

**COMMONWEALTH COURT**  
OF  
**PENNSYLVANIA**



**TRIENNIAL REPORT 2014 - 2016**

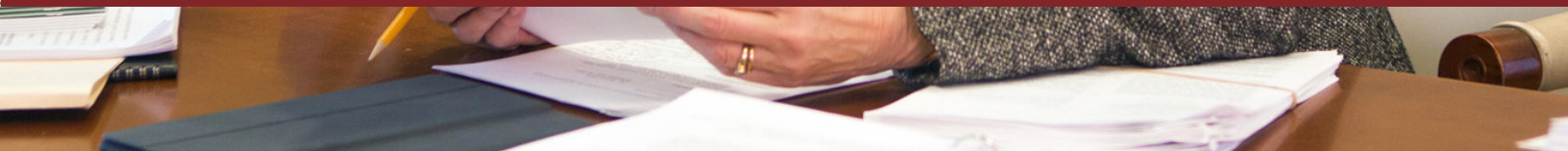


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MESSAGE FROM THE **PRESIDENT JUDGE**





## TO THE CITIZENS OF PENNSYLVANIA:

On behalf of the judges and staff of the Commonwealth Court of Pennsylvania, I am pleased to present this Triennial Report for the years 2014 through 2016. As the following statistics and narratives demonstrate, this period was one of great activity.

It was also a period of change. In January 2016, Judge Bernard McGinley retired after serving 29 years on the Commonwealth Court. Because he also served Pennsylvania as a trial judge, Judge McGinley's judicial service ran from 1982 to 2016, a remarkable span. At the end of 2016, Senior Judge Rochelle Friedman ended her service on the Court. First elected in 1991, Judge Friedman became a senior judge in 2008. She served Commonwealth Court for 25 years.

In 2015, President Judge Dan Pellegrini turned 70, which ended his judicial commission in accordance with the then existing Pennsylvania Constitution. Judge Pellegrini was first elected to the Court in 1989. In January 2016, he became a senior judge and continues to serve the Court. Also in January 2016, Judge Bonnie Brigance Leadbetter, who had served as president judge immediately

before Judge Pellegrini, chose to resign her commission and become a senior judge. Judge Leadbetter became a judge of the Court by appointment in 1996 and was elected to a full term in 1997.

As a result of these departures, new judges joined the Commonwealth Court. In 2015, Michael H. Wojcik was elected, and in January 2016 he took the oath of office as a commissioned judge. In the spring of 2016, Governor Wolf nominated Julia K. Hearthway and Joseph M. Cosgrove to the Court, and they were confirmed by the State Senate to fill the unexpired terms of Judges McGinley and Leadbetter. Judges Hearthway and Cosgrove took the oath of office in July of 2016.

There have been changes, as well, to the professional staff of the Court. In June 2015, Gary L. Hollinger joined the Court as Executive Administrator, replacing Nicholas L. DiLorenzo, who retired.

Sadly, this three-year period also witnessed the passing of some of our former colleagues and associates. In 2014, we lost G. Ronald Darlington, who began his service

on the Court in 1972 as President Judge Bowman's clerk and later became the Court's Prothonotary and first Executive Administrator. Known for his legal scholarship, Ron Darlington was the lead author of "Pennsylvania Appellate Practice." We also lost two retired judges, Madaline Palladino and Jim Flaherty, who passed away in 2015 and 2016, respectively. Judge Palladino served as an appointed and as an elected judge for over ten years. Judge Flaherty served as an elected judge and as a senior judge from 1996 through 2010.

The Commonwealth Court plays a unique role in Pennsylvania's judicial system because its cases involve only state and local government matters. Mindful that the Court's decisions touch the daily lives of every Pennsylvanian, our judges work hard to fulfill their responsibility to the citizens of Pennsylvania.

It is my privilege, as President Judge, to serve this great Court and to present this report.

  
MARY HANNAH LEAVITT



## JURISDICTION AND SIGNIFICANT DECISIONS

# APPELLATE JURISDICTION

The Commonwealth Court hears appeals that are civil in nature and where one of the parties is a state or local government agency. Local agency appeals include matters as diverse as public employment disputes, real estate tax assessments, eminent domain, negligence actions for damages, and zoning disputes. State agency appeals range from decisions of the Public Utility Commission and the Environmental Hearing Board to those of the Workers' Compensation Appeal Board. Most local agency appeals are brought first to a court of common pleas and then appealed to the Commonwealth Court. By contrast, most state agency adjudications are appealed directly to the Commonwealth Court. The Court hears all state tax appeals from the Board of Finance and Revenue.

