell, Jr., President of the Delaware Bar Foundation Board of Directors, examines the history of the Foundation, including snippets from Board minutes, and looks to the future for the Foundation.

The final piece, Of Counsel, shines a spotlight on Richard A. Levine, who retired in March 2012 from the active practice of law. Focusing on Richard as much as we did in this issue is more than appropriate. This magazine is what it is today, in large part because of his willingness to manage (rein in?) a sometimes unwieldy group of lawyer/writers. Richard applied his wit, patience and excellent business management skills to this magazine for 30 years. The words "thank you" hardly seem enough, and so we honor him with this issue. While he's stepping down from Managing Editor duties, we know he'll continue to help guide the ship. Thank goodness. We also extend our appreciation to Kurt Fetzer who transcribed both roundtable articles for us, something he has graciously agreed to do many times for *Delaware Lawyer*. We are truly grateful to him for his service.


Jacqueline Paradee Mette
Charles Durante

Hon. Jane Richards Roth

has served on the United States Court of Appeals for the Third Circuit since 1991. As of May 31, 2006, she assumed senior status. Prior to her appointment to the Court of Appeals, Judge Roth served as a United States District Court Judge for the District of Delaware from 1985 until 1991. Before joining the bench, Judge Roth practiced with the Wilmington firm of Richards, Layton & Finger. She joined the firm as an associate in 1965 and became a partner in 1973. Earlier in her career, Judge Roth held a variety of clerical positions with the Foreign Service of the United States Department of State and was stationed in Iran, Southern Rhodesia (now Zimbabwe) and the Republic of Congo. Judge Roth graduated in 1956 from Smith College and received her LLB cum laude from Harvard Law School in 1965.

William H. Sudell, Jr.

is currently Of Counsel to the Wilmington firm of Morris, Nichols, Arsht & Tunnell, LLP, with which he has practiced for more than 40 years in the commercial litigation and corporate bankruptcy areas. Sudell joined Morris, Nichols in 1971 and became a partner in 1977. He graduated from Brown University in 1966 with a BS/BA degree in aerospace engineering and from the University of Pennsylvania Law School in 1971. He has been married for 43 years to Chris Sudell, also a Delaware lawyer. They have two grown daughters (both lawyers) and three grandchildren.

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An Anniversary Roundtable:

Transformations in Law Firm Management

Five years ago *Delaware Lawyer* asked a group of lawyers to discuss changes in the practice of law and administration of justice over the first 25 years of its publication. On February 17, 2012, as part of our recognition of its 30th anniversary, *Delaware Lawyer* convened a roundtable of leaders of Wilmington's five largest law firms to discuss changes in the management of law firms between 1982 and 2012.

From technology to recruitment to staffing, the business of running a law firm has seen a dramatic change in the last three decades.

Those present were Frederick "Rick" Alexander, the managing partner of Morris, Nichols, Arsht & Tunnel, LLP; Jeffrey B. Bove, a former chairman of the management committee of Connolly Bove Lodge & Hutz, LLP; Richard A. Levine, recently retired as administrative partner of Young Conaway Stargatt & Taylor, LLP; William J. Wade, president of Richards, Layton & Finger, P.A.; and Donald J. Wolfe, Jr., chairman of the management committee at Potter Anderson & Corroon.

Delaware Lawyer was privileged to have the volunteer services of Thomas C. Grella, Esquire, of the Ashville, North Carolina, firm of McGuire, Wood & Bisette, P.A., as moderator of the roundtable. Mr. Grella chairs his firm's management committee, is a former chair of the ABA Law Practice Management Section, and is presently serving on its Executive Committee. He is currently serving a three-year term in the American Bar Association House of Delegates

and is also a Fellow of the College of Law Practice Management.

The session was transcribed (like the session in 2007) by Kurt Fetzer of Wilcox & Fetzer as a service to the Bar. The editors of *Delaware Lawyer* and the Board of Directors of the Delaware Bar Foundation are grateful to Messrs. Grella and Fetzer for their generosity.

MR. GRELLA: Let's specifically talk first how your lawyer recruitment has changed over the years. I found it interesting to hear that firms in Delaware offer greater salaries today than in larger Philadelphia firms. How and why has that come about, and whom do you compete with in your recruitment efforts?

MR. LEVINE: I'm the one who told you that I have a son who works for a national Philadelphia firm that makes less than our starting associates. The reason is that we really do compete, with each other, with New York, with Washington, and I guess with the whole



world. Most of the associates or summers that haven't come with us have either gone to Washington or New York. That's a difference. Thirty years ago we competed with Philadelphia.

MR. WADE: It's a relatively recent phenomenon. It's only the last 10 or 12 years that we did catch up with Philly and now I think Philly has been lowering its salaries a little bit. We are competing for the same people with New York. We want the top of the class from the good schools and we're doing that. And we tell people our practice is a national practice as opposed to a regional practice like you find in Philadelphia.

MR. WOLFE: In the last 20 or 30 years we have been telling recruits that we have this typical local practice for a city like this, but we also have national overlay of practices in patent litigation or corporate law and alternative entities. There are not many places in the country where you can do that kind of work, certainly in a small-town atmosphere.

MR. WADE: One of the best enticements is that all of these people have opened their case books in law school and seen case after case after case from Delaware in virtually any subject matter area.

MR. WOLFE: I've always viewed law practice in Philadelphia as so very different from ours that it would be un-

usual for a candidate to come down to, 'Am I going to go to Philadelphia or Delaware?' It seems to me they would be likely looking for one practice or another.

MR. ALEXANDER: I think that's very true now. What's happened is that we have these national practices. Twenty-five years ago there was the corporate and the corporate litigation and, now, the bankruptcy, the intellectual property and the alternative entities really are a much bigger percentage of what we do. This national practice really allows us to compete with New York.

MR. GRELLA: Thirty years ago how did you get folks who were coming out of school to look at your firm?

MR. LEVINE: A lot of people with Delaware ties were coming here 30 years ago. The folks that were coming had some prior connection. If you would get a Chancery Court clerk who may never have thought about practicing in Delaware but he was here for a year, he would be heavily recruited by the three big firms in those days, Richards, Morris Nichols and Potter. Connolly Bove and our firm were not nearly as active players in the national corporate arena. Would you guys say that?

MR. BOVE: We were obviously IP from our inception, so it's a little bit different. Our founder, Mr. Connolly, recruited his partner Werner Hutz, Rudy Hutz's father, to come here from New York. Actually, we had offices in New York and Wilmington when we started, which was unique. Because of their reputations, it was really almost word of mouth. Mr. Connolly had certain people that had heard of him or that he knew, and he would personally interview the candidates.

MR. WADE: I don't know that we did much other than go to the law schools for their on-campus interviewing. We went to 10 or 12 schools 30 years ago and we were looking for five people.

MR. ALEXANDER: My sense is 25, 30 years ago you could get people to come to Delaware for the corporate, but it was not viewed by the law students the way it is today. They know in law school that there's a real opportunity to have a sophisticated practice.

MR. WOLFE: It's a less well-kept secret.

MR. GRELLA: Thirty years ago did you have summer programs where you had folks come and then maybe hire them a year later, two years later?

MR. WADE: Yes. As a matter of fact, I was in the summer program at our firm

a long time ago. We've always had that program and we've always hired from that program. We've had great success.

MR. GRELLA: Do most of the firms continue with those kinds of programs?

MR. WOLFE: The summer clerk program has always been important for our recruiting. In fact, 25 or 30 years ago it was probably almost the exclusive place from which we drew people. We were very top-heavy, so we needed to be particularly careful about the two or three associates that we hired in any given year. We didn't want to lose them. The summer program was an opportunity to see if we were comfortable with a candidate and vice versa, so it was terrifically important. It remains that way. There's a lot more lateral hiring now than there was 25 or 30 years ago, so there are some other sources.

MR. WADE: We don't do much of that. The summer program is really the basis of almost all of our hiring. I think the summer programs in Wilmington are a little bit different in that it's not just come in and party. All of the firms give a pretty good realistic view of what it's like to be a young associate.

MR. WOLFE: And if they survive, we hire them.

MR. BOVE: I have the unique experience of starting about age 10 in the photocopy room and working my way up each year through the summers. Our summer programs have been similar to what Don described, but they have varied with our size. We focus more on the types of folks that we want in the summer with a view that we will end up hiring them, if at all possible.

MR. WADE: We try to gauge the size of the summer class by what we perceive our hiring needs will be.

MR. ALEXANDER: There are several parts to your question. You talked about bankruptcy. We all have sort of counter-cyclical practices, but I'll also just say that our practices don't have the severe cycles that you see in bigger markets like New York. So when things went downhill in 2008 and firms in New York were deferring associates to whom

they had extended offers, I think most Delaware firms did not have the types of issues that put them in that position, just because what we do is not so heavily staffed that when things fall off there's such a huge change in the need for associates. Things are steadier here. Hiring may have gone down in Wilmington in 2008 and 2009 but not in a severe way. You didn't see deferrals.

MR. WADE: Yes, or layoffs really. We were able to shift people internally from the areas slowing down to the areas picking up and, as Rick said, they were counter-cyclical so that worked out pretty well for us.

MR. LEVINE: We're hiring fewer now.

MR. BOVE: During the halcyon days of '05, '06, '07, '08, we were hiring six or eight lawyers and now we're hiring four or five lawyers a year.

MR. WADE: Thirty years ago we had five in the class; then in 1994 we had 10 in the class and in '97 we had 16 in the class. In 2007 we had 20 in the class. In 2008 we had 22 in the class. In 2008 we figured we had too many in the class. So now we're back down. In 2011 we had nine in the class, and this year I think we'll have seven.

So we have more finely focused on how many we really are going to need. I think we might have had visions of grandeur back then that, just like the housing bubble, everything was going to keep going, going, going. And when it didn't, we had to really assess our hiring needs and make sure we were getting the right numbers in.

MR. WOLFE: The distinction with the other markets is a function of size, in part. We're just not exposed to the vagaries in the market because we're not as overcommitted as some more leveraged firms in other cities.

MR. BOVE: We have tended to target more of a lateral market just because of the nature of our practice. When you're trying to take in a first-year and teach him how to prosecute patents, the learning curve is pretty steep. When you've got a lot of client needs, there isn't a lot

of time to train.

So in the last four years the hiring has been more targeted: We need this technology area, we need this person in prosecution or we need a litigation associate in this area, preferably with a technical background. Or there may be a thought where we want to move more into a specific industry group, which requires a certain technical background.

So it's really a different approach than having larger first-year classes and building your farm team and teaching them as they go. Of course, that's a very effective method, but for our practice we've shifted a little bit more to the lateral market.

MR. ALEXANDER: I think it's true that a lot of the firms here are very traditional and that we like to bring people in the summer or just as first years and not go with laterals because that's just trickier. That said, there's a lot of opportunities to hire laterals because after two or three years of very intensive training in New York, people have had it with that, whether it's they don't like living there or just the lifestyle that the firms demand, so we get lots of resumes of people who have very, very good backgrounds. Another nice thing about managing a firm in Delaware, is you have those opportunities.

MR. GRELLA: How is hiring done in your firms now? Is it through hiring partners? Do you have committees?

MR. WADE: All of the above. Actually, 30 years ago is when we had our first recruiting manager and she's still the recruiting manager now. We've always had a hiring partner and a hiring committee, and the sizes of those have varied. We have a pretty big hiring committee because that spreads out the interviewing load, but then a smaller group within the committee who actually makes the recommendations.

MR. WOLFE: We have a committee. What has changed in our firm is that we now have a staff person to oversee the process. It's a terrifically time-consuming process and you really need to have several lawyers involved in going out

to campuses and evaluating resumes. Frankly, as a cultural matter, we've always felt that it was an important decision that the firm is making and so to the extent we can spread the participation in that process around, I think that suits us better.

MR. BOVE: Dialing the clock back 30 years, at that time our senior partners were doing the hiring and actually were doing a lot of the interviewing. It was a whole different world. That has obviously evolved to the systems that you folks have described, necessarily. Quite a change.

MR. WADE: One of the other things that changed is all of these firms have been involved with the minority job fair and the firms got it started and staffed. And that's a burden. We rotate the chairmanship, and along with the chairmanship goes the privilege of organization of the first-year job fair and the second- and third-year job fairs and so that falls upon our recruiting people as well. It's a pretty big task.

MR. WOLFE: To the extent you're pursuing that diversity, as we have been for some time with Josh Martin's help, that simply expands the number of places that you look in order to find people and that makes the job that much more taxing.

MR. GRELLA: The next two questions are more difficult. First, has there been a change in the values of young associates coming to work for you? Were they looking for different things 30 years ago than they're looking for now?

Second, you mentioned diversity, and that brings to mind the values of the firm itself. What is the culture of the firm that entices these young associates out of school or the laterals to come to work for you?

MR. LEVINE: There's been a change. That's for sure. While we consider ourselves unique, we are part of a real world. Thirty years ago or 40 years ago I was thrilled to have a job and I just worked and worked and worked, like a lot of early boomers, and never really thought about the fact that I would go

home 10 o'clock at night and start the next morning and work weekends.

That trend is less popular with the newer attorneys. They will work long hours when they need to, when there's a hearing, but they don't look for things to do on nights that they don't have a hearing the next morning. I think that we have found that there is a difference. Maybe it's a healthy difference and maybe it's not. Time will tell. But you hear about it a lot.

A lot of the newer attorneys interview and want to know about our expectations, vacations, do they need face time in the office. They're much more interested in trying to balance their life against their professional life.

MR. BOVE: Our HR director gave a presentation at the Association of Legal Administrators conference back in '06, where she distinguished between generations, the traditionalists, the pre-1943 group of young lawyers coming in; the boomer generation, the 1940 through '64 children; the Gen Xers, '65 to '80; and the millennials, the current generation. And it's pretty interesting, contrasting them over a number of variables: Do they like to work in teams, their relationship to authority, their work ethic, loyalty.

There really has been a significant discernible change through these generations that translates into the types of lawyers that are applying, their attitudes, their expectations. I think we can all agree today that these younger attorneys are much more short-term oriented. Many are laden with pretty significant debt, which I don't think was as noticeably prevalent back 30 years ago. That requires a certain level of support just to pay off your student loans to get through.

I think there's a tendency to be a little bit less loyal as time goes on, in general. As Richard was explaining, I think they also like some lifestyle variation. The job is not necessarily the entirety of their lives whereas I suspect with the generation that's sitting at this table and certainly for me this was

it. My profession was my life, my job, everything, and my law firm was in part my family. Literally.

MR. ALEXANDER: It's true. When I started in the late 1980s, Saturday was a work day at Morris Nichols. It was just you came in on Saturday and you worked until maybe it was time to go home and watch the Penn State game or something, but at least you came in. Everybody came in on Saturday, and I think that's not true anymore.

But let me just say the flipside of that, and this is a visual aid [Mr. Alexander held up his PDA]. The associates actually never get away from the office now. When I went home to watch the game or when I didn't come in on Sunday, there was no work. Maybe I would take something home to work on, but nobody was sending me an e-mail.

Now I think everybody is constantly on e-mail and if something goes out, you're expected to respond. So we talk about the millennials and they're not in the office, but the fact is they are available and they are.

MR. WADE: I was discussing with some of my colleagues yesterday, have the values really changed? And our conclusion is the values really haven't changed. It's more the expectations. When we all started, the expectation was the firm hired you, you would be an associate for a number of years and then you would be a partner and that would be great.

I think that people come in now with different goals. Whether it's loyalty or whether it's expectation, I think any given number of our beginning lawyers don't expect to be there long enough to become a partner. They want to gain the basic background and then move on to something else, whether it's in-house somewhere or a different kind of practice.

