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The Legal Intelligencer

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Delco Celebrates Judicial Bicentennial

By BARBARA ORMSBY

Delaware County celebrates its judicial bicentennial today with a series of events that will include a Red Mass celebrated by the Most Rev. Anthony J. Bevilacqua, Archbishop of Philadelphia, and end with a black-tie dinner featuring former Judge Robert H. Bork as speaker.

"It will be a full day," said Common Pleas Judge Howard F. Reed, chairman of the bicentennial committee. "And it will mark the first time we have had a Red Mass here in Delaware County."

Act Of 1789

Addressing the historical aspects of the judicial celebration during an interview on the bicentennial, Reed read the Act of the Pennsylvania



Attorney Nicholas S. Lippincott, left, reviews the first docket book of the county court system, along with Judge Howard F. Reed Jr. Lippincott wrote a history of the court system for the bicentennial. Reed is chairman of the judicial bicentennial.

Legislature in 1789 that created the General Court of Quarter Sessions and the courts of Common Pleas in

Delaware County. "I believe we had one case on Feb. 9, 1790, and it was

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Insurance Reform Approved

Court Fight Expected

By MACKENZIE CARPENTER

HARRISBURG, Pa. (UPI) — Despite warnings by opponents that there were no ironclad guarantees of rate reductions, both houses of the General Assembly yesterday approved and sent to Gov. Robert P. Casey a plan aimed at cutting auto insurance rates in Pennsylvania.

The measure was approved 45-5 in the Senate and 155-42 in the House after long debate and several unsuccessful attempts by House lawmakers to kill the measure. One effort to send the bill back for further study came within four votes of passage. A spokesman for Casey said it would be signed by today.

Lawsuit Vowed

Opponents of the measure, including several large insurance companies and the Pennsylvania Trial Lawyers' Association, predicted the measure would be challenged in court and found unconstitutional.

Henry Hager, president of the Insurance Federation of Pennsylvania, said a court challenge would be filed within 24 hours of enactment on the grounds that it provides for unlawful taking of property.

Compromise Agreement

The plan, a compromise agreement worked out during the past six weeks between Casey, House Majority Leader Robert O'Donnell, D-Philadelphia, and Senate Majority Leader F. Joseph Loeper, R-Delaware, contains a mixture of features found in competing versions offered previously by all three parties.

The cornerstone of the proposal is a provision that would reduce rates by 22 percent for motorists who waive their right to sue except in the case of serious accidents. Those who choose to keep that right would receive a 10 percent reduction under the plan.

The measure would freeze rates that were in effect Dec. 1, 1989, and require

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Calif. Court Recognizes Drug-Test Privacy Rights

By DICK GOLDBERG

In another clash between employers and employees over drug testing in the workplace, a state appeals court in California has ruled that the constitutional right to privacy insures that workers will not be fired simply for refusing to submit to a random test.

The 4th District Court of Appeal said the rights of the individual — James Semore, a production worker fired from the Kerr-McGee chemical plant in Trona — are protected from intrusion by private employers as well as government agencies.

Critical Issues

Lawyers for Kerr-McGee said the issues are so critical to the maintenance of a drug-free work place that they'll petition the California Supreme Court for review.

Appeal court decisions on drugs in the workplace are rare and the state Supreme Court has yet to accept a case on petition. It is expected the high court will have to

resolve a number of disputed claims, including several raised in the Kerr-McGee case.

In an opinion written by Acting Presiding Justice Thomas E. Hollenhorst, the court overturned a ruling by the Superior Court of San Bernardino, which had dismissed Semore's case on demurrer. The trial court reasoned that a non-intrusive eye test by an employer was not a violation of the employee's constitutional rights.

Intrusion Issue

The appeal court disagreed in a 2-1 decision. The opinion said the broad issue of intrusion was firmly established by the 1st District Court of Appeal in *Wilkinson v. Times Mirror Corp.*, 215 Cal.App.3d 1034, a drug-testing decision which held that the privacy provision extends beyond governmental agencies into the private sector.