Broadly stated, the Court's appellate jurisdiction extends to matters that affect all Pennsylvanians, such as how we elect our local officials, care for our elderly, protect our environment, and educate our children. Each day, the Commonwealth Court issues decisions that affect the relationship between state and local government and the citizens of Pennsylvania.

## The Right to Know Law

The Commonwealth Court reviews decisions of the Office of Open Records (OOR) as to when an agency must disclose public records. In *Pennsylvania State Police v. Grove*, the Court was asked to determine if the State Police video recordings of

interactions between law enforcement officers and members of the public were exempt from disclosure because they were criminal investigative records. The Court concluded that the videos were public records the police should release, but information in the videos that was "investigative" could be redacted.

In another appeal from a decision of the OOR, in *Department of Labor and Industry v. Heltzel*, the Court held that federal law made information regarding hazardous chemical inventories from individual facilities available to the public, but it remanded the matter to OOR to consider whether this information is excepted from disclosure under Pennsylvania's Right to Know Law on the basis of safety and physical security.

## Individual Property Rights and the Development of Natural Gas Resources

Between 2014 and 2016, development of natural gas resources in Pennsylvania prompted significant litigation. While some cases started in the Commonwealth Court's original jurisdiction, others were initiated in the courts of common pleas or in administrative proceedings.

For example, Sunoco Pipeline is in the process of building a pipeline to transport natural gas across the Commonwealth. To do so, it has exercised its right as a "public utility" to

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condemn private property in the same way that an electric company can condemn private property to install poles to transport electricity to industrial, commercial, and residential consumers. However, both federal and state regulations limit Sunoco's power to condemn. Thus, in *In re Condemnation by Sunoco Pipeline, L.P.*, the Court had to determine whether the pipeline was an intrastate project subject to the oversight of the Pennsylvania Public Utility Commission, an interstate project subject to federal control, or both. The majority of the Court concluded that the project was an intrastate endeavor and, thus, the condemnation was proper. Accordingly, Sunoco will be able to provide new and more expansive transportation of natural gas from the developing natural gas facilities in western Pennsylvania.

Zoning for natural gas production facilities has also produced a number of cases as neighboring landowners seek to protect their immediate environment. For example, in *Gorsline v. Board of Supervisors of Fairfield Township*, the Court was asked to review a trial court's determination that the zoning board had improperly granted a conditional use permit to construct and operate a natural gas well. The Court reviewed the record evidence and the township's ordinance, which had no express provision for natural gas wells. It concluded the proposed well was properly described as a "public service facility" and, as such, permissible in the proposed location. It noted that a number of conditions had been imposed on well operations to assure that the neighbors' concerns for safety were addressed.

The Court reached a similar conclusion in *MarkWest Liberty Midstream & Resources, LLC v. Cecil Township Zoning Hearing Board*. There, the trial court affirmed a zoning board's decision denying a special exception for the construction and operation of a natural gas compressor in the township's light industrial district. The Commonwealth Court rejected the township's argument that the proposed facility did not provide an essential service. The Court concluded that the compressor met the ordinance definition of an "essential service" and, thus, was properly permitted as a special exception.

*Kiskadden v. Pennsylvania Department of Environmental Protection* gave the Court another opportunity to review the impact of natural gas development in an appeal from the Environmental Hearing Board. Mr. Kiskadden contended that his well had been polluted by natural gas drilling operations taking place on a neighbor's land. After extensive hearings, the Board concluded that Mr. Kiskadden did not prove that the well pollution resulted from drilling. On appeal, the Court reviewed the record on water chemistry, other sources for the polluting organic compounds, such as road work, a salvage yard, agricultural activity nearby, test results from other wells and springs, and expert testimony on the geology of the area. The Court concluded that while the driller's practices were reckless and irresponsible, Mr. Kiskadden did not prove the natural gas drilling was the source of the pollution. Therefore, the Court affirmed the Board's decision.