We have people who take themselves out of the partnership track and say, "I love the place, I love the job, I love what I'm doing, but I don't want to be tied to the BlackBerry at all times, so I want to have lowered expectations and go along that way."

So there are changes in people's expectations and they probably are driven by lifestyle balance, and people are willing to make that choice, whereas I don't think we were willing to make that choice as much in the past.

MR. WOLFE: Right. The one thing I've noticed the most, is that this generation seems a little less career-oriented, a little more interested in having a broader life experience and pursuing other opportunities if they present themselves. Years ago I think it was quite unusual for somebody to take a job at a law firm like one of ours without the expectation that that's where they were going to continue to practice for the rest of their lives, and that's certainly not the case now.

The question for me is: How does that affect the way we operate? Has it changed the way we evaluate people or make partnership decisions or build the firm? Does it suggest that a greater associate base is perhaps a wiser course of action for the partnership because perhaps there will be fewer people to choose from out of a bigger group for partner?

MR. WADE: I've always been a very strong proponent of honesty in evaluations, so we give our people a sense of where their career is going fairly early on. I think from the evaluation process that people can then start making the decisions and we can start making the decisions as well.

MR. LEVINE: Thirty years ago you were pretty much up or out. You really didn't have alternate tracks. I think the five of us have never worked any place other than where we are. And I have to tell you that is pretty rare. Bill used the word loyalty. In the 1970s, before I was a partner I was even thinking of becoming city solicitor. I was offered it. And I talked with one of my mentors and he said, "Gee, if you even mention that, they're going to think you're disloyal." So I didn't become city solicitor.

But now I don't think anyone would have that kind of hesitation. I don't think people have the expectation that when they sign on as a first-year associ-

ate they're going to be sitting around this table in 30 or 40 years.

MR. GRELLA: When I was thinking about alternative tracks versus traditional tracks to partner, I was wondering whether those who began practice in the early to mid-1980s understood the criteria to make partner and whether or not they understand it better today and how that was communicated, then versus now.

MR. WADE: At our firm we have never had an hours goal, but I had no idea what the criteria were. I just assumed I was meeting them because they told me I was doing all right. Ten or 15 years ago they were actually committed to paper so the associates now know what the expectations are and they can make their own judgments on how to do it.

MR. BOVE: We try to give them the targets just because they want criteria. They need to know what the boundaries are and what the expectations are.

MR. GRELLA: Are those just objective criteria or do you give them subjective criteria as well?

MR. BOVE: It's pretty much objective across the board, recognizing in that different practices, there are different efficiency levels. Our patent prosecution practice is dramatically different from our litigation practice, like the difference between a transaction practice and a litigation practice.

MR. WOLFE: Twenty-five years ago it was a much cozier legal community than the one that we have now, and the partnership decisions were simpler as a result. I think people looked for hard-working people who did really good work and those were the primary considerations. Thoughts about business development or competitive advantage really didn't enter into it, at least at our firm, very much at the time. I think our evaluation is a little broader now.

MR. WOLFE: Because we have had to think about it, we've been able to communicate better to our associates what we're looking for in partnership criteria.

MR. LEVINE: It's a lot easier to

draw differences among partners than it is among associates or among senior counsel in how you compensate people and how you treat them. And, therefore, to some degree, our philosophy has been to try and move people up to partner but within the partnership we can control their differences easier than when they were associates.

I won't say we lockstep associates, but the variations are less and even among the senior counsel we tend to be more quantitative, looking at number of hours for associates. With partners it's a much more qualitative analysis because partners can contribute in lots of different ways to firm responsibilities. Some partners can dedicate a lot of time to *pro bono*, which may allow other partners to dedicate time to other practice areas.

We have found that it's a little easier to accommodate those changes with a partner than with an employee. You look for broader criteria for partners because everyone needs to contribute but everyone doesn't need to contribute in the same way. Everyone is not going to be a Chancery litigator.

MR. WADE: That's one of the reasons, in our system, the basic evaluation of associates is done by the departments. Lawyers used to do everything, so I knew what a transaction was and I knew what litigation was. I even knew what some real estate was.

But now people are so specialized that the people in our business department are explaining to me that Mary Jones is doing something great and I don't even know what she's doing. So we have the basis of our evaluation done by the departments and actually in some cases by the groups within the departments and the departments make the recommendations for elevation to one of the advanced positions.

MR. WOLFE: For many years, all partners could evaluate all associates because you more or less had contact with them all. But as we've grown, we've coalesced into practice groups and most of the substantive reviews of associates have come from the partners with whom they work most directly. We have

an associates committee that attempts to keep things on an even keel throughout the firm, but the substantive reviews come from the partners in each group.

MR. ALEXANDER: We operate the same way. Although in theory the firm-wide committee looks at younger associates, it's really the groups, but as they get closer to partnership, the firm takes notice. Although we're bigger than we used to be, we still have 40 partners. It's not huge. Associates have an opportunity to work for a significant percentage of those partners, because if you're a transactional associate in our corporate group, you're going to end up getting involved with our commercial group and our alternative entity lawyers and our litigators.

MR. GRELLA: How has the position of managing partner or whatever it's termed in your firm, changed from 30 years ago?

MR. BOVE: Thirty years ago our founder was running our law firm, so that was very simple. Then we shifted to a management committee. Running a business by a committee, I'm sure you all can imagine as the firm grew what that was like. Then finally in 2001 I raised my hand and said this isn't a good way to run the business. Who is going to run it? And no one put their hand up, so I said all right, I'll do it.

So I actually was our first managing partner and took over at the beginning of 2002, with no guidance, no rules, no training on how to run a business, except that I had started in the photocopy room so I had a pretty good idea of the evolution of the business and all of its functions. Then we eventually hired a non-lawyer chief operating officer.

MR. ALEXANDER: I think the biggest change is the professionalization. When you look at the management committee or whatever name you give that, I'm not sure how much that decision-making process has changed, but what's really changed is the professionalization of people who are running the day-to-day operations; we have a director system that includes a director of IT,

director of human resources, a COO. That's been the biggest change and it's a good thing because it allows the lawyers to practice law.

MR. WADE: We have evolved from 30 years ago a very dominant, autocratic leadership. I was told that Robert Richards would just tell partners what their pay was going to be. It wasn't like some compensation committee. That's the kind of power he had. It's obviously evolved from that. And now, as Rick said, we do have professional management, chief operating officer, IT managers, HR managers, marketing. We've got all of these professionals that we rely on to take care of the day-to-day things.

When I took over as president last July, I made a point of going through the committee list and making sure every partner was on at least one committee, and that no partner was on too many committees, to try to make sure that people were actively involved in the management of the firm.

We have a structure where we have a president and an executive vice president that are elected through a nominating committee process. Then the president gets to pick a senior vice president to assist with day-to-day administrative things so we spread the load that way. The chief decision-maker group is probably our executive committee, which meets every two weeks. That's where most substantive decisions are made and then ratified in a monthly partners' meeting.

MR. WOLFE: I think the biggest difference is that the gulf of ignorance between being a good lawyer and managing a business was less obvious then, when we were smaller and the intricacies of management were less trying. That's why we've hired so many people in staff positions to take care of those issues as we have gotten larger, because I certainly am in no position to do it. The idea that we're running a business as large as we are with as little training in business administration and the like and human resources knowledge is shocking, frankly.

And 25, 30 years ago we had an of-

fice administrator who was essentially a secretary with a forceful personality and that was the extent of our administrative staff. It's exacerbated by the fact that, less in my case than perhaps in yours, oftentimes the people who are leading the firm are among the more busy lawyers in the firm who are not necessarily the best administrators, and have less time to devote to the tasks without giving up some important aspect of their administration. So the addition of specialists at the staff level has been indispensable.

MR. GRELLA: So there are these positions: COO, CFO, HR staff, recruitment staff, training staff, paralegals, legal assistants, technology, librarian, records manager, facilities manager, case intake/conflicts manager, marketing staff.

But now there's this move nationally to take some of those functions back out of the firm and to outsource, probably for expense reasons, but there are probably many other reasons. I'm wondering how your firms have evolved over the 30 years and whether or not there is a change in how you see those different positions.

MR. LEVINE: At least our firm, to the extent there's a national trend toward outsourcing, we're behind that trend. We are still insourcing everything. And the cutting-edge question for us seems to be what level of delegation do we give to the administrative staff? The difficulty is that although we articulate the desire to delegate to the administrative staff, the unwritten rule is, "As long as they do what we all wanted them to do."

When they seem to do something that isn't what we wanted them to do, there's suddenly a reining in and our management committee suddenly says, "Well, why is this guy making that decision? We own this place." So we get a little bit of that.

But there's one law firm in town that has totally outsourced its computers to another group and there's one firm in town that's outsourced its accounting. It's very titillating. These are not large firms. It may be the wave of the future,

but at least I can tell you at Young Conway we have outsourced nothing of that sort. We have outsourced our mail room, but those are ministerial responsibilities, not administrative responsibilities.

MR. WADE: We don't outsource anything. And I was looking at your list and I've got a list of our professional staff, and you missed the hospitality coordinator, the maintenance engineer.

MR. LEVINE: I'm happy to hear that you've got something that we don't have. That's good.

MR. WADE: We have a manager of professional development to oversee the CLE and the associate issues. It used to be manager of associate development and then we found a partner that needed some help, so we made it professional development.

MR. BOVE: One area, given the changes in technology with respect to litigation, is how the litigation function has overlapped the IT function. We have taken pieces of IT and given them to litigation. Really they're IT specialists, but they're particularly specialized in litigation and document management.

MR. LEVINE: Let me volunteer something that calls on something that you asked about before about alternate careers in law and our staff. We have two marketing staff, both of whom are attorneys. They're not practicing law, but they are trained attorneys. Our librarian is an attorney. Our records manager is an attorney. We have hired a conflicts intake manager who is an attorney. They were all hired outside. They were not secretaries that ripened, the old way that you got the original office managers.

And we have combined our recruiting and our director of professional development. She was an HR lawyer for a large Philadelphia firm and wanted an alternate path. We have found that alternate track lawyers have been a very vital source of our staff, and I believe that's been beneficial to us. Lawyers have a tendency to respect other lawyers more than they respect professionals in other areas.

MR. WOLFE: Our recruiting and associate development person is also a lawyer. I think those two functions lend themselves particularly well to having a lawyer, both in relating to the people they're dealing with and to the partners. It's enhanced her ability to perform.

MR. LEVINE: A lot of credibility issues get bridged.

MR. WADE: Our marketing director and our manager of professional development are both lawyers. One of them was an associate in our office. Notwithstanding the growth of all of these staff positions, the lawyer-to-staff ratio has actually gone down significantly, at least in our firm.

I think our philosophy has always been the lawyers are put on this earth to practice law and we get staff people to make that as easy as possible for the benefit of the clients and the lawyers. And so that has led to the growth, but then automation has led to the decline in the number of secretaries. It used to be every lawyer had their own secretary. Now, I think in some places in our firm it's 4:1 to 5:1.

These people coming out of law school just sit there on their little computers and don't even need any help. So I think our ratio 30 years ago might have been 2:1 staff to lawyers and now it's 1:1.

MR. BOVE: In the 1970s we got our first IBM typewriters or Xerox typewriters, so maybe they could remember a line or two, and then the desktop computers in 1980s, the PCs in the nineties, and now look, BlackBerries, iPads, remote access 24/7.

MR. WADE: It's not a good thing.

MR. BOVE: Digital voicemail systems, on and on and on. So, yes, that's dramatically affected the staffing levels and the function of the staffs beyond question.

MR. WOLFE: Over the course of the last 30 years the position of administrative assistant has taken on special knowledge that secretaries didn't have or need 25 or 30 years ago. Now they're interfacing with the IT system constantly.

They're dealing with the electronic filing, which completely confounds me.

MR. BOVE: The biggest change that I've seen, is that our secretaries were our paralegals in litigation 30 years ago, for the most part. In our firm we had a few transactional paralegals helping our real estate practice, but that was it. So when we litigated, our secretaries helped with the document management, typed the briefs, helped with the filings, were on the floor with the rest of us trying to get the documents in the correct order and everything else.

But that morphed into a system of litigation paralegals and case managers and then into the IT department eventually with those specialists interfacing with the head litigation paralegals who interface with the case managers. The associates are in there somewhere, and that's always an interesting pecking order as to who is in charge of what in the lower end of the case or the guts of the case with the documents and everything else. It changed dramatically. We went from two paralegals to 12 or 15 for case management.

MR. GRELLA: We were told a few years ago that legal assistant was the appropriate term but apparently secretary is now again an okay term to use. Just with respect to that position where were your ratios in prior years?

MR. WADE: Thirty years ago it was close to one to one lawyer to secretary. Our overall staffing ratio was two staff to each lawyer and now it's about one to one. And the secretary ratio is probably close to three lawyers per secretary.

MR. LEVINE: We were one to one for secretaries 30 years ago and now we're probably 2½:1 to 3:1 in secretaries, but that's a little bit misleading in the sense that a lot of the functions that the secretaries did are now done by others. For instance, we have file room clerks. My secretary had been responsible for my filing. Now a lot of the filing is done by central filing clerks.

So our overall ratio right now is about 1½ staff people per attorney, which I always look at as a more relevant ratio.

As Bill says, we rely upon our administrative assistant to do a lot of functions, yet there are others that share five to one, but they do some of the things themselves. Also they may have paralegals that do a lot of their filing and then the paralegals are doing the filing and there's a file clerk assisting the paralegal.

On an overall basis, I think our ratio is not as dramatically different, as Bill said earlier, even though we now have a lot more highly paid professionals doing things like marketing, hiring, accounting. I think that our ratio of lawyers to non-lawyers is probably about the same. Ours may be a little bit higher than others in town.

We have more paralegals than most of the other firms. We for some reason burst into the paralegal market very early. I think we have 40 paralegals, but we had 20 paralegals in the 1990s, which was way ahead.

Part of that was that we have a large personal injury practice and a large local real estate practice and each had seven or eight paralegals. None of the other large firms did plaintiffs' personal injury work and very few were doing the level of residential real estate we did, so we have always been paralegal-heavy.

MR. GRELLA: Let's talk about paralegals, associates and whether leverage has worked in driving down work to those levels. How did you deal with those folks and get the work done and how has that developed over the years? Has this been affected at all in recent times with larger clients not wanting to pay for work being given to younger associates?

MR. ALEXANDER: I'll say for us leverage has increased but not really dramatically. I would say when I started we were probably a little less than one associate to a partner, depending on where you were in the cycle, and we're now greater than 1:1 but we're not 1½:1.

As to the second part of your question, I think we're in a different market than a lot of other cities. We don't see so much of the pressure from clients about first-year associates working on matters because we tend to be very lean in our

staffing. My practice, in particular, is very much of a local Delaware counsel practice, so we'll be working as specialists with other lawyers in other cities a lot of times or we'll be working with general counsel for big firms and these are just not the issues that you see with that kind of pressure.

MR. WADE: I agree with that. The one thing we have done, particularly in litigation matters, given the nature of the cases we typically deal with, it's hard to get significant roles for the young people and have people pay for it. So we try to get them involved and we have what we call a training number. So if I have a young associate working with me on a case doing things, I don't necessarily bill that to the client. I bill it to the training number so the client doesn't get hit, but the associate gets billable credit for the time spent and we found that's a good way to get them involved and get them some training.

MR. BOVE: We have a similar type of system, a little more informal, where we expect associate write-offs and explanations for them and it's just part of the training process, but the clients really are not charged. It's not fair to charge them for that.

MR. WOLFE: Leverage at our firm is very different from when I first started. I think we had five associates. We probably had 12 or 15 partners and so whatever the opposite of leverage was, that was our economic model. And we slowly over the course of the next few decades got to one to one. I think we're a little bit beyond 1:1.