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TODAY'S NEWS

SIVA'S RESTAURANT redefines fine Indian cuisine with a variety of exotic, mystical concoctions. **Page 4**

ACTOR LLOYD BRIDGES has been held liable for the losses of an investment firm he endorsed in a commercial. **Page 5**

JUDGE CIRILLO CONDEMNS the state Supreme Court's revision of Pennsylvania's delay damage rules. **Page 9**

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No Legal Feb. 12

The Legal Intelligencer will not be published on Monday, Feb. 12, in observance of Lincoln's Birthday.

INSIDE MOVES

Who's Going Where . . . Who's Doing What

Chief Judge Leon A. Higginbotham Jr., of the U.S. 3rd Circuit Court of Appeals, delivered recently a convocation sponsored by New York University School of Law. A graduate of Yale Law School, he was appointed in 1962 by President Kennedy to the Federal Trade Commission. In 1964 he became a federal district judge, and in 1977 he became a U.S. 3rd Circuit Court of Appeals judge.

Daniel J. Snyder, a shareholder with **Baskin Flaherty Elliott & Mannino, P.C.**, has been appointed to the board of the Chester County Water Resources Authority through Jan. 1992. The board is responsible for ensuring the quality of the county's drinking water supply. Presently, the board is working with the town of Coatesville to build a major recreational and water storage facility.

Snyder is a former member of the Mid-Atlantic Region of EPA's Land Conservation experts and was regional administrator for the U.S. Environmental agency. He is co-chairman of the Baskin Flaherty's Environmental Law Group.

Robert Ross, of **Cohen Shapiro Polisher Shiekman & Cohen**, and **Annetta Foster Givhan**, of **Morgan Lewis & Bockius**, have been appointed to the Board of Trustees of The Free Library of Philadelphia. They were both appointed by Mayor W. Wilson Goode.

David M. Jones & Associates, P.C., announces that the name of the firm has been changed to **Jones & Pilarska, P.C.**

The firm will continue to maintain its principal offices at Suite 1000, 1314 Chestnut St., Philadelphia, Pa. 19107; telephone 546-1380. The firm also has office hours, by appointment, at 3154 Richmond St., Philadelphia, Pa. 19134; telephone 425-6280.

Halina Pilarska, a shareholder of the firm, is also a member of the bar of the Supreme Court of the People's Republic of Poland.

Joanna L. Guilfoy, **Axel J. Johnson IV** and **Natalie J. Kirkwood**, all third-year students at the Rutgers School of Law at Camden, are recipients of Russell N. Fairbanks scholarships for the spring term. All three students are Dean's Scholars and are in the top five percent of all those enrolled at the law school.

Stephen H. Siegel, an attorney in the Health Care Department of **Cohen Shapiro Polisher Shiekman & Cohen**, spoke on "Long-Term Care and the Law" at a National Health Lawyers Association seminar held recently in Florida.

Siegel concentrates in health care law and is a former analyst with the U.S. Dept. of Health and Human Services, Health Care Financing Administration, where he was responsible for various aspects of the Medicare and Medicaid programs.

Cohen Shapiro Polisher Shiekman & Cohen announces that **Richard N. Weiner** has joined the firm as a partner in its Corporate Dept. Weiner, formerly with **Bolger Picker & Weiner**, will concentrate in the areas of mergers and acquisitions, corporate finance, securities and general corporate and partnership law. He has also been involved in real estate acquisition and finance.

Sherr Joffe & Zuckerman, P.C., announces that **Ross Weiss** has joined the firm as partner in charge of its municipal law and land use planning section. **Marc L. Davidson** has become a partner in its corporate and tax department, and that **Sheri Gonda Brutsch**, former law clerk to Common Pleas Court **Judge William T. Nicholas**, has joined the litigation section of the firm. The firm is located at 200 Four Falls Corporate Center, Suite 400, West Conshohocken, Pa. 19428-0800; telephone 941-5400.



Philadelphia Common Pleas Court Judge Frederica Massiah-Jackson, left, greets Senior Judge Nicholas A. Cipriani, of the Family Court Division, and Beth Earley-Farnbach, executive director of Temple-Law, Education and Participation project, at the Minority Pre-Law Conference held recently at Temple University School of Law.