## Education

During the period 2014-2016, charter schools have provided many opportunities for the Commonwealth Court to review the implementation of the Charter School Law and related provisions of the Public School Code in Philadelphia and elsewhere. In *Richard Allen Preparatory Charter School v. School District of Philadelphia*, the trial court concluded that the school district and the Philadelphia School Reform Commission (SRC) could not impose limits on enrollment in charter schools. The Commonwealth Court agreed that the school district's actions did not conform to the Charter School Law.

The Court also considered underperforming charter schools that had their charters nonrenewed. The Court upheld the Charter School Appeal Board's decision in *Career Connections Charter High School v. School District of Pittsburgh* not to renew a charter where the school's students did not meet the Department of Education's adequate yearly progress standards, and the school did not fulfill other goals stated in its charter. The Court also upheld the Board's decision not to renew a charter in *New Hope Academy Charter School v. School District of York* for lack of performance.

When the SRC assumed operational control of the School District of Philadelphia following a declaration of financial distress by the Secretary of Education, the Court in *Philadelphia Federation of Teachers v. School District of Philadelphia* held that the SRC lacked authority to unilaterally cancel the collective

bargaining agreement between the School District and its teachers, represented by the Philadelphia Federation of Teachers, and impose new economic terms and conditions more favorable to the employer. The Court held that the parties were required under the Public Employe Relations Act to continue to bargain until they reach a point of impasse.

## Forfeiture of Private Property

The Court has dealt with a number of cases where the Commonwealth seeks the forfeiture of private property. In *Commonwealth v. 2010 Buick Enclave*, the Commonwealth Court clarified that a common law forfeiture requires a criminal conviction involving the property. Accordingly, the Commonwealth was ordered to return a handgun and cash to its owner because the owner had not been convicted of a crime involving the seized property.

However, most civil forfeitures are done under the specific statutory provisions in the Forfeiture Act that authorize the forfeiture of property used in drug trafficking. For example, in *Commonwealth v. Freeman*, based on a call from his disgruntled girlfriend, the police stopped and searched Mr. Freeman's car. They found large amounts of cash in the center console and in the trunk, but no drugs were found. The trial court granted the forfeiture of all the seized cash. The *en banc* panel affirmed, holding that the girlfriend's statement and other circumstantial evidence was sufficient to prove the cash in the trunk was

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intended for the purchase of marijuana. Accordingly, this cash became the property of the police department. The dissent disagreed that the evidence was sufficient to warrant the forfeiture. Because the girlfriend had not said anything about the cash in the console, the Court ordered the return of that cash to the owner.

The Court also hears pension forfeiture appeals under the Public Employee Pension Forfeiture Act. In *DiLacqua v. City of Philadelphia*, the Court held that a charter school trustee, who was convicted of a crime, was a public official. However, the Court refused to allow a forfeiture of the trustee's pension because she had earned the pension as a police officer. That pension had no relationship to her service as an unpaid, volunteer on the board of a charter school.

## Public Utility Commission

This Court often reviews decisions from the Pennsylvania Public Utility Commission (PUC), and recently, the Court reviewed the right of an application-based ride service, Uber, to operate in the Commonwealth. In *Capital City Cab Service v. Pennsylvania Public Utility Commission*, taxi cab companies appealed orders of the PUC that granted Uber a conditional right to operate as an experimental common carrier under the Public Utility Code. The Court held that the PUC properly exercised its jurisdiction over Uber's service despite the fact that the operator did not have custody of any vehicles.

## Workers' Compensation

Workers' compensation law remains one of the Court's busiest areas of law. Workers' compensation covers both physical and mental injuries. The Court addressed the latter in *Pennsylvania Liquor Control Board v. Workers' Compensation Appeal Board (Kochanowicz)*, where the claimant, a general manager of a retail liquor store, was awarded workers' compensation benefits for a work-related mental injury following an armed robbery of that store. The Court held that robbery by gunpoint was not a normal working condition but a singular, extraordinary event that occurred during that claimant's shift and, therefore, the claimant's mental injury was compensable.