So there's a cultural situation in our firm that valued the intangible benefits of having a relatively small associate class, and there are some. It's a more collegial atmosphere. There's less competition. There's more stability in terms of the people that you hire on.

But I don't think it's a realistic situation to maintain in the current market. I think there is a limit. Obviously you have to have the work that will keep your folks busy in the first place, but it's worked for us.

MR. WADE: I think when I started there were 16 partners and I was the eighth associate, so a big firm even then. Then that evolved. Thirty years ago we had 1.5 partners per associate. At the peak when we had the greatest number of employees, we were 1.5 associates per partner, so we flip-flopped that. And now we're above the one to one, which seems to be the right ratio for this kind of practice.

MR. LEVINE: We were the least leveraged when I came here. There were 11 partners and two associates. It was a big event when we had as many associates as partners. We used to keep a letterhead, actually up until two weeks ago, which listed our partners and our associates on different sides of the letterhead, so it was easy for people to kind of see that ratio.

MR. WOLFE: The other effect of that deleveraged situation is that the training of associates was far different. Obviously if there were only two associates, I assume you pretty much did everything in the firm.

MR. LEVINE: And the other associate was doing insurance defense work so I did everything that wasn't insurance defense work.

MR. GRELLA: What was it like 30 years ago when a new associate was coming to the firm? What could they expect with respect to learning?

MR. WADE: It was Nike training: Just do it.

MR. WOLFE: It's much more formalized and much more specialized obviously. One of the things that you need to be careful of when you expand your associate base, and your firm gets bigger, is that you keep track of the people you hire and don't have them wandering the halls hoping to find something to do. You want to have some supervision of those folks.

The advantage of practicing in separate groups is that you can assign associates to those groups and it's a little bit like being in a small law firm except within a particular specialty. And obviously I'm sure all of our firms have

formal training programs they go through in order to improve the skills of the newer folks and comply with CLE requirements.

MR. BOVE: I think we all use the formal training programs. That's something new where literally programs are offered on a regular basis for our associates. We have used a mentoring system which has somewhat worked. Sometimes the mentoring system morphs, where an associate feels more comfortable with a partner that the associate doesn't work with, so things shift around and it becomes an informal mentoring system, but we felt that's important.

MR. GRELLA: What was it like 30 years ago at your firms?

MR. ALEXANDER: There was no formal training program. The way you learned was you worked with senior lawyers. That was a great way to learn and I would say still even if you have a formal training program. It's different. You asked the question firm by firm, but really within our firm, you have to look within the groups.

In our firm there's more formal training for the litigation associates than there is for corporate transactional work. It's really the same that it was when I got there 23 years ago in the corporate transaction group. And the way you learned is you sit down and you go through the document and a partner goes through the document and you compare notes and you say 'ahh, these are the things that I need to know.'

MR. WADE: I had the advantage of working in my early career almost exclusively with Rodney Layton and we were doing the big Plan Omega hospital relocation case and that took up virtually all of our time. That was just a tremendous learning experience, just to see how he operated and he would train and go over things with you. And if you went to court with him, he was so respected that some of that dripped off on you and pretty soon the judges got to know you and you got to benefit from that.

Today we do have the formal train-

ing programs. The manager of professional development is fabulous in that she develops training programs in all of the different areas. And so it's more formal. We also have an assignments director for each associate to help coordinate assignments.

After the first year we let the associate select a mentor. I said well, you can't assign a mentor because you may just not get that mesh. But now we let the people pick a mentor and we have certain requirements for menteeing, which are sometimes honored, sometimes not. In our litigation group, for example, there's 18 of us and we have close contact. We're all located in the same area of the firm. We have periodic parties where everyone gets together informally and talks about what they're doing. That all becomes part of the training, both the formal training in the law and also in the culture of the firm.

MR. WOLFE: Our experience was very much the same as Bill's early on. You pretty much did what anybody asked you to do, whether you knew how to do it or not, and that worked. It's not an invalid way to learn how to become a lawyer. It's just sort of slow and incremental and perhaps less suited to the specialty practice that we all pursue now.

So that has given rise to the need to have these formalized training programs to teach them a little more quickly the ins and outs of a particular practice. We also have a team system where associates are assigned to a group of lawyers, usually a senior lawyer and a mid-level lawyer and a couple of associates so that there's some effort made to keep track of what work people are doing and how well they're doing so that when evaluations come about we have knowledgeable sources to turn to. And we turn those over periodically just in case people are not happy with their teams.

MR. LEVINE: One of the differences from 30 years ago, and this isn't really just for associates but for all of us, 30 or 40 years ago if you wanted to go into an area of law there was not likely to be a CLE or a national seminar on that

subject. During the 1980s and 1990s, as I transitioned from being a corporate litigator to a real estate and transactional lawyer I would attend seminars and found them to be very helpful. Some areas I ultimately went into. Some I didn't. And really in the 1970s there was virtually no CLE around.

MR. GRELLA: Let's move on to finance. Has there been much change in fee structures over the years? Beyond the fact that hourly rates have increased, has there been much change? In the past, was it lockstep? Are fees now based on some determination of value or some combination of things? Is it client driven?

MR. BOVE: It all depends on what practice area you're talking about, number one. And, number two, I think 30 years ago we were pretty much guided by the billable hour in terms of how we related to our clients, although there were some fixed-fee transactions. If you were doing real estate transactions, or certain types of estates and trust projects, depending on how complex, it could have been a fixed fee. It just depends on what the level of sophistication of the work was and the practice area. But, in general, it was hourly rate work 30 years ago.

Today it all depends. It's everything, depending on what the clients are requesting. Certainly in the litigation area, we're getting all sorts of different things. Some clients are actually engaging in reverse auctions where you're bidding online for litigation against other firms in real-time. I've never seen anything like this.

MR. BOVE: And then fixed fees, it's been reported that some major corporations, you're part of a community of law firms, a narrow group of law firms. They have different arrangements there. So it really is quite varied I think today versus 30 years ago when I think it was largely driven by hourly rates.

MR. WADE: I still think that the hourly rate is the basic metric. Our hourly rates are based generally on seniority. They may change in some

practice areas. But I think we also have seen a change. Thirty years ago you could send a bill out to a client for “services rendered in X versus Y ... \$10,000” and that was perfectly acceptable. Nowadays with the computers and everything they want detail, the clients want more detail, and fortunately it’s pretty easy to give it to them.

But I think we’ve always had alternative billing arrangements. Even back then, some people would want detail. We would have special rates for non-profits. We would do fixed fees. Very, very rarely through the course of our history have we ever done a contingent fee case.

I was putting together an RFP a couple of years ago and I said we don’t do any alternative billing stuff; that’s just crazy. And then I started to inquire and found out that we really do the entire gamut, except for that reverse auction.

MR. ALEXANDER: It’s an interesting management issue. Hourly is still typical, but there are lots of alternative billing arrangements. From a firm perspective you want to make sure that everybody has a handle on what everyone else is doing because it affects all of us. And I think there is sort of a win-win aspect to alternative billing arrangements. It may not actually change the amount the client is paying, but they may feel like you’re not churning, even if you wouldn’t be, but if they feel like you’re not, it’s a better relationship.

So there are advantages to alternative billing arrangements, but from a firm management perspective, we do have a policy that alternative arrangements go to the executive committee so that the whole firm knows whatever everyone else is doing in that area.

MR. WOLFE: We have that as well because it is important to the entire firm if you’re going to change the fee structure even in a couple of cases. Our experience is similar. The hourly rate is still the primary way in which we bill. And, frankly, the talk about alternative fees has always, in my experience, exceeded the actual arrangements of that sort.

Maybe that’s because we’re in a unique jurisdiction or because we work so often with other law firms. I’m not quite sure why. But in my experience what clients are looking for is predictability to some degree, quarter over quarter. So you see a lot of requests for budgets and they want to know what they can expect.

The problem arises not so much when you tell them that the number is big but when you exceed that number, whatever it is. That creates problems for them internally. But we haven’t had a lot of pressure for alternative fee arrangements. I take it you guys haven’t either.

MR. WADE: No.

MR. LEVINE: Our firm is different because we still do plaintiffs’ personal injury work that’s purely contingent and it’s not an insubstantial portion of our fee revenue. It varies dramatically from year to year depending on the success of the cases. We still do a little bit of contingent work in the corporate area but very little.

One thing that’s very different is that 30 years ago it was a secret to Young Conaway what Morris Nichols was billing or what Richards Layton was billing. Bankruptcy practice has changed all of that. The emperor has lost his clothes because you must file a petition in the Bankruptcy Court and disclose the hourly rate of each individual who worked in the case.

I think that’s had some effect on how we establish our rates. If X, who is junior to our Y and we don’t think is as good, is charging more, we say maybe Y should be charging more than X. The other thing that’s unique in Delaware in terms of fees and engagement letters, a lot of the corporate work in Delaware is save-the-company business. It gets referred by another New York law firm and the case is over before you’ve even read the thing that they sent to bill.

Therefore, we don’t get as forced into a lot of those structured fees because if they want us and they need us and the hearing is tomorrow, this is not a good time to negotiate how many associates are going to work on the case.

We are benefited by the fact in a lot of these cases that our bill gets submitted either to the New York firm or with the New York firm and because our rate structures, which may be healthy, are dramatically less than those other firms, we’re out of the direct line of fire.

Now, my practice is almost exclusively local in the last 20 years. And I can tell you my personal experience is quite the opposite of everything I’ve now said, but speaking more for the firm and speaking more for the institutional Delaware bankruptcy, intellectual property, corporate, I think what I have said is more accurate.

MR. BOVE: When I started, at the end of Mr. Connolly’s career, there were two phases of the cases. The first would be the liability phase of the patent case and that was a decade, and then the accounting phase was another decade. So I’m starting and thinking, I’m this age, each case is 20 years, I can do two cases and I’m done. I’ve had a perfect career full time. And then of course scheduling orders came into play and things became expedited so the cases became condensed into maybe two to five years.

Because the patent bar at that time was relatively small nationally, a limited number of lawyers in the United States could do these cases, so they could command a certain fee structure. Folks now come in with large general litigation departments without the specialized backgrounds.

So the world of lead counsel patent litigation has changed in the United States quite dramatically. The corporations and their approach to these cases have now changed. Even if some of them are bet-the-company, they’re still accountable to their finance departments.

It has been a dramatic change over 30 years in the patent litigation bar. Patent prosecution has been much more transactional-based and is driven by market pressures from the big companies, and in some cases is viewed somewhat commodity-like, even though it’s very sophisticated.

MR. WADE: You negotiate a little bit. I think one of the interesting things is

the billable hours have been under siege since I started practicing. That's what consultants do. I mean, if you can't find an article written on any given day about the billable hour is on the way out, then the consultants are failing.

There may be for all of the reasons, the bet-the-company cases, the need to have the expertise, those kind of things, that the clients aren't as demanding of us as they might be of others, but it still seems like it's the basis for a good percentage of our work.

MR. GRELLA: So it was 30 years ago and it still primarily is to this day?

MR. WADE: I think so. I think there probably is more variance in the kinds of alternative billings. I think there is more desire on the part of clients for budgets. And it's true if you can come in under a budget, then everybody is happy, but still those are based on how many hours you're going to spend or how many hours you guess you're going to spend.

MR. GRELLA: How was billing done 30 years ago versus the way it is done today? Additionally, what drove the changes in your billing practices? Was it ethics rules, court rules, clients' demands or some combination of forces?

MR. BOVE: Start with the contrast between the single page for services rendered to today with electronic billing procedures with each tenth of an hour recorded for each task, or the client's computer will reject the bill. Dramatically different.

MR. ALEXANDER: I think the big change that people would like to implement is that people from a national perspective would like to have centralized billing so that the bills, in fact, go out every month because lawyers like to practice law; they don't so much like to collect and billing is just the first part of collection.

MR. WOLFE: Or fill out time sheets.

MR. ALEXANDER: So I'm just guessing that the main struggle everybody here faces is that somebody in-

involved in management of the firm is to make sure that work in progress is being turned into accounts receivable, and is being collected. There's no formula for that because lawyers have clients and they want to take care of them.

MR. WADE: We have an accounts receivable and billing committee that focuses just on that and knows whose time is in and whose bills are in.

MR. BOVE: Here's a funny story. Many years ago in our patent litigation department — bright Ph.D., great mind, quintessential professional; business person not — after a few months where time wasn't being sent in, the idea came up, we're going to stop the paycheck. Something has got to get somebody's attention here. Well, after five months the attorney came up and said do you know? I've been working on this. I noticed I haven't gotten my paycheck for five months.

MR. LEVINE: One of the big differences, again going back 30 or 40 years, we kept time sheets manually. We put our first computerized time system in around '79. Prior to that, even though you kept them, I would almost say they were a private thing. Nobody knew what Bruce Stargatt's time was for the month of August 1975 and nobody would ask him.

After we went to an electronic system, we all knew what everybody's time was and we would know who wasn't billing. We really didn't have the ability to know that before and it became part of this openness that you have within law partnerships, or at least within our law partnership so that everybody is aware of what's happening because it's there; it's on the computer and it's shared information. It's been easier to make sure that people get their bills out because you know now if they haven't.

But when we first started practicing, we really didn't necessarily. We knew what the revenues were, but we really didn't know what the accrued time was. In the old days we used to dictate bills. The secretary would have to type them

and that could take a long period of time.

Now the computer spits it out and you then edit it, but you get, and I'm sure everybody has the same thing, you get pro forma bills so it's easier to send a bill that details things down to the tenth of an hour, which in 1975 or 1976 would have been very, very difficult. Plus I will tell you in the 1970s we kept time by quarter-hours. We didn't go to tenths until the 1980s.

MR. WADE: We always did tenths. And we had centralized recordkeeping and billing. I would dictate the bill and my secretary would type it, but then it would go to the finance people and they would take care of getting it out and getting it paid and all that other stuff.

MR. LEVINE: We didn't then and we still don't now have anybody — the billing partner edits the bills.

MR. WADE: Our CFO is great on that stuff. If your bills aren't out, you're getting a call. If somebody in the litigation department does not get their time in for a couple of days or a week, I get a call and they get a call, so it's much more on top of it because we have had in the past experiences where people didn't do that and didn't do bills and say I'll get it to you at the end of the matter. Well, at the end of the matter the person dies or something happens and you have this huge outstanding bill.

MR. GRELLA: Let's move on to the fourth area, Facilities and Records. This area encompasses recordkeeping, facilities, law library facilities and technology. Over 30 years what changes have you seen? For instance, consider the difficulty of storage of paper records, electronic media for storage, on or off record premises considerations and new forms of data storage in the cloud.

Where were your firms 30 years ago with respect to keeping records and where have you come since then and what are the biggest considerations or concerns that you have now, both practical and ethical?

MR. BOVE: When I was growing up, it was how many rooms and how many

banker's boxes and then I would determine, based on the nature of this dispute, how many people to go through them. Today 1,000 to 2,000 box cases by old world becomes a couple of disks in my briefcase. It really is amazing. So that's the stark difference from the litigation perspective in my view.

MR. WADE: Thirty years ago we had off-site storage of our firm's paper records. Today we have off-site storage of the non-active paper records. We also have, of course, storage of the electronic records, which is a lot easier. We've talked about the cloud but decided not to go there. For among others, security reasons.

And one of the issues we have is the quantum of paper. It just grows and grows over the years. And while we have a rudimentary, about-to-be-improved records retention policy, one of the difficulties we're going to face is if we implement that, we've got a whole lot of stuff that needs to be culled and taken care of. And that's going to be a big issue.

MR. BOVE: We're off site as well, in part, and on site with a huge room in the basement of the Nemours Building.