Pa. State Superfund Law Interpreted In Key Decision

Attorneys at Hanglely Connolly Epstein Chicco Foxman & Ewing prepared and filed a brief on behalf of Chromatex Inc. and co-defendant Continental White Cap Inc. that spurred a key decision of first impression interpreting the Hazardous Sites Cleanup Act, Pennsylvania's new state superfund law.

On Friday, Jan. 26, Judge William J. Nealon Jr., of the U.S. District Court for the Middle District of Pennsylvania, held in *Carl Lutz and Deborah Lutz et al. v. Chromatex Inc. et al.* that HSCA does not create a cause of action in private parties to sue for response costs.

The HSCA, enacted on Dec. 17, 1988, allows the Pennsylvania Department of Environmental Resources to clean up hazardous waste sites and then to sue those parties responsible for the waste in order to recover DER's clean-up and other response costs.

Upon obtaining judgment, DER has access to the responsible party's personal and real property located in Pennsylvania — real estate, bank accounts, stocks, and other personal assets.

Judge Nealon concluded from the briefs that the Pennsylvania legislature did not intend to create a private cause of action by enacting the HSCA. The court found that the HSCA's enforcement and remedies provisions were modeled closely upon Pennsylvania's Solid Waste Management Act, which has previously been interpreted by a Pennsylvania Superior Court panel in *Fleck v. Timmons* to likewise create no private causes of action.

The court found its conclusion supported by the fact that while drafting the HSCA, the legislature deleted a section from an earlier version of the bill that specifically granted a "private cause of action" for response costs.

In addition, the court cited the language of the HSCA, the Declaration of Policy, which states that its purpose is to "establish independent authority for the department . . . to take other appropriate response and recover from responsible persons its costs for conducting the responses."

Phila. Bar Assn. To Host Elder Law Seminar Series

The Philadelphia Bar Association is hosting a series of seminars to provide lawyers with information about state and federal laws that protect the elderly, grant them entitlements and help them to plan both personally and financially for their later years.

The seminars are cosponsored by the Senior Citizen Judicare Project, the Young Lawyers Section, the Elderly Law Project and Community Legal Services.

The following topics will be offered:

Session I—Feb. 22. Medicare, SSI, social security—Richard Weishaupt, Community Legal Services; Age Discrimination and Employment Act—Terry Fromson, Community Legal Services.

Session II—March 22. Rights of nursing home patients—Ann Kisor, MSW, nursing home ombudsman, CARIE; elder abuse/protective services—Mary Noland, Elderly Law Project, Community Legal Services; guardianship—James Robinson, law clerk to Judge Joseph Bruno, Orphans Court.

Session III—April 26. Representing the elderly client—legal considerations—Joel Streim, M.D., Geriatric Psychiatry Consultation Service, Hospital of the University of Pennsylvania; ethical considerations—Samuel Stretton.

Session IV—May 24. Estate planning for the elderly—Stephen Feldman; health insurance for the elderly—Samuel Garro, Senior Citizen Judicare Project; Medicaid nursing home grants—Alison Hirschel, Elderly Law Project, Community Legal Services.

All sessions will begin at noon and end at 2:30 p.m., with the exception of the April 26 session, which will end at 2 p.m. Registration for each session will begin at 11:30 a.m.

The sessions will be held in the 11th floor conference center at bar headquarters. Participants should bring their own lunch. Refreshments will be provided.

Additional information is available through Judicare Director Sam Garro at 238-8943.

Return to:
Elder Law Program
Philadelphia Bar Association
One Reading Center
1101 Market St.
Philadelphia, Pa. 19107

Please mark the session(s) you wish to attend:

- _____ Session I—Feb. 22 (\$5)
_____ Session II—March 22 (\$5)
_____ Session III—April 26 (\$5)
_____ Session IV—May 24 (\$5)
_____ All four sessions (\$20)

Name _____

Address _____

Phone _____

Please make checks payable to Philadelphia Bar Association.