## Tax Assessments

Tax assessment appeals are numerous. The Court hears appeals from common pleas courts in local tax matters and from the Board of Finance and Revenue regarding state personal and corporate taxes. The latter appeals are unique because the record for the Court's action is made in the Commonwealth Court, not the administrative forum, and can take several years to complete. The appeals often involve complex accounting principles, the taxability of evolving technologies and millions of dollars; an entire industry may be impacted by the Court's ruling. Recently, the Court distinguished non-taxable "internet access" from taxable "telecommunication service" in *Level 3 Communications v. Commonwealth*, now on appeal, and held the statutory \$3 million limit on the net loss carryover deduction unconstitutional in *Nextel v. Commonwealth*, also on appeal.





## ORIGINAL JURISDICTION

Unlike most appellate courts, the Commonwealth Court has significant original jurisdiction, meaning it can conduct trials and hearings, and act as the factfinder. Actions by and against the Commonwealth government are generally commenced in the Commonwealth Court, except where money damages are sought. The Court hears all challenges to state government policies and issues involving candidates for state or national office.

From 2014 to 2016, there were 600 to 700 new original jurisdiction matters filed annually. These often involve complex matters, such as challenges to the validity of new legislation or regulations, consume significant Court time, and require disposing of preliminary motions and conducting hearings that can last for weeks. When evaluating challenges to legislation or regulations, the Commonwealth Court acts as an important check on legislative and executive power.

As an example, on multiple occasions the Court dealt with challenges to the constitutionality of Act 13 of 2012, a sweeping revision of the statutory framework governing oil and gas development in Pennsylvania. These related cases are referred to as the *Robinson Township* decisions, and they address the extent to which Act 13 violates the Environmental Rights Amendment to the Pennsylvania Constitution.

*Corman v. National Collegiate Athletic Association (NCAA)* involved the applicability of the Institution of Higher Education

Monetary Penalty Endowment Act to the \$60 million fine imposed by the NCAA on Pennsylvania State University pursuant to a consent decree as a result of the Jerry Sandusky child sexual abuse case. The Court denied the NCAA's motion to dismiss the case. It questioned the authority of the NCAA to impose the fine, as well as the consent decree's validity, and upheld the constitutionality of the Act, thereby ensuring the proceeds of the fine would remain in Pennsylvania to be used for its residents who are victims of sexual abuse.

In a case of original jurisdiction in 2016, the Court was asked in *Markham v. Wolf* to determine the validity of an executive order that attempted to create new arrangements for direct care workers who provide personal services to certain aged and disabled participants in their homes. The Court held that Governor Wolf exceeded his authority in issuing parts of the executive order because the executive order was *de facto* legislation with provisions contrary to an existing statutory scheme for labor law, and because the executive order invaded the relationship between a direct care worker and the recipient of that worker's personal services.

At times, the Commonwealth, acting through the Attorney General and assisted by outside contingent-fee counsel, will initiate a complex original jurisdiction suit in the Commonwealth Court for statutory remedies under Pennsylvania's Unfair Trade Practices and Consumer Protection Law. In 2015 and 2016, the Commonwealth Court entertained

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arguments involving claims by the Attorney General that certain nursing homes, which received reimbursements from the Department of Health for qualifying aged and disabled patients, made misrepresentations about the quality of care. The case, *Kane v. Golden Gate National Senior Care LLC*, was part of a national wave of similar plaintiffs' cases questioning how appropriate staffing levels in senior care facilities should be measured.

In *Arneson v. Wolf*, the Court in its original jurisdiction held that the Governor exceeded his constitutional authority in removing the Executive Director of the Office of Open Records (OOR) without cause and prior to the expiration of his statutory term. The Court held that the Governor could remove the Executive Director only where there was cause for the removal. The Right to Know Law made the Executive Director a non-partisan position and the OOR functionally independent of the Governor. The OOR is a quasi-judicial agency tasked with determining whether records, including those of the Governor and the executive branch in general, should be disclosed to the public under the statute.

## Election Court

The Commonwealth Court's original jurisdiction over election matters involving candidates for state and national office takes on increased importance in years of national elections, such as 2014 and 2016. The election matters

frequently involve mandamus actions by would-be candidates whose nominating petitions were rejected by the Secretary of the Commonwealth. They also involve challenges to a candidate's nominating petitions accepted by the Secretary, where it is claimed that signatures should be stricken or that the affidavit filed by the circulator of the nominating petition is false or defective.