MR. ALEXANDER: One thing that's interesting is the amount of paper we're now producing — and some people have a very direct program for going paperless. Our bankruptcy group has that, but the rest of us don't. But for me it's just a natural evolution because most of the correspondence used to come in by FedEx and now just comes in by e-mail and you might print it out to read it, but your actual storage is just storing that e-mail, just moving it into the file. We're doing renovations right now and secretaries will have 40 percent of the file space that they have today, and we think that's going to work. They're not sure.

MR. WADE: We have gone to electronic record jackets, which is great because then the whole thing is on your desktop. It's uniformly implemented, but I've been in a pilot project to see what level of knowledge you need, and it's fabulous. I mean, it cuts it down.

Record jackets grow and grow. Here you just click to this thing and it's all there.

MR. WOLFE: We're in exactly that mode, looking into how best to implement that. I'm not sure the extent to which there are products out there that are going to be entirely satisfactory. I think they're in the process of being developed as well and they suddenly improve over time.

But I agree with Rick. I think that's where we're going and, frankly, unless you're able to get your lawyers to cull their files as they're completed and keep whatever you need for insurance purposes and get rid of the rest, even that results in a lot of paper and a lot of files being stored on property that you're presumably renting and can't use for other useful purposes. So it's clearly the intelligent solution once we figure out how to do it.

MR. BOVE: What troubles me with this, looking out into the future, and given the systematic upgrades in technology and the systematic dropping of support of certain technologies, if we all go to a certain standard and that standard changes and we are ethically required to maintain the information for certain periods of time and all of a sudden we don't have the technical capability to access that information, we're in a little bit of trouble. I don't want to go too far out, but this is something that in the back of my mind worries me.

MR. LEVINE: I have been encouraging the guys in the technology area and the corporate area in their engagement letters to be clear about who is going to be responsible for retention of records because the ethical obligation is to the client. And one of the things that's dawned on me, Fortune 500 clients, particularly, have got a lot of warehouses that they're not getting charged for the way we are after the case is over. And we have been trying to return things to the clients and retain what we need for insurance or for our own records retention purposes or to meet whatever court requirements.

And of course now, with all of the pleadings being electronic, maintain-

ing pleading files that used to fill up file cabinets is now on one little piece of plastic or on two little pieces of plastic, so there are some dramatic differences. We didn't go to 40 percent. When we moved over here, we reduced our file cabinets per staff person by 25 percent.

MR. WOLFE: But their trunks are full. I might say though that there is an assumption out there that because a record is more tangible that it's more easily preserved. I mean, perhaps I'm overly sensitive about this because our firm some years back was forced out of its office and a lot of records were ruined by disasters that happen in warehouses from time to time. And so I'm not sure that you're any better off or any worse off if you rely on an electronic system rather than a banker's box.

MR. GRELLA: Let's turn to your physical office facility. Have our attitudes and decisions with respect to physical facilities changed? At least in my firm there still seems to be some belief that one's office location and size matter, like it's status. Is that still the case? Have we moved to more business-minded decision-making with respect to facilities, locations, who gets what?

MR. WADE: We're still where we were 30 years ago. We moved into the building in 1980. Now, we have taken over more and more floors of the building. Eight or nine years ago we built a conference center on one of the floors and did that kind of thing. But in terms of the office space, we've always had sort of two-window offices for associates, three-window offices for partners and then corner offices. I think people do aspire to go to the bigger office as time goes on.

MR. BOVE: I find that to be somewhat the case, even though I certainly tried to move our folks away from that attitude and deliberately as managing partner took an office that had the worst view in the building to try to set the example of, "What are you doing looking out windows? Why do you even need windows? Tell me how does this help you practice law and how does this

help our clients if you have windows?"

Let's face it, with the virtual office now, what is the office? To me it's wherever our connection is to our office. It's everywhere at this point in time as a practical matter, unless you really still use a lot of paper and need to spread it out, in which case you have litigation rooms or war rooms or conference rooms to go visit. I realize the ego and the status problem, but I think it's a problem and has very little practical effect in my mind.

MR. WADE: Also it's dictated by the structure of the building.

MR. WOLFE: That's right. If you could build uniform offices, you wouldn't have a choice for the most part, but people would probably still be bidding on what side of the office you were on or what was out the standard-sized window you were looking through. We're in the same place. It's part of the aspirational goal of lawyers to get better offices, if they can.

Thirty years ago we used to do it strictly by letterhead seniority. Now we're at least organized in terms of practices and that has changed a little bit the options that are available to lawyers in any given practice group, but it's still very much a part of the culture.

MR. WADE: We did the exact same thing. So the fact that I'm higher on the letterhead than someone in the business group wouldn't give me that empty business group corner office.

MR. BOVE: We were talking about associates being on 24/7, all of us being on 24/7. That morphs into well, then what's our office? Well, if we're on 24/7, our office is wherever we are. And as a practical matter, that is going to continue to change the physical configuration of offices going forward into the future.

One of the challenges though is, if associates are working quite effectively and efficiently remotely from their house, is that okay with everybody? What are we missing if we do this? The hours are being put in. The work is being done effectively. It's always a challenge

to try to figure out how to manage that.

MR. WADE: I've always found great value in being able to draw on the knowledge and expertise of the very smart people that surround me, so I am not a big proponent of the virtual office and people working from home and whatnot because I think there's a lot to be gained from the camaraderie and the knowledge of other people. So I'm hoping we're not heading there and we certainly don't encourage that. We have had some isolated instances.

MR. BOVE: I agree, Bill. It's a challenge because you get the counter argument from the associates. And of course one thing I really learned working in Los Angeles is, do you want us to sit in traffic for an hour and a half or two hours or actually work? And then when I spend a few hours in that traffic I start to appreciate, three hours in traffic versus three hours doing client work.

MR. GRELLA: The last topic area is marketing. Generally what was marketing like 30 years ago? How did you market yourself to potential clients and how has it changed over the years and where is it now? What has driven these changes? Is it a change in the target? Is it a change in the rules of ethics? Is it change based upon the advice of experts you may hire?

MR. BOVE: I have always felt that there were two profound events that shaped the legal profession. One was a 1975 case called *Goldfarb v. The Virginia State Bar* where the voluntary minimum fee schedule was stricken by the Supreme Court as not exempt from the U.S. anti-trust laws. In other words, there was no learned profession exemption and that the legal profession was classified as a trade or business in that decision.

The second was the 1977 case of *Bates v. The State Bar of Arizona* where under the First Amendment the Supreme Court said that a State Supreme Court through its rules could not prohibit attorney advertising.

I'm not saying that we advertised. What I'm saying is that those two cases in my mind set the legal profession on a

course that would have been a little bit different had they not been announced and basically said, "Look, you're a trade or business; go act like a trade or business." To me, that set the context for modern business development, competition and marketing.

MR. WADE: That said, 30 years ago I don't think any of our firms would have even thought of advertising. If you mentioned it, you were in deep trouble. We marketed by the highest quality work and serving the client's needs in the best possible way. That was the entire marketing idea.

And now, six, maybe seven years ago we hired our first marketing director. Obviously the *Bates v. Arizona* case was sort of the beginning, but I think it's the computer again that's necessitated having the marketing directors and making sure you have your website and you have all your marketing materials and you're doing all the things that you need to be doing in terms of ABA committees and getting out there and client meetings. So just doing outstanding work is no longer sufficient to keep up with the competition.

MR. WOLFE: I'd like to think that we were all just better people back then and we didn't think about crass things like marketing but, in fact, the market was very different for all of us. There were relatively few firms, and from the corporate litigation standpoint, relatively few firms in Delaware were on the list and there were usually enough parties involved for most of us to be in the case no matter what. So it seemed less a priority at the time, and of course it just wasn't done. But the world has changed.

MR. BOVE: A historic good reputation and performance, as Bill said, was all that was required.

MR. WADE: Right. Can you imagine going to Mr. Connolly and saying hey, can we put an ad in the train station?

MR. BOVE: It would be unfathomable. And as these cases were decided I was scratching my head saying, I don't know what this is going to mean, but

it's going to change things an awful lot, maybe for the better, maybe not, because all of the arguments that the profession put forth were rejected: It's going to result in an undignified approach to law.

MR. WADE: Have you seen a mesothelioma commercial recently?

MR. BOVE: It can go a little bit too far. At the end I guess you have to ask is this good for the consumer, for the person purchasing legal services?

MR. LEVINE: I have heard what Rick Alexander said and what Bill Wade said, but let me tell each of them that their firms were very big into publications. Don made a comment about Balotti and Finkelstein, which is a well-respected corporate text. And Morris Nichols has made a history of Arsht and Black, and Arsht and Sparks, and Sparks and "others."

Even before you had marketing consultants telling you to write books, you people were publishing books, not only for the beauty and glory of scholarship, but it was a great marketing tool. I will tell you, as one with a firm in Delaware that did not publish a book, I certainly noticed the firms that were. That is an area where Delaware law firms really did get out in front, really even before the 1970s, even before the cases that you're talking about.

Back in 1967, the corporate law changes, and all the writing that was done by your firms, Potter, Morris Nichols and Richards, back then. That was really great national marketing. They marketed Delaware, they marketed the General Corporation Law and they couldn't help but be marketing themselves at the same time.

MR. WOLFE: Of course, we also had the advantage of having access to the letter opinions that no one else had. I don't know how that came about or how it went away, but it certainly changed the leverage.

MR. WADE: Because we were in all of the cases, we had all of the letter opinions.

MR. LEVINE: I can tell you how it went away: L-e-x-i-s. ♦

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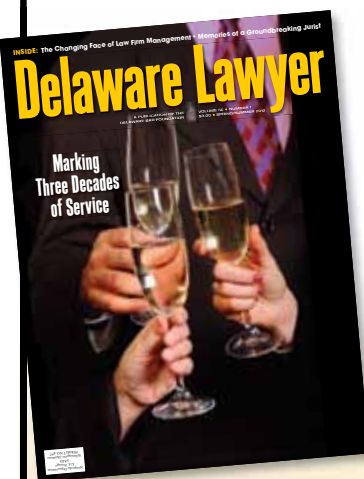
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Perseverance:

A Legal Pioneer Looks Back

As I look back on my 47 years as a lawyer and judge in Delaware, I am delighted at the progress that women have made as members of the legal community.

As one of the first women practicing law in Delaware, the author faced both challenges and doubts.

When I passed the bar exam in 1965 and became a member of the Delaware Bar, I was the tenth woman to do so — although for years I thought I was the ninth and I found it irritating to move into double digits.

When I joined the Bar, I was the only woman trying cases in Family Court, Superior Court or the Court of Chancery. There were only two other women in Delaware then who were actively practicing law. Bret Sturdevant was working for the DuPont Company as a patent lawyer, and Sybil Ward was doing real estate title searches — in the day when the deed registers had to be gone through by hand and the volumes were almost half as big as Sybil Ward was herself.

At that time, I was also the only

woman attending the Bar Association lunches — Vince Theisen, then president, used to start the meetings: “Gentlemen and Mrs. Roth.”

The male members of the Bar had a mixed reaction to my admission. I never experienced any overt discrimination but I was troubled by the limited concept many of them had of what a woman lawyer could actually do. I have always believed that this limitation, based on what many men thought could be expected of women attorneys, was more of a problem than was outright resistance to women’s admission to the Bar.

For example, I was told that I would do domestic relations cases at Richards, Layton, and Finger because women understood that area of the law. I was also told that, as a woman, I would never become a partner. (I did reach

that goal in 1973.)

My first representation of a client at a divorce hearing — the grounds for divorce being adultery with circumstantial evidence of the wife living in a one-bed apartment with her paramour — resulted in Judge Lynch remarking after the hearing that he didn't think nice young women handled cases like that.

The hardest obstacle I faced as a young lawyer was convincing the attorneys I worked with that I, as a woman, could perform just as well as — if not better than — they could. It's stressful for any young lawyer to step into a new situation and to show that he (or she) can do the job. It is difficult to convince a new client that you can help her despite the fact that you don't have the slightest idea at the onset of how to solve her problem.

It was all the more stressful for me because I feared that if I messed up, it was not just I as an individual who had failed, but I would provide ammunition to those who doubted that women should practice law. My failure would reinforce the opposition to women in the law.

Ultimately, of course, the make-up of the Bar was going to change and that change would occur whether I succeeded or not. Nevertheless, I could not help but feel that if I failed, it would make it just that much more difficult for other women to succeed as lawyers.

An added complication to my legal practice was the fact that I had two small children and a husband who spent most weeknights in Washington. Before I could go into the office in the morning, I had to make sure that the nanny had arrived. If her car broke down, this involved putting the kids in my car to go pick her up and then taking everyone back to the house.

As the kids got older, I had to get them off to school with breakfasts in their stomachs and packed lunches. This morning routine was the most hectic part of the day. I often felt that it was a great relief to get to the office where I only had to worry about the law.

I wrote countless briefs on the dining room table at night after the kids

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had gone to bed. I spent many of my lunch hours driving car pools of kids home from nursery school.

Unfortunately for me, my parents thought that I should be staying home with the children, so I knew that complaining to them about my schedule would not be very useful. Fortunately for me, Bill was supportive and that helped my morale — but as I've mentioned, he spent many weeknights in Washington. In addition, his support was not demonstrated by fixing breakfasts or making lunches or getting the kids dressed in the morning.

There were mornings, as I was driving into the office, that I would wonder, "What am I doing this for?" I knew that I wanted to have a job. Before I went to law school, I had worked for six years for the Foreign Service of the U.S. Department of State and I liked working. But I had started out with the Foreign Service as a clerk typist and ended up as an administrative assistant and I had had enough of that type of work.

On the other hand, I did not enjoy every minute of law school. Sometimes, in order to force myself back to reading cases, I would have to ask myself if I wanted to go back to typing. This would raise my flagging resolve. In addition, I was very interested in the law as a concept. I was beginning to see the structure it gave to our society and its

value to the organization and the operation of our lives.

So, I was happy with the choice I had made to go to law school and I was determined to succeed as a lawyer. I was also afraid that if I took a few years off to be at home with the kids, I would not be able to get back into the practice of the law. I would be told that I was no longer up to date on legal issues — or even worse, that I had demonstrated, by taking time off, that I didn't have what it takes to be a lawyer. So I persevered.

I am sure that the difficulties I had as a young lawyer were the same as young lawyers (men or women) have today — anxiety about doing the job right, concern that the kids are being neglected if you don't spend enough quality time with them, ambivalence about being a working mother, exhaustion from lack of sleep, etc. But I think that these worries were exacerbated for me by the fact that I was one of the first women to practice law in Delaware. I felt that all eyes were upon me.

Today, the role of women in the Delaware legal world — and indeed throughout the country — is essentially that of "a member of the Bar" — pure and simple. At some law schools there are more women than men; at others there are more men than women.

This continuing influx of women into the profession has made a difference. Among judges, the percentage of women judges has lagged behind the percentage of women members of the Bar, but it also is finally moving up. This is not as evident in Delaware as it is in other areas — but progress is being made across the board.

Among the federal judiciary, for example, in 1982, on the U.S. Supreme Court, there was one woman among nine justices; on the U.S. Courts of Appeals, there were nine women out of 126 circuit judges; and on the U.S. District Courts, there were 37 women out of 492 district judges.

By 1993, the number of women has risen: two on the U.S. Supreme Court, 23 out of 156 circuit judges, and 70 out of 559 district judges.

In 2009, the numbers were even better: still two out of nine Supreme Court justices (now there are three), but 45 out of 167 circuit judges, and 215 of 856 district judges.

Women receive the same training as men do at law schools and they pass the same bar exam. So here is the question that now intrigues me: Has the growth of women in the law made a difference in the practice of law and in the justice dispensed by our courts?