The Court must hold hearings and act as a factfinder in these cases, often using a computer system that connects the courtrooms with the Statewide Uniform Registry of Electors, known as the SURE system. Unlike other cases, election cases must be decided on an extremely expedited basis, to allow for completion of any appeal before ballots are printed and distributed, or voting machines are programmed for a primary, municipal, or general election.

There were several high-profile original jurisdiction election cases in the 2016 cycle. *Elliott v. Cruz*, an original jurisdiction case before a single judge of the Commonwealth Court, was the first case in the country to address the undefined term "natural born citizen" in Article II, Section 1, Clause 5 of the United States Constitution. That clause provides that only such citizens are eligible to hold the office of President of the United States. The issue arose out of a challenge to prevent U.S. Senator Ted Cruz from appearing on the Pennsylvania primary election ballot for the Republican nomination for the office of President of the United States. Senator Cruz was born in Canada but was a citizen of the United States from birth because his mother

was an American citizen. While acknowledging that he was a citizen from birth, the challenger contended that Senator Cruz was not a “natural born citizen” because he was not born in the United States. After rejecting the argument that only the Electoral College or Congress had jurisdiction to decide who was a “natural born citizen,” this Court held that common law precedent and statutory history established that a “natural born citizen” is any person who is a United States citizen from birth.

Shortly after the general election in November, the Commonwealth Court was again in the national spotlight when unsuccessful Green Party presidential candidate Jill Stein contested the presidential election results in Pennsylvania. She and a group of Pennsylvania voters argued in *In re Matter of the 2016 Presidential Election* that certain voting machines used in Pennsylvania were susceptible to hacking and, thus, a statewide recount was required. Pursuant to the Election Code, the Court entered an order directing petitioners to post a \$1 million bond, or show cause why another amount was appropriate, and to address whether the Court had jurisdiction in the absence of affidavits from five petitioners that their contest to the election results was factually justified and made in good faith. Shortly thereafter, petitioners discontinued the case.

In *Costa v. Cortes*, state senators filed an original jurisdiction action in the Commonwealth Court against Secretary Cortes and others, challenging a resolution adopted by majority vote of both houses of the General Assembly,

which purported to remove a proposed amendment to the Pennsylvania Constitution from the April 2016 Primary Election ballot and place it on the November 2016 General Election ballot. The amendment, if approved by electors, would amend Section 16(b) of Article V of the Pennsylvania Constitution to change the mandatory retirement age of Pennsylvania justices, judges, and magisterial district judges from the age of 70 to the age of 75. The Commonwealth Court, acting through a single judge, concluded that the General Assembly had the authority to use the resolution to move the proposed constitutional amendment to the November 2016 General Election ballot, because Article XI, Section 1 of the Pennsylvania Constitution vests the General Assembly with the exclusive authority to determine the time and manner of submitting constitutional amendments to the electorate.

In addition to original jurisdiction over issues involving candidates for state or national office, the Commonwealth Court also has appellate jurisdiction over issues relating to candidates for local municipal offices. In those local cases, the county courts of common pleas have original jurisdiction.

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## Harrisburg Financial Recovery

In 2011, Act 79 amended the Municipalities Financial Recovery Act to authorize the Governor to declare a state of fiscal emergency in distressed municipalities facing imminent insolvency or an inability to provide vital and necessary services to the community. The legislative remedy was unusual and drastic. The act authorized a State intervention and takeover through a Court-confirmed Receiver who, acting under the supervision of the Commonwealth Court, would shepherd the municipality out of its dire financial straits.

Shortly thereafter, the Governor declared the City of Harrisburg (City) to be in a state of fiscal emergency. At the time, the City was facing a principal debt balance of over \$459 million; approximately \$301 million of that amount was due to debt obligations attributable to the City-owned municipal trash incinerator. Moreover, the City had a structural deficit (its operating expenses consistently exceeded its revenues) that was predicted to continue and increase over the next five years. Stepping into its newly-created role, the Court confirmed a Receiver and oversaw the creation and confirmation of a financial recovery plan to regain the City's financial stability and avoid the need for debt relief under the federal bankruptcy laws.

The Court was extremely active in the initial stages of the receivership, which included the development and approval of the initial, preliminary recovery plan and the subsequent modifications thereto, consideration and approval of the renegotiation of long-term debt, the sale or lease of various City assets for amounts totaling in excess of \$590 million, and an increase in the earned income tax. In addition, the Court resolved unexpected developments, such as the resignation of the first Receiver, objections, non-compliant officials, and consequent litigation. Successful completion of recovery plan goals has enabled the Court to terminate the receivership and transition to a recovery supervised by a Department of Community and Economic Development Coordinator. The Court continues to exercise jurisdiction over the matter, and while its present involvement is less intense, its oversight remains important.

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## Insurance Company Receiverships

In 1945, Congress enacted the McCarran-Ferguson Act to exempt, with limited exception, the business of insurance from federal regulation, including the antitrust laws and the Bankruptcy Code. Accordingly, the receivership of an insolvent insurance company is handled exclusively by the states. Every state, including Pennsylvania, has enacted a version of the Model Act prepared by the National Association of Insurance Commissioners. Article V of the Insurance Department Act of 1921, which is Pennsylvania's statute, places exclusive jurisdiction over insurance company receiverships in the Commonwealth Court.

In the early days of the Court, insurance company receiverships involved small mutual insurers with less than \$2 million in assets that wrote personal lines coverage in a few counties of Pennsylvania. An early decision of this Court, *Safeguard Mutual Insurance Company*, provides such an example. However, in the decades that followed, the insolvencies have grown in complexity, amount at risk, and scope of impact. For example, in 1986 the Court placed Mutual Fire, Marine and Insurance Company into receivership. Mutual Fire covered large commercial insurance risks, both as insurer and reinsurer, in over 40 states; its estate involved several hundred millions in assets and liabilities. Reliance Insurance Company, which was founded in Philadelphia in 1817, was one of the largest property and casualty insurers in the United States. It wrote large commercial risks, directly

and as reinsurer, and reported a statutory surplus, or net worth, of \$1.7 billion in 1999. Two years later, Commonwealth Court placed it into receivership. The quick demise of Reliance and its inability to right itself related, in part, to the shock waves through the European reinsurance markets caused by the attack of September 11, 2001. This was also the case for Legion Insurance Company. It insured two of the planes that went down on September 11, 2001, and was placed into receivership in 2004. In 2009, the Court placed into receivership Penn Treaty Network America Insurance Company. Penn Treaty is one of the first insurers to write long-term care insurance, and it did so in every state.

Today, the receiverships handled in Commonwealth Court have enormous impact. They reach the London reinsurance markets and have involved the assistance of the International Court at the Hague. They require disentangling complex commercial transactions and multi-layered transfers of risk among the policyholder, the insurer, and the reinsurer, as well as the retrocessionaire. The receiverships involve detailed actuarial and statutory accounting evidence and days of hearings. Each receivership produces significant spinoff litigation for the Commonwealth Court and the courts of other states, which present difficult choice of law questions.

During the three years covered by this report, more than 900 substantive insurance filings were docketed, requiring the Court's review and resolution.



## CASELOAD STATISTICS



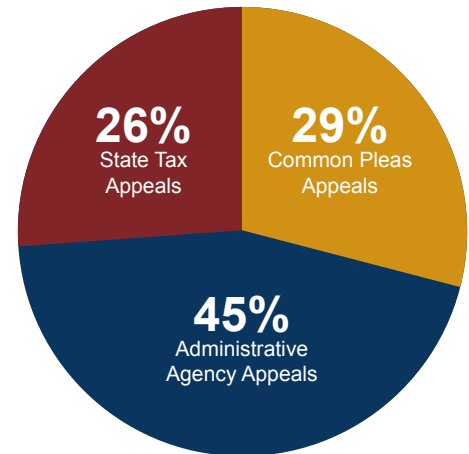
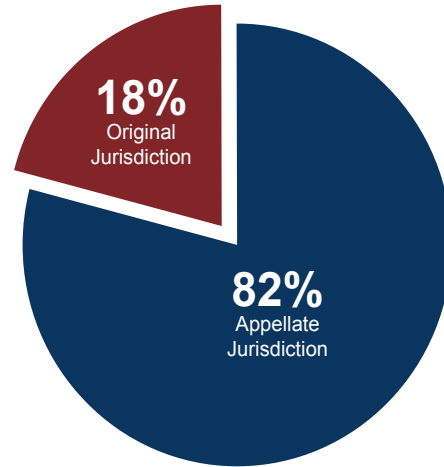
## FILED CASES

For the three-year period covered by this report, more than 12,000 new matters were commenced in the Commonwealth Court, an average of roughly 4,000 new matters per year. Of those newly-filed matters, approximately 82% fell within the Court's appellate jurisdiction and 18% within the Court's original jurisdiction.