I know of no hard figures to demonstrate any difference, but from my experience as a litigator and as a judge, I believe that it has. I know for example that as a trial lawyer, taking depositions, I have seen “forceful” male attorneys get nowhere with a reluctant witness, only to have a more quiet-mannered female attorney step in, win the witness’ sympathy and draw out all sorts of information. I have seen male adversarial divorce lawyers feed the antagonisms of the parties to a divorce and, as a result, exacerbate a touchy situation. These dif-

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ferences in approach are not necessarily gender-based, but I think that there is a relationship.

Similarly, in judging, has the growing number of women judges made a difference? Women judges follow the same rules of procedure and are interpreting the same statutes and regulations. Nevertheless, a judge interprets the law with a certain background and experience. Judges with different backgrounds and experiences will perhaps give different priorities to the evidence before them and different appreciations to the circumstances of the case.

On the U.S. Courts of Appeals, three-judge panels are employed to decide the cases. One reason for three judges is to have three different points of view. These different points of view may be resolved in a unanimous decision — but not always. The different points of view of the judges on the panel will give greater depth to the review of the case and a more comprehensive understanding of the implications of a particular decision. I believe that this collaboration by the panel members results in better decisions.

From my own experience as a judge, I appreciate the input that I have gotten from colleagues who come from different ethnic, religious, economic, and racial backgrounds. As judges, we

decide cases based on the law and on the presentations by the litigants, but I am convinced that the collegial interaction of a panel of three judges can give a more deeply-thought analysis and a more logical resolution of the issues on appeal before them.

To that end then, I welcome more women to the bench as well as more new judges with backgrounds that can give greater breadth and understanding to our deliberations.

Let me note in passing, that I have found very little difference between sitting on panels with Republican-appointed and/or Democratic-appointed judges. A good judge is interpreting the law, not making a political statement or pursuing a hidden agenda. The judges with whom I work understand that judging works this way. It’s one of the factors that makes the Third Circuit Court of Appeals such an outstanding court to be a part of. Indeed, I hope that the growing intransigence that we see between political parties, and even within political parties that do not tolerate any divergence from the party line, does not leak over into the judiciary.

Perhaps, the most important lesson that I have learned as a judge is: Don’t make up your mind before you are thoroughly familiar with the case and don’t let preconceived notions direct your decision.

So, looking back on these 47 years, I know that I have learned a lot. I am so glad that I did persevere. Women attorneys and women judges today are accepted based on their individual abilities — not on some stereotype. I persevered as a young lawyer in spite of the hardships of working, raising a family, and being watched to see if I really could do it. I did succeed and I didn’t make it more difficult for new young women to enter the legal profession.

It almost looks easy now that I can look back on it all. In addition, I am certain that the difficulties that I endured as I was working to succeed helped make me a better lawyer and a better judge.

Ah, this younger generation just has it too easy. ♦

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An Anniversary Roundtable: Three Decades of *Delaware Lawyer*



This roundtable discussion, held May 1, 2012, commemorates the 30th anniversary issue of *Delaware Lawyer*. We shall go through a number of topics and try to give our readers some sense of what has happened in the last 30 years. Maybe we'll even end up with a thought as to what we see in the future. Of the five of us here, three were involved at the beginning — Richard Levine, David McBride and myself. Karen Pascale and Vern Proctor have been past Chairs of the magazine's Board of Editors

Three original
Board of Editors
members and
two former past Chairs
trace the growth of
the state's premier
legal journal.

JUDGE AMBRO: As background, the Delaware Bar Foundation was formed in May of 1981 and one of its goals was to communicate with the public about activities of the Delaware State Bar Association. A chief means to do so was to start a magazine to distribute to, among others, members of the Association.

I was first approached either in late 1981 or early 1982 by Bill Wiggin, who was a partner at Richards, Layton & Finger, where I was an associate at that time. Bill had been asked if he would chair the Board of Editors of a new magazine to be published by the Delaware Bar Foundation, as yet unnamed. And he met with a fellow by the name of Edwin Golin of Gauge Corporation. I remember being a part of that discussion with Bill, but at that time I was coming up for partner in the spring of 1982.

When Bill asked me, he said, "You like words, you'll like this. And I need

your help." And I agreed. Despite the time commitment, I thought I would like this. But the one thing we knew with Bill was that administration was not what primarily motivated him. What interested him were words. It was the ability to take something that people had written and to craft it into an intelligent piece. Rich, how were you approached?

MR. LEVINE: I got a call from Victor Battaglia, who told me that Norman Veasey had suggested that I get involved in this project, and Harold Schmittering was sort of taking the lead as the President of the new Bar Foundation. And I was told that there was going to be this publication and I was asked to be the Business Manager. I had been the Secretary to the Board of Bar Examiners since mid-1976, where I had worked with Norm Veasey and Victor Battaglia and Harold Schmittering, and apparently they thought I could organize things.

Your memory is correct. You had already had a meeting with Ed Golin, who was throwing around numbers, and those numbers were frightening Harold Schmittinger and Victor Battaglia, like \$8,000 an issue, \$10,000 an issue. And the Bar Foundation didn't have any assets or any income or any prospects, so they were a little bit concerned.

There were different ways to do it, so I got involved and took a crash course in copyright law, postal permit law, advertising contracts, printing contracts, *et cetera*, and crafted an arrangement with Ed Golin of Gauge Associates and the Bar Foundation that essentially rolled into the future of publishing the magazine.

I will tell you, parenthetically, that, in looking through the materials earlier this week, I noticed that Gauge and Ed Golin originally described themselves as the publisher. After doing a little bit of copyright law and other things, I described the Bar Foundation as the publisher and them as the producer.

So it was clear from the very beginning that this was going to be a Bar Foundation publication, not a joint publication of Gauge Corporation and the Bar Foundation where we would argue about copyright rules, who owned it, who had the name, *et cetera*.

JUDGE AMBRO: How was the position described to you when you first were approached?

MR. LEVINE: Keep track of Bill Wiggin.

MR. McBRIDE: That must have meant I wasn't involved yet.

JUDGE AMBRO: Bill and Rich were a match made in heaven.

MR. LEVINE: I have to say I had never met Bill. I had talked with him on the phone a few times on a few not significant legal matters, and it was memorable. His energy, his love for the English language, his ability to say in six words what would have taken me six volumes to say, were amusing and educating.

I want to read something from the very first issue. There was an essay in

that first issue by Bruce Stargatt that was unique. It was called "Re: Mostly Punctuation Marks." The notes on contributors, which were written by Bill Wiggin for many issues, generally start with blank is a lawyer, blank is a deputy attorney general, blank is an attorney with the firm of. Bill's statement about Bruce Stargatt, our punctuational zealot, is an act of superfluous genuflection," period, and then he goes on to talk about all of the things that Bruce did.

I must say that sentence captures Bill Wiggin. It also happens appropriately to honor Bruce Stargatt. But I also must say I could never speak that way, nor write that way, and it's one of the things that I really admired about Bill.

JUDGE AMBRO: Yes. You gave him something to edit and it came back and it was just like, "Wow! Why didn't I think of that?"

MR. PROCTOR: Bill was very clear that there were certain rules. I edited an issue about judges. It was called "From the Bench." And it was like herding cats. Bill was talking about herding lawyers, and herding judges is even tougher because they all have responsibilities and things to do and opinions to issue. But I was really happy with that, the way it came out. And some of the judges in there were very fine writers.

Bill was very clear in his own preferences as to who the good writers on the bench were, who were the pedestrian and tendentious writers, and who were the utterly execrable writers. And I can't share that at this roundtable, but he was a stitch and it was wonderful to work with him on that.

JUDGE AMBRO: My first experience with Bill was during my first week with Richards, Layton & Finger in 1976, July of '76. I was asked to do a memorandum for him. I did so, but I addressed it to William E. Wiggins, W-i-g-g-i-n-s. So a few hours later he runs into me in the hall and said, "The memorandum was good, but the name is Wiggin, without an s." And I thought, "Oh, man! This is not a good start."

MR. LEVINE: But you made partner anyhow.

JUDGE AMBRO: I really liked Bill. He and I would talk about snippets from *The New Yorker*, about Fowler's *English Usage*, and it was the first edition, not the second or third, as I've noted in a previous interview that Karen put together in 2005 after Bill had died. He was someone who just enjoyed good language and good writing. Dave, how did you get involved?

MR. McBRIDE: Well, the truth is I don't remember for certain. I suspect that Bruce Stargatt came to me because I think, from looking back at the records, we sort of surmised that Bruce was probably contacted to be on the Board of Editors. Bruce likely said, "Not me, but there's this young guy in our office whom I'll volunteer," and then he approached me to do it. And I'm beginning to think that maybe I got made partner that year because Bruce needed to tell people that he was substituting a partner for him instead of an associate. So, for all I know, my position on the Editorial Board may have contributed to my partnership.

JUDGE AMBRO: For our readers' reference, besides Bill Wiggin, Rich, Dave and myself, the initial Board also had Bill Chandler (then Counsel to the Governor, I believe), Randy Holland (who was then at Morris, Nichols), and then-Judge Vince Poppiti (who was on the Family Court before becoming a Superior Court Judge). We later had a number of other people that would come and go.

Vern, how did you first become involved? You later became an editor (or technically the Chair of the Board of Editors). Everybody here, by the way, was involved in the editing of the magazine, with the exception of Dave and me. We were just on the Board.

MR. LEVINE: I wanted to say just one thing. To the credit of the publication, there's never been a word I have written that has been published in this publication.

MR. PROCTOR: I felt like somebody who has been involved in only the second part of the Ring Trilogy. So I got involved in the early '90s, I think about '92 or so. I had worked with Harvey Rubenstein to get *In Re*: off the ground a few years before that, and my recollection is that it was Harvey or Justice [then Vice Chancellor] Jacobs who asked me to volunteer to work on the Board at the time.

JUDGE AMBRO: You were the primary editor when?

MR. PROCTOR: I was editor-in-chief in the '95-'97 area, I think.

MR. LEVINE: Let me intervene for just a second. Vern's story is typical of the way we've double-teamed over the years. I won't say we have used our judicial members, but we have certainly encouraged our judicial members to call members of the Bar to encourage their participation as authors or members of the Board of Editors. So I suspect that your recollection that Justice Jacobs, probably then Vice Chancellor Jacobs, double-teamed a call is right.

MR. PROCTOR: Okay. I recall talking to him about it.

MR. LEVINE: That was our pattern.

JUDGE AMBRO: What I recall is that Bill had observed you at various functions where you were an MC, found you to be very literate, and he really wanted you on the Board.

Karen, I recall that you became involved shortly after we had a problem in 1994. Is that correct? There was a cartoon that was placed into the magazine done by a Paulette Bogan and it was determined by a number of women at a Bar Association function downstate that it was offensive. I believe you had signed the letter that said you found the illustration to be offensive.

MS. PASCALE: That's right. I actually had been a fan of the magazine since I became a member of the Delaware Bar in 1990. In early 1994, as I recall, I was attending the Women and the Law Section Retreat, and the Spring 1994 issue had just been published featuring the illustration to which you refer and

there was an excellent scholarly article by Karen Valihura regarding the participation of women in the legal profession. And Bill Wiggin, who as we all know had a strong taste for controversy, basically chose this provocative cartoon to accompany this very scholarly article.

I did sign a petition protesting the cartoon, and I hasten to say I understood the joke of the cartoon and was not troubled by it, but I agreed with the assessment that it was not the appropriate accompaniment for Karen Valihura's excellent article. I promptly was called on the carpet by one of the senior partners at Morris, Nichols, one Mr. Frank Biondi, who was —

JUDGE AMBRO: He was on the Bar Foundation.

MS. PASCALE: — on the Bar Foundation at the time and in his own style told me to put my money where my mouth is, and that if I had an opinion about the magazine or what belonged or didn't belong in it, I should join the Board and exercise that voice. I really jumped at the invitation and have been very happily making my opinions known and able to make contributions from time to time since then.

JUDGE AMBRO: Bill Wiggin was the chief editor from 1982 to '89. Then from '89 to '91 it was Carroll Poole. Bill then came back from '91 to '94. Some health problems caused Bill to step aside, and he did so in favor of Dave Drexler from '94 to '95. Vern came in from '95 to '97, and Bill returned from '97 to 2000. Karen was in charge from 2000 to 2002. Since 2002, interestingly enough, the magazine has had rotating editors.

MS. PASCALE: That's right. I'll tell a little bit about the hand-off from Bill to me. In 2000 I was quite ignorant of the mechanics involved in the publication in terms of the hard work that goes into getting it to bed and out the door. As things turned out, it was something that I had to learn by doing and kind of figure out for myself with the help of the excellent staff at Today Media. Bill gave me a wonderful encouraging pep talk and he recommended to me a fine

publication on English usage by Bryan Garner and that was about it.

JUDGE AMBRO: Well, at least he had graduated from Fowler. That belies those who say that Bill couldn't enter the modern era.

MS. PASCALE: He was extremely gracious and supportive. But, again, in terms of getting the grounding in the mechanics of the publication, it was a "learn-by-doing" experience.

JUDGE AMBRO: The relationship with the Bar Foundation, Rich, you and Bill were the two persons who would interact with them. What was it like?

MR. LEVINE: Well, we were really the only publicly visible thing the Bar Foundation was doing originally and the publication was, therefore, very important to the Bar Foundation. But having said that, one of the other principles for the Bar Foundation was not to spend any money on the publication. So, those two were in some tension.

JUDGE AMBRO: It had to support itself?

MR. LEVINE: Yes. And I was sort of caught in the middle of all of that. After Harold Schmitter, there are three Presidents that I really remember, four, but three that I had a lot of interaction with. One was Frank Biondi, whom Karen just mentioned, and most conversations with Frank Biondi lasted less than 30 seconds, along the lines of "Rich, it's Frank. Everything's okay. Right?" And after I said, "Yes," Frank would make a request, beginning with, "Would you —," and I would reply "Okay, fine." And that was that. And Bruce Stargatt, because he was the senior partner at my firm, would call me, and the conversations were a little bit longer but similarly themed: "We're not spending any money on this, are we? And everything is okay?"

When Harvey Rubenstein headed up the Bar Foundation, it was almost a sea change because when he had been President of the Bar Association there was some tension between the Bar Foundation and the Bar Association over the publication. And Harvey sort

of became a convert. We started inviting him to meetings of the Board of Editors, and he became a strong supporter of the magazine.

JUDGE AMBRO: I cannot say enough of the stalwart he's been for us.

MR. LEVINE: And Karen Valihura was very hands-off. Starting about eight years ago, I started making annual appearances at the Bar Foundation and giving reports to the members of the Bar Foundation about the publication. I think it heightened their awareness, and I think it was very good because I felt that we had stronger support from the Foundation.

It was no longer just an occasional call from Biondi or Stargatt making sure that everything was okay. It was really more interactive. And I think to this day the Bar Foundation is very, very proud of the publication. Jackie Mette, who is now the Executive Director of the Foundation, will say it's really the most visible thing that the Foundation does. There's been a change in recent years. The Foundation has actually used the publication for information, not in a burdensome way, but there have been short pieces about things that the Foundation is doing. They have put in ads about Foundation events and accomplishments.

The primary thing the Bar Foundation does, of course, is IOLTA [Interest on Lawyers Trust Accounts], and so that's been sort of what the relationship has been. And I know that, moving forward, the Bar Foundation is very, very concerned to make sure that the publication continues to be vital and ongoing.

JUDGE AMBRO: Maybe you can tell us about something that happened about 20 years ago right around our 10th anniversary, which was a proposal that the functions or the publications *In Re*;, which is the Bar Association's newsletter, and *Delaware Lawyer*, which is the Bar Foundation's magazine, be merged. Where did that start?

MR. LEVINE: I think it started when we were having difficulties making ends meet. We were starting to cause financial

concern to the Bar Foundation. And it was also at the time that the Bar Association had first hired a publications person and the thought was since the Bar now had on the payroll a publications person, so why were we paying an outside group to do it. And I also think there was a little bit of politics.

Harvey Rubenstein and now retired Judge Susan Del Pesco were really the two principals, either President and President Elect or President and Past President, at the Bar Association at that time, and they were sort of interested in expanding the Bar Association's presence, if you will, and there was serious discussion about it.

JUDGE AMBRO: Wasn't Dick Kirk also involved?

MR. LEVINE: Dick Kirk became the Bar Association President.

JUDGE AMBRO: So it sort of followed on and was put in his lap?

MR. LEVINE: Yes. And ultimately, Mr. Biondi and others on the Bar Foundation Board determined that this really was their baby, this really was their public outlet and they were going to make it work. In fact, it was whispered in my ear that if we needed some money we could actually get it.

But something else happened around that time that kind of — we've never talked about this — that kind of rescued the publication financially. And that was LEXIS and Westlaw started putting the publication online and, unbeknownst to us, we started getting royalties. And I say unbeknownst because we were so thrilled they were going to put it online that I was not negotiating for remuneration at the time. We thought this is the greatest thing that ever happened. It was going to bring us national attention and we were very excited about it.

And checks started coming in, never huge amounts, but we probably got two, three, checks of about \$4,000 a year. And over the years those funds allowed us not to go to the Bar Foundation to ask for money for things like special covers, artwork —

MS. PASCALE: Extra pages.

MR. LEVINE: — extra pages, Karen reminds me. We were able to have a little bit of financial independence, and that really allowed us to stave off the efforts of the Bar Association, which I think were mostly or were probably well intended, which is that you have two non-income-generating organizations serving the Bar; maybe they ought to pool their resources to have their publications done. Vern may actually remember because that was about the time you were working on *In Re*;.

MR. PROCTOR: I remember discussions about it. I talked to Harvey a little bit about it, but he never did more. He wasn't a big advocate one way or the other, at least with me. I just wanted to make sure we got a good product out.

JUDGE AMBRO: The one thing I recall with regard to money at the time was that in 1987 there was a big issue done, our biggest I think ever done, called "A Bicentennial Tribute." And as I recall, this was significantly over budget and caused a lot of angst among those on the Bar Foundation as how were we going to pay for this.

MR. LEVINE: I may have scars. I don't remember where. But we covered that shortfall. We ultimately got contributions that covered that.

JUDGE AMBRO: I think it was around a \$50,000 overrun.

MR. LEVINE: Yes. In the old days when we started this publication, we thought that we would get subscription revenue. And there are some interesting letters about whether or not we were going to have the Bar Association remit to the Bar Foundation \$5 or \$7 or \$10 for each member to support this publication. That didn't become very popular.

And then we had this crazy idea, although it was a good idea but turned out to be crazy, that we would make money by selling the publication. So we initially used the good services of Stan Budner, who is a client and a dear friend, and at that point owned Delmar News, which ran all of the —

JUDGE AMBRO: Newsstands.

MR. LEVINE: — newsstands, we were

on all of the newsstands. But I would guess that the proceeds of the newsstands' sales and my child's allowance were about the same at the time. The other thing is that we thought we would get funds by getting paid subscriptions from law schools and law firms around the country, and that was another event that didn't quite turn out the way we thought it would. And all that ended with LEXIS and Westlaw because we became available to everybody throughout the United States electronically. If you look at our initial budgets, we really did have in mind that we were going to sell hundreds, if not thousands, of copies on the newsstands.

JUDGE AMBRO: Interesting. Going to issues, in the very first issue our charge was to come out with a magazine, and Bill wasn't sure what we should do with regard to articles. So in the first issue the theme idea was mine and the articles essentially I solicited, with the exception of Bill asking Bruce Stargatt to write an essay piece, and Bill also asked Harold Schmitter and Governor du Pont to put something small in. But the articles I rounded up, and I was rather proud of it.

Now looking back, it wasn't all that good. Moreover, one thing concerned me from the very first issue. Our theme was to remember great Delaware judges and lawyers. It's an idea or a theme that has stuck with me over the years. But when we put these 12 persons on here [indicating the cover of the first issue], every one of them was a white male. And I knew that at some point it's got to be broader than that.

As we will discuss later, it took about 20 years before we made it up. So we got the first issue out and Bill wrote a wonderful opening in which he said that "a primary objective of *Delaware Lawyer* will be accessibility to the intelligent general reader." That was his theme and it remained his theme until he died.

The problem after the first issue was what in the world do we do for a second issue? And we came up with the idea of doing something on the General Assembly. The General Assembly on

June 30 stays very late, and usually works well into the night. The cover picture was taken, as I recall, on the floor of the General Assembly during its last session.

The thing that I recall about that issue was that a prominent State official had submitted an article. I think he was very busy and I surmise someone else wrote it. Bill called me in and said, "What do we do about this? This doesn't work." So we rewrote it from start to finish, and sent it back to the official with some trepidation. When he said it's wonderful and go with it, we were much relieved. The other thing that I remember, Dave, was that you did some investigative reporting on the Financial Center Development Act.

MR. McBRIDE: Yes. Dave Ripsom and I did two articles on the Financial Center Development Act. And I think my article was sort of looking back at the history, how it came to be, and Dave Ripsom was looking forward as to what the future held. And I had this vision that I would become a newspaper reporter and go around and interview everyone that I could find to tell me about what happened, and I did. I developed a history from those interviews.

But I began to learn something that I suspect most newspaper reporters already know, which is that a lot of people are upset about what you write. I circulated a draft of the article I had written and sent it off to everyone that I had interviewed, asking them to give me any corrections if I had taken something down wrong or gotten it wrong. And I learned that most everybody was unhappy with what I had written, oftentimes because I had not given appropriate credit to the "right people" and sometimes because they thought there was an innuendo in the article that I hadn't intended.

So it was quite an eye opener to learn what I suspect newspaper reporters always have to deal with — how difficult it is to write something that people think is accurate and don't think has some inaccurate or biased communication in it.

I do remember interviewing Irv

Shapiro and I think I started the interview with a question about, "Well, how do you justify deregulating interest rates?" I thought this was the perfect question to begin the discussion because I thought it was an important part of the Financial Center Development Act. I was actually in favor of deregulating interest rates, so I thought this was going to be a softball.

I think Irv thought it was an insulting question, like how could you be so unprincipled to deregulate interest rates, and at least I thought the body English was that he was quite annoyed with this impertinent lawyer coming into his office and asking insulting questions. So it was an eye opener for me.

JUDGE AMBRO: That was a very good article and it was, I think, to this day the most complete review of the machinations that took place in order to get the Financial Center Development Act drafted and passed into law.

MR. McBRIDE: It was fascinating to me to learn about the history and to learn about how the Financial Center Development Act almost didn't happen. Once it was enacted, everybody was talking about how they were part of the process by which it came into being and were taking credit for it. No one wanted to talk about how the opposition almost defeated it.

JUDGE AMBRO: Success has a thousand fathers and failure is an orphan.

What we discovered after that second issue was that *Delaware Lawyer* was well received and people were happy to write for it. We had then-Senator Biden writing. Later on we had former Senator Ted Kaufman. We had just about anyone you can think of in the State who would do an article for us because what we said to putative authors was to make it eight to 12 pages, no footnotes. Authors immediately said to themselves, "Hey, I can do this; no problem."

Rich, when Bill left the first time and Carroll Poole took over, was it a difficult transition?

MR. LEVINE: Bill's shoes are too big for anyone to fit into. And Carroll Poole,

although a very talented guy, really was not familiar with the Bar. He wasn't a lawyer, I don't believe, and he really didn't know the people. And while he had great literary skills, we were a little bit like a deflated balloon for a while, and it was difficult to keep our spirits up. Bill could do things with words that really no one could do, not only with the written word but with the spoken word.

JUDGE AMBRO: Quite true. You were running the business side and Bill knew how to make the ask for an article, he knew how to take anything an author gave him and make it better, and people realized that. Once he was with the authors, they grew to trust him. And it was a completely different side of Bill that could be very sensitive, very considerate, and I must say it was a bit of a surprise to me how good he could be in that context.

MR. LEVINE: Karen sort of described the abrupt hand-off by Bill to her. The hand-off to Carroll Poole was a little bit different because Bill was still lurking in the background and he had picked Carroll Poole. That was his selection to fill in on the Board.

JUDGE AMBRO: He also, I think, made it clear to Carroll that *Delaware Lawyer* was his (Bill's) baby.

MR. LEVINE: Yes. *Delaware Lawyer* was so much a product of Bill that without Bill's constant presence it was awkward for a while. And, frankly, we regained our momentum with Dave Drexler, with Vern and then with Karen because it really helped to have a lawyer involved on a full-time basis who also knew the players and could reach out best.

JUDGE AMBRO: In addition, Dave Drexler, besides being an exceptional editor, was, and remains to this day, a close personal friend of Frank Biondi, and knew the people on the Foundation Board. I recall in 1992, when we previously had spoken about the possibility of merging *In Re* with *Delaware Lawyer*, Dave Drexler put forth the position of the Board of *Delaware Lawyer* extremely well.

MR. LEVINE: It's a beautiful letter.

JUDGE AMBRO: In any event, *Delaware Lawyer* remained its own publication. The initial magazine issues sometimes were a potpourri, but we gradually started or we almost always started to work around themes for issues. How did the themes develop, Rich? I don't recall.

MR. LEVINE: Well, we went to thematic issues because it was more organizationally efficient. And I will tell you that over the last 10 years the thematic approach has been really critical and dictated by the fact that we had no editor-in-chief. When you had an editor-in-chief, you could have a potpourri because Karen or Vern or Bill could sort of bring it all together. What we've really done in the last 10 years is gotten a volunteer to be an editor, but we would pick someone who had an area of substantive knowledge going with the issue, which encouraged that person to do it and, therefore, it would be difficult if you took, for instance, Susan Paikin, who has done some wonderful issues on family law, and asked her to have a couple of articles on environmental law and a criminal piece because they would not be in her area of expertise. In reviewing the materials for today, I actually saw Dave Drexler was an advocate for the thematic approach.

JUDGE AMBRO: Really?

MR. PROCTOR: I remember discussions of that, too. And I think Bill strongly favored the topical approach to issues. We used to have so-called "brainstorming" planning sessions at Galluccio's, at least when I was an editor.

It was collegial, but it was also an opportunity to get together and plan ahead. And we knew there were topics that would recur, like corporate law in Delaware, so we had to make sure that was in the loop once every three years or whatever. But it gave us an opportunity to plan a year or so in advance, and we thought it was a very positive development.

MR. LEVINE: One of the things that it did deprive us of though, I think, and one of my disappointments, is that we didn't follow that portion of the initial

program to be as much as a literary outlet for members of the Bar. It was difficult if you were having an environmental law issue to get someone to write a piece of fiction or a poem.

So we really didn't get as much opportunity to go after non-legal pieces by lawyers, which was also a part of the original goal to be an outlet not only *about* the law and *about lawyers*, but also *by* lawyers, and I think that is one of the things we lost with the thematic approach.

One of the things that we have done recently is create some recurrent commentary. So, for instance, we have in the last year been trying to write about a recently retired lawyer so at least we would add something that was more personal to the magazine and wasn't directly tied to the theme.

JUDGE AMBRO: In terms of fiction, Bill Prickett wrote for the magazine. He and Bill Wiggin struck up a great relationship.

MS. PASCALE: I think he's done both fiction and non-fiction.

MR. McBRIDE: They are among the funniest things we've ever published, I think, Bill Prickett's articles.

JUDGE AMBRO: They were incredibly well done.

MR. McBRIDE: I doubt we could have survived without the thematic approach because not only did it allow for an essentially part-time staff to share the burdens of editing any given issue by rotating it, but each editor was typically responsible for finding authors of articles, which is perhaps the hardest thing to do. It is difficult identifying who's interested in writing and about what.

MR. LEVINE: There are two things that you remind me. Prior to 2002 we had staff people sometimes. We had some paid staff people that we ultimately were not able to continue. We had some volunteer staff people. Thus the burden that's falling on the issue editor and on the managing editor, I think that's my title, in the last 10 years has been much greater than when we had more resources available to us.

JUDGE AMBRO: Actually, Rich, while we're on that, we were with Gauge Corporation for a while, but we've since gone through a number of entities who produce the magazine, including Suburban Marketing, *et cetera*. How did all of that develop?

MR. LEVINE: That really ties a little bit into the theme concept because it was, frankly, our producer, the people who put together the publication, who were responsible for getting the ads, which have been a major source of revenue to them to help them produce this publication at no cost to the Foundation.

They like the theme concept because one of the things of selling ads is, for example, if you had an environmental issue, you could go to some of the environmental firms in Delaware and say this is a great place for you to advertise. Now, I will say that turned out to be more theoretical than real. Over the years none of the people that have produced the publication has really succeeded in doing much in terms of advertising. Most of the ads are really relational ads between people that serve the Bar and, therefore, those ads continue.

MR. McBRIDE: Thank you, Kurt. [Fetzer and Wilcox have been loyal ad buyers.]

MR. LEVINE: Thank you, Kurt. Thank you.

MR. FETZER [Court Reporter]: My pleasure.

MR. LEVINE: It is interesting that if you kind of look through it, that's really been the case. And also one of the things that we were very concerned about from an advertising point of view — and this affected our relationship with Gauge. Later I think it was TC Publications and now of course we work with a successor to Suburban Marketing, Media Two, an affiliate of Today Media, which is owned by Rob Martinelli's family and also publishes *Delaware Today*.

Ads from Realtors and banks that were "distinguished" were okay. I'm thumbing through the first issue. Nobody thought this picture of a computer was spectacular by Lanier. And everybody

thought this ad, 99 point something or another from a car dealer, was atrocious. And there's actually correspondence back in the early years of this publication from members of the Bar Foundation encouraging Bill Wiggin, who delegated it to me, to review all of the ads in advance to make sure that they were "distinguished," whatever that meant.

I will tell you ads were not easy to get, and when I would call Ed Golin and tell him we didn't like an ad, he would say, "Are you going to give me 4,000 bucks?" So there was a little bit of tension there. And, actually, that's how we lost one of the producers who succeeded Ed Golin. They were from up around Valley Forge and they did a good job. However, they were a little bit more aggressive with ads, and their aggressiveness with ads was good financially but not tasteful, not as consistently tasteful. And if you look at the ads that we have now, we really do try to make sure that the ads fit the nature of the publication.

In any event, the Martinelli entities were logical for us, and we were logical for them. And to this day I think Rob Martinelli would tell you that Suburban Marketing and all of its successor entities that have been affiliated with him have probably never made a penny on the publication and probably would tell you, because he has told me and he has actually shown me and shown the Board of the Bar Foundation, that they have lost more than a penny, but they consider this to be a prestigious publication. It has given them entry into the legal market. It has helped them get publications in nearby Pennsylvania markets.

And I think, frankly, Today Media, Rob Martinelli and the people that work with the publication find this to be the type of thing that they would like to be affiliated with. I think they consider it to be of good social value and, as long as they don't lose too much money on it, they're willing to continue with it. In any event, our producers by and large like themes.

JUDGE AMBRO: Interestingly, with regard to the themes that we had, I do recall that, almost every time we would

get together for brainstorming, we would discuss whether we should go to a potpourri issue or themes, and themes always seemed to win out.

Back in 1994 we decided to do a survey, a formal survey of our readership. And people could rate the magazine on a scale of 1 to 10 with regard to various questions that we posed. And the highest rating, the highest mean rating of any question, was the acceptance of a theme for each issue, that being a good idea. So while there were comments that came back to us that would say, "I would read at least part of the magazine if it wasn't on a theme that I didn't like," nonetheless the readership liked the concept of themes.