Of the appellate jurisdiction matters, nearly 3,000 were appeals from decisions by the courts of common pleas. Approximately 4,500 appeals from state administrative agency decisions were filed, of which roughly 60% were appeals in unemployment or workers' compensation matters. In addition, more than 2,600 state tax appeals were filed.

Of the nearly 2,000 actions commenced in the Court's original jurisdiction during the reporting period, roughly 68% involved prison inmates as petitioners.

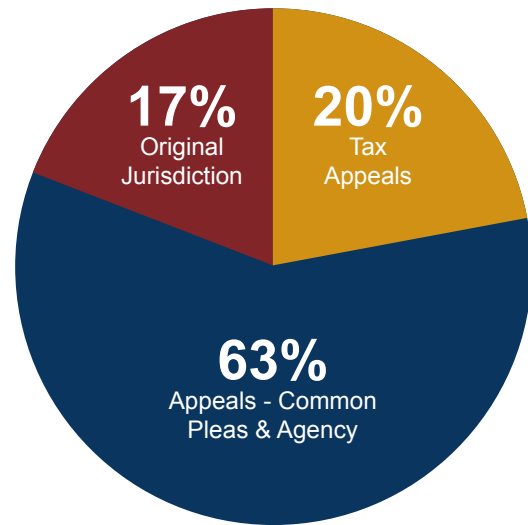
In the General Election years 2014 and 2016, the Court handled 73 and 101 cases arising under the Election Code, respectively. In the Municipal Election year 2015, the Court handled 34 election matters, primarily in its appellate jurisdiction. All these Election Code matters were handled in an expedited manner.



## DISPOSITIONS

The Court disposed of nearly 11,700 cases over the three-year period, an average of roughly 3,900 cases per year. The Court filed more than 3,000 majority opinions during the reporting period. The average elapsed time from assignment of a case to an opinion writer to the filing of the opinion was 75 days for the reporting period. This average time-to-disposition is better than the 90-day American Bar Association standard, which is particularly significant in that each commissioned Commonwealth Court judge reviews and votes on all three-judge and *en banc* panel opinions filed by the Court, regardless of whether or not the judge is part of the panel hearing and deciding the matter.

In addition, the Court handled nearly 26,500 ancillary applications, motions, and petitions from 2014 through 2016, an average of more than 8,800 per year. These filings address all manner of issues that arise in the course of litigation, and often require a hearing or argument before a single judge of the Court, and result in a single judge memorandum opinion. The Court held more than 2,000 single judge proceedings over the three-year reporting period, roughly 700 per year, and filed approximately 1,100 single judge opinions.







## JUDGES' BIOGRAPHIES



## PRESIDENT JUDGE MARY HANNAH LEAVITT



President Judge Leavitt took the oath of office as Judge of the Commonwealth Court of Pennsylvania on January 7, 2002. She was retained for a second ten-year term, and on January 4, 2016, she was elected President Judge by her colleagues for a five-year term.

Judge Leavitt began her legal career in 1978 as Assistant Attorney General, assigned to the Pennsylvania Insurance Department, where she worked until 1987, ending her service there as Chief Counsel. She then entered private practice with the law firm of Buchanan Ingersoll & Rooney, PC and became a shareholder in 1990. She served in the firm's Litigation Section as Chair of the Insurance Regulatory Law Group. In her legal practice, she served as counsel of record in over fifty appeals in both state and federal courts, including the United States Supreme Court.

Judge Leavitt has made numerous presentations on administrative law and appellate practice; has published several articles in the *Dickinson Law Review* and in the *Journal of Insurance Regulation*; and has taught legal seminars sponsored by organizations as diverse as the American Statistical Association, the Pennsylvania Bar Institute and the American Bar Association Section of Antitrust

Law. She has taught insurance business at Pennsylvania State University, School of Business Administration, Capitol Campus and served as Distinguished Jurist in Residence at Widener University, Commonwealth Law School from 2013 to 2016.