And what we also found at that time was that we had a surprisingly high percentage of persons who read at least part of every single issue when it arrived. And so it told us that we were doing something right.

Of the various issues that any of you were involved with, and I'll start with you, Karen, which are the ones that are memorable to you?

MS. PASCALE: That was an issue you edited, Vern, that we somewhat tongue-in-cheek titled as "Sex and the Law." And we had a lot of intriguing articles with a very loosely tied theme of sex and the law. And what makes me proud quite a few years later is that in the 2000s there was a general interest publication, *Legal Affairs*, which I thought was a very well-written publication, and they, totally coincidentally, also had an issue which they titled "Sex and the Law" or something very similar. And I was kind of proud of the fact that for whatever reason we managed to do that first. One of the first issues that I was deeply involved with, and I believe acted as the editor of the issue, was a "Lawyer Lifestyles" issue, which was an interesting theme. I think it had one of the most fun covers we've done, with —

JUDGE AMBRO: Pat Gallagher.

MS. PASCALE: — Pat Gallagher astride her red BMW motorcycle. And I think anyone who was around at that time remembers that issue.

JUDGE AMBRO: Just as a parenthetical, we are at Young Conaway's offices on Rodney Square and that picture I believe was taken right out in front of what was then the Public Building. It was approximately 95 degrees and close to 100 percent humidity that day.

MS. PASCALE: And Pat was in her full leather regalia.

JUDGE AMBRO: The idea at one of our brainstorming sessions was why didn't we write about what people did outside of the office. And I mentioned that we had Pat, who was a motorcycle enthusiast, and we learned about Charles Allmond, who was a sculptor.

MR. McBRIDE: Yes.

JUDGE AMBRO: And we began to hear of people who had very interesting, productive lives outside of the craft of lawyering. And our job was to find them and present them, and it turns out it was not that hard. People were interested in telling about their lives outside the office. I still think that was one of our most popular issues in the last 30 years, and a theme we have repeated.

MS. PASCALE: Yes. That was very well received.

JUDGE AMBRO: Is there anything else that really sticks out to you?

MS. PASCALE: I think the issue we did, entitled "When Hollywood Came to Delaware," was again tongue-in-cheek, and featured articles loosely tied to that theme. We had an expert panel dissecting the Disney litigation. That was also an issue which really tried to tie in something beyond Delaware, talking about entertainment law and product placement, reality TV, music downloading, and so on. As we've seen, the law continues to develop in just those areas. So, again, it makes me proud that we were right on the curve with that one.

JUDGE AMBRO: Karen, I believe you were the editor of the issue that we did in memory of Bill Wiggin. You did a roundtable, but couldn't get everyone into a room at the same time, and had to do a number of interviews with people one on one. What you did, coordinating the comments from those interviews

into that issue, was as good as it gets. You really should be complimented for that.

MS. PASCALE: I appreciate that. It was a lot of fun because it was an education for me. I got to know Bill at the latter part of his involvement in the magazine, and sadly it turned out to be the tail end of his life. But just delving into his history and how colorful it was — and the wide variety of people who had felt his influence and remembered his humor, intentional or unintentional — was a great thing. So I very much appreciate that.

JUDGE AMBRO: I will add one thing with regard to Bill, relating to the '94 issue that had the offensive cartoon. After people complained, the Board of Editors was asked to meet with then-Justice Moore. Bill said he wouldn't show up as a matter of principle, and I thought we really should show up and apologize. I never quite figured out until recently, when I went back and reviewed past issues of the magazine, what bothered Bill. I think he was hurt. While he labeled himself as a conservative Republican, there were issues about which he was very concerned, and acted on that concern.

A lot of people forget that Bill represented the Children's Bureau, or worked with the Children's Bureau, for decades. He also cared deeply about legal aid for indigents and matters of race. Bill didn't realize that the illustration, which as noted was done by a woman, would be offensive. I think what upset him is he had done an introduction to the magazine for that particular issue that, among other things, summarized Karen Valihura's excellent article. It reads, "Karen Valihura's study of barriers to women well-qualified for our profession continues a discussion begun in our September 1993 issue [on women who had become judges]. It is a fascinating look at attitudes (not yet wholly extinct) so absurd and unfair as to be tragicomic. It is a welcome purgative of lingering gender stereotypes."

He cared deeply. Thus, for him to be accused of doing something stereotypi-

cal and insensitive, it stung. And it was the more so when we apologized in the next issue of *Delaware Lawyer*.

MR. McBRIDE: The apology?

JUDGE AMBRO: Yes. That bothered him. In sum, Bill was tough on the outside but very soft on the inside.

MR. LEVINE: These may not be the right labels, but he may have been in some respects an intellectual snob, but he was not a human snob.

JUDGE AMBRO: What were some of the other issues for you, Vern, that were memorable?

MR. PROCTOR: Well, I share Karen's view about the Wiggin memorial issue. That was excellent. As noted, I remember fondly working the Delaware bench issue. And there was one called — it was about Delaware as it approached the end of the century, Delaware, little state, big changes. And it covered the gamut of legislative issues confronting Delaware toward the end of the 20th Century: the Commission on Courts 2000, there was an article on school choice by former Governor du Pont, and Chief Justice Veasey contributed an article as did former Congressman Castle.

JUDGE AMBRO: Dave, how about for you?

MR. McBRIDE: I will say that, in going back over the old issues, when we started the magazine I remember sitting around the table in the conference room talking about what this publication should be about. And it was always my hope that it would speak to current events and would provide a lawyerly discussion of issues that it seemed to me rarely got that kind of treatment in our popular press, for obvious reasons. The popular media is not designed to have that kind of analysis. And sometimes I have been disappointed, principally because we have a hard time getting issues out that are current — in other words, making the issues contemporaneous with events that are being debated in the public arena at the time.

MR. LEVINE: That's the challenge of a quarterly publication.

MR. McBRIDE: It is. But in going back over the issues, I have just been a little bit surprised and blown away — “blown away” is probably too strong of a term — with what has been done and there’s some obvious ones. We do periodic reviews of corporate law and bankruptcy law and areas that are of interest to lawyers. But just to pick out two, the one that Karen picked out, “Sex and the Law.” That was the summer of 2001 and there was actually an article on gay rights by Mark Wolinsky from Wachtell Lipton which I think was, for Delaware at least, cutting edge at that time in terms of Mark arguing for gay rights and gay marriage and civil unions and such. And I was really proud of looking back retrospectively at that and realizing that we were, to a certain extent, in the forefront at least locally on that issue. Another thing I was surprised about was back in the spring of 1995 we did an edition on the healthcare revolution. Indeed, we called it “The Healthcare Revolution.”

JUDGE AMBRO: We also did an edition in the ’80s on AIDS.

MR. McBRIDE: On AIDS, yes. I had forgotten that one. And I went back and reread part of the 1995 issue. In it was an article by a local doctor, Steve Perlmutter, I think, on the necessity of universal coverage, how the healthcare problems were not going to be solved unless and until we provided some mechanism for universal coverage. I was really proud of the quality of the discourse that the magazine has contributed, which causes me to want to say two more things while I’m there.

One is it seems to me that our public discourse, if anything, has gotten worse since the 1980s when this magazine was begun, which to me makes the continuation and vitality of the magazine even more important now than it was then. I live in a constant fear. I’m accused of being — if there are glass-half-full and glass-half-empty people, I’m the kind of person that doesn’t even see the glass. I live in fear that we have yet to see the end of the economic or financial challenges. I don’t think it’s probable, but should the worst ever happen financially, should

we actually go into another depression, which was a real fear three or four years ago, then the need for reasoned debate and tolerant debate, and debate built on respect for one another’s views, is going to be so critical, and I would like to think this magazine has been and will be a contributor to that.

And then, finally, while we’re talking of Bill Wiggin’s contributions, this magazine couldn’t have survived without the two people that are at the end of this table, Richard Levine and Judge Ambro.

JUDGE AMBRO: It was Richard and Bill.

MR. McBRIDE: Well, with Richard it’s self-evident. He’s run this magazine. He ran it financially and administratively from the beginning, and I’ve got to say for the last 10 or 15 years he’s run it in every way. I mean, he has chaired our Board meetings. He’s organized our Board meetings. He’s sent around our agendas.

JUDGE AMBRO: He’s done the minutes.

MR. McBRIDE: He’s done the minutes, yes. I mean, all of the rest of us are sort of part-time volunteers who step in and step out on occasion, and Richard is the core that’s been there from the beginning to the end and it will be a genuine challenge for the magazine to not have him.

Judge Ambro, despite your characteristic modesty, you have been there at the beginning; you’re there now. You organized this program for us. I can’t remember all of the specifics, but I can think of innumerable times where we had needed someone to step up, particularly someone with some, I’ll use the word, clout or prestige, to take charge of a project or promote a project, and you have always done it. I can’t think of any time when you’ve ever said no to us about anything.

JUDGE AMBRO: I have associate’s disease.

MR. McBRIDE: So I just want to thank the two of you for this magazine.

MS. PASCALE: Hear, hear.

JUDGE AMBRO: I think that even today what has happened with us is that every group has a culture, or something that you can’t quite explain but you understand, and I think, with us, that culture was given to us by Bill in terms of what the magazine is about and by Rich in terms of how to make it happen in a way that keeps us going onto the next issue.

MR. McBRIDE: And I’ll add that you have been an instrumental contributor to that culture.

MR. PROCTOR: And you write eloquently too, Judge Ambro.

JUDGE AMBRO: Don’t I wish.

MR. LEVINE: Since there will be a transcript, I need to say thank you for your overly generous comments.

MS. PASCALE: They are totally accurate comments.

JUDGE AMBRO: As we go toward the end, what are some of the issues that have really stuck out to you, that have been memorable to you, Rich?

MR. LEVINE: It’s really — and they’re going to be different than the ones that others of you have. Two of them are in my hands. First was from the spring of 1993. It says “Who Owns the Civil War?” This is an issue that was edited by Peter Hess, who recently passed away.

JUDGE AMBRO: And was on our Board.

MR. LEVINE: And was on our Board of Editors. And the first issue that he authored was battles over historic shipwrecks, or “Who Owns the Civil War?” These were the ships that had sunk, and the question was who owned the sunken treasure. There were other articles in here about admiralty, about the Port of Wilmington as an economic force. This was his hobby. He was a diver and he was also a lawyer and pretty good writer.

He edited a second issue in the spring of 1999 called “Titanic Legal Battles,” talking about a Supreme Court decision about shipwrecks and who owned them. This is very topical. We have all seen the phenomenon of the movie *Titanic* having become just the highest box

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office sales in the history of movies. I think it just broke through the \$2-billion barrier as a result of its re-release in a 3D format. A recent “60 Minutes” episode included a story that had some Delaware ties — I’ll admit our law firm is involved — dealing with a vast treasure of emeralds that have been found.

I think those were interesting because they weren’t corporate law, they weren’t intellectual property law, they weren’t bankruptcy law, but they were about law and they were interesting.

Another issue that turned out to be a favorite of mine for a very personal reason was the issue that Susan Paikin did on family law a few years ago, where the illustrations on the cover were by her daughter Danielle, who was tragically killed in a car accident several years later. Danielle was a college student when she was killed. We don’t know if she would have become an artist or a musician or what she would have become because she was taken away when she was, I think, 20 or 19 years old.

But I’ll always be very happy that my friend and our Board of Editors member and major contributor many, many times, Susan Paikin, had included the artwork of her daughter Danielle on our cover where it will be maintained in perpetuity.

So those were the issues that in my mind had special meaning for me, and I will say even before Peter passed away I would have told you those two issues. His recent passing, though, makes me feel that those are really very special pieces because they’re parts of him that will live on, and so those are the issues for me that most resound.

And I’ll have to say I also am a junkie for articles about famous folks and all of the issues where we’ve interviewed great lawyers and talked about the people, many of whom I had the pleasure and privilege of knowing, the Sam Arshits, the Andy Kirkpatrick, the Ned Carpenters.

JUDGE AMBRO: The issues that stuck out for me have as a theme people that have helped make Delaware great. The issue we did in 1998 on the first

five African-American members of the Delaware Bar, I enjoyed that as much as anything and what I particularly enjoyed was working on that issue with Bill.

The one person that I did not know about was Frank Hollis. And Frank, as it turns out, left Delaware because he was not going to be accepted to practice corporate law into any major Wilmington firm and ended up in Washington. We had trouble locating him, but once we did he wrote an article that was superb. Frank was the first law clerk in the Court of Chancery. Not only was he the first African-American law clerk, he was the first law clerk in the Court of Chancery. He clerked for Collins Seitz. And when Collins Seitz died in October of 1998, at his funeral outside St. Mary Magdalen Church on Route 202, Frank was there. I walked up to him and said, “Frank, I really do appreciate you being here.” He replied, “How could I not be here?”

MR. PROCTOR: The Judge Seitz issue was great.

JUDGE AMBRO: The issue we dedicated to him in 1998 still stands out. It was actually to have been done in ’99 on the topic of great Delaware jurists. But in the spring of 1998 I mentioned to C.J. Seitz, Collins’ son, about wanting to do the issue.

C.J. looked at me, paused, and then said, “Could you do it sooner?” I go, “Oh, there must be a problem.” And it turns out Collins had a health issue and died that fall of congestive heart failure. He was in the hospital when the issue came out. C.J. told me that it was perhaps the last thing his father read before he died.

MS. PASCALE: Wow.

MR. LEVINE: I remember you telling me that story at the time and it still gives me goose pimples.

JUDGE AMBRO: Another one was that in 2001 we decided to do issues on the “greatest generation” of Delaware lawyers. This was my makeup because I got Pat Ciarrocchi of Channel 3 television to come and do an interview. Judge Jane Roth — who was a partner with me at Richards, Layton, was the tenth

woman to become a member of the Delaware Bar and was then on the U.S. Court of Appeals after having been the first woman in Delaware to become a District Judge — along with Roxana Arshits and Helen Balick.

Jane also wrote an article about how she became a lawyer; I recommend it to anyone to read. It reminds me of something that Harper Lee would write. It was simple and direct, and, most of all, it conveyed a feel of what it was like to be in the midst of steps forward for those long kept out of the Delaware Bar because of gender. [For a more recent perspective from this ground-breaking jurist, please see Judge Roth’s article on page 22 of this issue.]

And we then later did the men of the bar. I remember that when I was young they were what I wanted to be when I grew up. I doubt I’ll ever get there.

There also was the *Brown v. Board of Education* issue we did in 2004. The story of Ed Dennis, who was the first African-American to integrate the Dover public school system, was a poignant first-hand account of the effect of integration that captured the feel of the era. Ed later became the head of the Criminal Division at the Department of Justice and also he was a U.S. Attorney.

John Taylor, an exceptional reporter and editorial writer, told us what was going on in Wilmington during the 1960s in terms of race relations. Lou Pollak [Editor’s Note: Judge Pollak died May 8, 2012], who with Bill Coleman wrote the briefs in *Brown v. Board of Education*, told us of that effort and gave stories about the great Thurgood Marshall.

In the end, law is practiced by people, and the effect of the law is on people. The ability of *Delaware Lawyer* to make some of those people remembered, and some of the things that people did outside of the office remembered, are things I think that we can continue to aspire to.

I hope that whoever is in charge of this magazine 10 years from now, 20 years from now, will still be doing the same thing.

Thank you to Kurt. Every time we do a roundtable, it seems like Kurt is part of the family. Not seems. He is. ♦

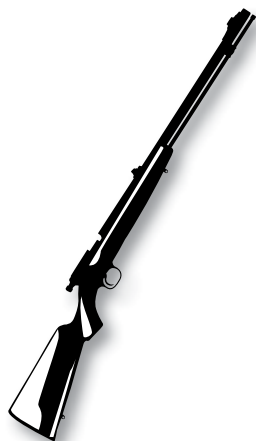
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The Delaware Bar Foundation:

Thirty Years and Counting

In June 1981, Harold Schmittinger, a partner with Schmittinger & Rodriguez in Dover, Delaware, and outgoing President of the Delaware State Bar Association, submitted to the Internal Revenue Service an Application For Recognition of Exemption for a new non-profit organization, the Delaware Bar Foundation.

Cutbacks in Federal funding for legal services for the poor sparked creation of an enduring addition to the Delaware legal scene.

In that application, Mr. Schmittinger identified the Foundation's proposed activities: "The Foundation, assuming it obtains sufficient funds, will sponsor the dissemination of legal information to the public on various topics such as landlord-tenant law or divorce law. ... Providing the public with legal information useful in modern society will be a primary goal of the Foundation. The Foundation will also assist in the future education of lawyers sponsoring workshops and seminars on specific topics which practicing lawyers need to be aware of to serve the public better. ... Donations will be made from time to time to exempt entities who are furthering the public goals of the Foundation."

A Board of Directors had not yet been selected, but nine members would be elected: three appointed by the Chief Justice of the Delaware Supreme Court; three appointed by the Delaware State Bar Association (DSBA) President; and three elected by the DSBA membership (the Board would later increase this number to 12).

The first six members of the Board were: Edmund "Ned" Carpenter II, Victor F. Battaglia, O. Francis Biondi, Hon. Grover C. Brown, William Prickett and Harold Schmittinger (who would be voted by the Board as the Foundation's first President).

Identifying service to the community as its priority, Mr. Schmittinger wrote: "The services of the Foundation

are to educate the public or benefit the public through legal education.”

Thus began the Delaware Bar Foundation, created by the leadership of the Delaware State Bar Association as a non-profit corporation for the purposes of providing funding for civil legal services to the poor, improving the administration of justice and promoting study and research in the field of law.

In its first 30 years, the Foundation has furthered these purposes by:

- administering the Interest on Lawyers’ Trust Accounts (IOLTA) program at the direction and under the supervision of the Supreme Court, as a result of which, more than \$15 million has been raised to fund legal representation for needy Delaware citizens;
- participating in the State budgeting process to obtain State funds to support legal representation of the poor;
- sponsoring *Delaware Lawyer* magazine, which, too, is celebrating its 30th anniversary; and
- funding many other diverse and worthwhile projects.

Going forward, the Foundation expects, even in the present difficult financial climate, to continue funding legal services for the poor, hopefully at much enhanced levels, to continue its support of *Delaware Lawyer* and to embark on new projects, as described later in this article.

In its first 30 years, the board had only six Presidents: Harold Schmittinger (1981-1983), Victor F. Battaglia (1983-1991), O. Francis Biondi (1991-1995), Bruce M. Stargatt (1995-2001), Harvey Bernard Rubenstein (2001-2009) and Karen L. Valihura (2009-2011). William H. Sudell, Jr., is the current Board President. In addition to these distinguished leaders, many prominent members of the Delaware Bar have served on the Foundation Board during its first 30 years.

IOLTA Program

The driving force behind the creation of the Foundation in 1981 was a cut-back in federal funding for legal services for the poor (sound familiar?). During its first meeting in October 1981, the Board considered two possible funding

**During the Board’s
February 1984 meeting,
William Prickett
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sources: 1) undistributed funds from class actions; and 2) a program modeled on what was known as The Florida Plan, where income from nominal, short-term lawyer escrow accounts was directed to the Florida Bar Foundation.

In September 1983, the Supreme Court, led by then-Chief Justice Daniel L. Herrmann, accepted the Foundation’s recommendations and the IOLTA Program was created by rule.¹ During the Board’s February 1984 meeting, William Prickett informed the Board that during its first year, the IOLTA Program had generated \$62,000, and he expected it to grow to \$100,000 by the close of that fiscal year. The Board created a grants application process during that meeting, a process that continues today.

Within six years, the Foundation had disbursed more than \$2 million of IOLTA funds. As the IOLTA Program grew, the Foundation Board received several grant applications. As an example, in May 1989, the Board, led by Victor Battaglia, considered an application from Superior Court Judge Albert J. Stifel requesting \$41,160 for videotapes and equipment to educate jurors about the functions of the judicial process. The application was approved.

For the first 28 years of IOLTA, the program was voluntary, with lawyers permitted to opt out. In its 1982

report, the special committee appointed by the Supreme Court to study the IOLTA concept, which recommended a voluntary program, stated: “Once the program gains substantial acceptance, the Court may wish to reconsider the propriety of a mandatory rule.”²

During the Board’s August 1995 meeting, its then President-elect, Bruce M. Stargatt, asked the Board to consider how to maximize the IOLTA income, noting that the program was mandatory in some jurisdictions. At that time, a fair number of firms in Delaware were not participating in the voluntary program.

That changed in 2010, when the Supreme Court amended Rule 1.15, DLRPC, making participation in the IOLTA Program mandatory and requiring IOLTA funds to be maintained in financial institutions that provide “interest rate comparability” for IOLTA accounts, that is, the interest rate paid by the financial institutions on IOLTA accounts must be at least comparable to rates paid by that institution on its other accounts with similar attributes.

The Court took this action upon the joint recommendation of the Court’s Advisory Committee on Interest on Lawyer Trust Accounts Program and the Bar Foundation following a year-long investigation process. Delaware became the 43rd state to make IOLTA mandatory and the 33rd to adopt interest rate comparability.

It is anticipated, and early data confirm, that these changes will have a positive impact on the IOLTA funds available for providing legal services to the needy, even in these tough economic times, and will have a far greater impact when economic conditions improve.

Part of the responsibility of administering the IOLTA Program includes the grants application process. The Foundation Board considers applications yearly in the spring, and makes recommendations to the Supreme Court for the distribution of IOLTA funds.

That process has allowed the Court to distribute more than \$15 million dollars over the past 28 years, primarily to the three providers of civil legal

services for the poor in Delaware: Community Legal Aid Society, Inc. (CLASI), Legal Services Corporation of Delaware (LSCD) and Delaware Voluntary Legal Services (DVLS).

Petitioning the State for Funding

In addition to IOLTA as a source for funding, in 2004 the Foundation began the process of petitioning the State, through the budgeting process, to support legal services for the poor.

Through the hard work and leadership of many, including then-President Harvey Bernard Rubenstein, then-State Representative Robert Valihura, and former CLASI Executive Director Chris White and his colleague James McGiffin, the State budget has included a line item appropriation to the Foundation for civil legal services since FY2006.

The Foundation continues to make the argument that Delaware's funding for civil legal services for the poor should approach the funding levels of its neighbor states, on a per capita person in poverty basis.

The Foundation received \$400,000 in FY2012, and hopes to continue to increase this amount to serve the needs of Delaware's ever-increasing poverty population, which has grown from 69,901 in 2000 to 103,000 in 2010 — one-eighth of Delaware's current citizens.

Delaware Lawyer

At the December 1981 Foundation Board meeting, the publication of a bar journal was discussed for the first time. E. Norman Veasey and Victor F. Battaglia undertook the task of getting that concept off the ground by, among other things, forming the prospective journal's editorial board.

Founding members of that board were William E. Wiggin, chair, now-Justice Randy J. Holland, now-Judge Thomas L. Ambro, then-Vice-Chancellor William B. Chandler, then-Judge Vincent J. Poppiti, David C. McBride and Richard A. Levine, as managing editor. Thirty years later, Judge Ambro and Messrs. McBride and Levine remain at their posts.

Delaware Lawyer magazine, the pre-eminent medium for providing legal ar-

The Foundation has collaborated with several state and area non-profit agencies to create the first kid-focused, Delaware-oriented website on bullying prevention.

ticles of interest to the members of the Delaware Bar and beyond, continues to be sponsored by the Foundation. It is issued quarterly and is distributed free of charge to every member of the state Bar.

All 29 volumes, containing 112 editions of *Delaware Lawyer*, can be viewed on the Foundation's website, www.DelawareBarFoundation.org.

Into The Future — The Next 30 Years

As the Foundation continues its efforts to improve the administration of justice in Delaware, it has sought projects that do not conflict with existing successes but allow the Foundation to meet its mission to educate the public about the rule of law and to foster knowledge of citizenship rights and responsibilities.

To that end, the Foundation has collaborated with several state and area non-profit agencies to create the first kid-focused, Delaware-oriented website on bullying prevention. Working with the Attorney General's Office, Family Court, the State Department of Services for Youth and Their Families, and many others, the Foundation has funded the creation of a website, Deletebullying.org, which will pull together into one place Delaware's resources on bullying prevention. The website is geared primarily toward

teens, but also encompasses materials directed to parents and educators.

The New Jersey Bar Foundation has been involved with bullying prevention for more than a decade. Their work inspired the Delaware Bar Foundation to support this project that will help families confronted with bullying to learn their rights under Delaware's bullying prevention statutes. The website also includes abundant resource materials and links to other websites. Look for its launch later this year.

The Bar Foundation is also developing a mentoring program to boost the successful efforts of Howard Technical High School's collaboration with the nationally acclaimed Street Law Program. Designed as a tool to introduce high school students interested in a career in the legal profession, Howard High's efforts in conjunction with Street Law have been very successful; they've placed students with several local employers, including DuPont's Legal Department, and the law firms of Morris, James and Young, Conaway, Stargatt & Taylor.

The Bar Foundation hopes to help Howard expand its placements to include its younger students, interested in shadowing in a law firm for half an afternoon. We hope you'll take an interest in the project.

While the Foundation continues to explore ways to meet all aspects of its mission, its commitment to supporting legal services for the poor, primarily through Delaware's IOLTA Program, will likely remain a primary focus for years to come.

The Foundation will continue efforts to increase funding for civil legal services, both through its state funding initiatives and through the IOLTA Program, while engaging in programs that fulfill its broader mission. ♦

FOOTNOTES

1. Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct continues to govern the IOLTA program.
2. Report to the Board of Governors, Task Force and Advisory Board on Interest on Lawyer Trust Account, 1 (July 26, 1982).

set he brought to Young, Conaway early in his career) and a desire to fix problems, he convinced the partners to resolve their differences, and one partner sold the business to the other partner. The company still operates a fleet of more than 70 tugboats and barges from Maine to Puerto Rico.

Richard's business management acumen has served him well at Young, Conaway, where he was the administrative partner for the past 12 years until his retirement in 2012. He hired five of the seven current members of the firm's management committee. He negotiated the firm's leases for each of its three moves during his tenure, from the Market Tower to Rodney Square, then to the Brandywine Building, and most recently to the Daniel Herrmann Courthouse.

His original 2010 retirement date was pushed back to March 30, 2012, to handle the move to the courthouse. Fortunate recipients of tours will marvel at the craftsmanship of the interior,

and relive at least a few memories of the original marble staircases.

He also has put these skills to use as managing editor of this magazine for its first three decades of operation (read more about that in the roundtable discussion of the first 30 years of *Delaware Lawyer* magazine).

Richard's official retirement has begun. He looks forward to traveling with his current wife of 17 years, Andrea, and spending time with their children. His son, James, is a lawyer in the Wilmington office of Pepper Hamilton, and his daughter, Katie, will graduate from law school this summer and head to Cleary, Gottlieb in Washington, D.C. The youngest, Emily, is also in Washington, D.C., attending American University. Richard and Andrea are also expecting their first grandchild.

Traveling has already begun; they just returned from Hawaii and head to London this summer, where Richard will celebrate his 65th birthday on

the *Queen Mary 2*. He wants high tea served to him on his birthday. They will also spend time at the beach, soaking up the sun.

A secret wish of Richard's is to teach. He has always wanted to teach, but because it would interfere with his greatest desire, to travel with Andrea, he hopes to scratch that itch by continuing to mentor young attorneys.

He also plans to play golf. He's a sun worshiper and an amateur meteorologist who enjoys making weather predictions, two talents that pair nicely with golf. When he's not playing golf or traveling with Andrea, he'll tend to his vegetable garden.

Young, Conaway was his extended family — he devoted a lifetime to it, and has accomplished a great deal, and now says he has no more mountains to climb. We wish you well, Richard. ♦

Jacqueline Paradee Mette is Executive Director of the Delaware Bar Foundation.



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Jacqueline Mette

Of Counsel — Richard A. Levine, Esquire

Practicing law in Delaware was not part of Richard Levine's original plan. Born and raised in New York, he chose to go to law school by process of elimination.

In 1969, during his senior year at Boston University, where he was majoring in Urban Studies, the Chair of the Department, Ed Logue, pulled Richard aside and predicted that a government recession would squelch funding for projects. Richard considered obtaining a Ph.D. in History, but he didn't fare well on the practice tests, so he decided to try his hand at the LSATs.

Not surprisingly, he did very well, and chose to attend the University of Pennsylvania to study law (he was in the same graduating class with good friend Justice Randy Holland) rather than stay in New York and attend Columbia University. He had seen enough of New York's protests and riots.

Richard thought he'd practice in a large, metropolitan city, but that didn't go as expected either. On the first day of law school, he met fellow first-year law student Marjory Stone, whom he married that same year. As they prepared for their summer clerkship interviews, Richard and Marjory were told that lawyer spouses shouldn't work in the same city.

Enter Chief Justice E. Norman Veasey, then a partner at Richards, Layton & Finger, who attended a legal placement seminar at Penn and espoused the virtues of Wilmington's sophisticated corporate practice in a congenial community, within two hours of just about everything, with a low cost of living. Richard had an option other than Philadelphia.

Richard selected a few Wilmington law firms to complement his Philadelphia law firm interviews. Marjory was the first to hear from a Philadelphia firm, so Richard took the offer for a summer associate position in 1971 with the law firm of Young, Conaway, Stargatt & Taylor. At the time, Young, Conaway had 12 lawyers with offices in the Market Tower. He enjoyed his summer, but when it ended, he recalls that no one said anything to him about a job after graduation (his law school friends already had offers of employment).

Perplexed, he inquired whether he had done something wrong, and was told to call the firm when he had passed the Bar exam the following year. Fortunately, the partners



reconsidered this approach, and offered him a job as an associate. He stayed with the firm for his entire career, making partner his fourth year in July 1976.

In the early 1970s, many states had residency requirements to sit for the Bar exam, including Pennsylvania and Delaware. This caused some consternation in the Levine household. Where would the married couple live if one planned to work in Philadelphia and the other had a job in Delaware? Pennsylvania repealed its rule first, and the Levines moved to Delaware.

Richard practiced in many areas, beginning with corporate litigation. He worked closely with his mentor and good friend, Justice Jack Jacobs, until the latter was appointed to the Court of

Chancery. Richard then shifted his practice focus to real estate and later banking and business transactions.

While Richard was working in corporate litigation, he was also feeding his interest in real estate by mastering Delaware's Landlord/Tenant Code. When it was enacted, the Code applied to commercial properties as well as personal properties. This posed an enormous obstacle when, in the early 1980s, the Hercules Building transaction materialized.

The proposed deal involved a ground lease, which brought into question the enforceability of certain portions of the lease under the Landlord/Tenant Code. Millions were at stake. Richard drafted a proposed amendment to the Code that exempted any piece of real property in excess of 150,000 square feet. The amendment was enacted in 1981 and saved the deal. It was known as the Hercules Exemption.

In one of Richard's most interesting cases, he acted as custodian for a New York-based company, McAllister Towing and Transportation Company. Chancellor Chandler appointed him to resolve a dispute over control of the company owned equally by two individuals who hated each other. The goal was to sell the company. Two days a week, Richard traveled to New York's World Trade Center and learned how to run the business, including closing shipyards, buying business insurance, and running the day-to-day operations.

Gifted with inherent business management skills (a skill

Continued on page 43

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