Judge Leavitt received her B.A. from Connecticut College (1969), her M.A. from the University of Pennsylvania (1972), and her J.D. from Dickinson School of Law (1978), where she was an editor of the *Dickinson Law Review*. Judge Leavitt lives in Harrisburg with her husband, John P. Krill, Jr. They have three grown children.



Bernard L. McGinley, son of John R. McGinley, Sr. and Marie Rooney McGinley, was born January 7, 1946, in Pittsburgh, Pennsylvania. He attended Central Catholic High School and graduated with a Bachelor of Science degree from John Carroll University in Ohio in 1967, having attended Loyola University of Rome for the academic year 1965-66. In 1970, he received his Juris Doctor degree from the University of Pittsburgh School of Law.

Following law school, Judge McGinley served in the U.S. Army Reserves. He was honorably discharged with the rank of Captain in 1976. After serving as a law clerk for the

Honorable Robert A. Doyle of the Allegheny County Court of Common Pleas, Judge McGinley became an Assistant District Attorney for Allegheny County. He served as Chairman of the Allegheny County Board of Viewers from 1975 until 1980, and maintained a private practice.

In January 1982, Judge McGinley was commissioned a Judge of the Court of Common Pleas of Allegheny County and served in the Criminal and Civil Divisions until commissioned a Judge of the Commonwealth Court on January 4, 1988. He was retained in 1997 and 2007 for additional ten-year terms. He served as a Judge of the Commonwealth Court until his retirement on January 31, 2016.

In 2012, Judge McGinley was elected President Judge of the Court of Judicial Discipline; he was originally appointed to the Court in 2009 by the Pennsylvania Supreme Court. In January 2016, Judge McGinley's colleagues elected him to serve as acting President Judge of the Commonwealth Court to manage the Court until the selection of the next president judge later that month.

Judge McGinley was a member of the 1988 Bicentennial Committee of the Court of Common Pleas of Allegheny County. He served on the sub-committee on Local Rules of Civil Procedure for the Court of Common Pleas, the

District Justice Liaison and Case Management Committees, and the Board of Directors of the Tamburitzans; he is a past Honorary Chairman of Easter Seals. As a member of the Pennsylvania Conference of State Trial Judges, he served on the following committees: Economics and Finance, Retention Election, Judicial Code and Judicial Ethics.

Judge McGinley and his wife, Denise Perrone McGinley, reside in Pittsburgh, where they raised their four children.

## JUDGE RENÉE COHN JUBELIRER



Born in Pittsburgh, Judge Renée Cohn Jubelirer graduated with distinction from The Pennsylvania State University with a Bachelor of Arts degree in English in 1978. She graduated *cum laude* from Northwestern University School of Law in Chicago, Illinois, in 1983. While at Northwestern, she served as Executive Editor of the Law Review. Following graduation, she served as a teaching fellow in legal research and writing at Stanford Law School before entering private practice at Sidley & Austin in Chicago, Illinois. In Chicago, she also taught Torts and Remedies as an Assistant Professor at DePaul University College of Law.

In 1987, Judge Cohn Jubelirer returned to Pennsylvania and to private practice as Vice President and Shareholder at Frank, Frank, Penn & Bergstein in Allentown. As a litigator, she practiced business, contract, employment and family law before the state and federal courts. She was also trained as a family and divorce mediator and was an arbitrator for the Court of Common Pleas of Lehigh County. Judge Cohn Jubelirer also served as Deputy and Assistant Solicitor for Lehigh County. Immediately prior to taking the bench, she served as in-house counsel for a telecommunications company.

Since being elected to the Commonwealth Court, Judge Cohn Jubelirer received her LL.M. in Judicial Studies from Duke University School of Law in 2014. She has also served as Adjunct Professor at the Penn State Dickinson School of Law, teaching Professional Responsibility. Her speaking engagements include presentations on various legal topics to audiences including prospective law students, practicing attorneys, and other judges.

Judge Cohn Jubelirer remains active in various professional organizations, including the American, Pennsylvania, and Centre County Bar Associations. She is an emeritus member of the James S. Bowman American Inn of Court and a Fellow of the American Bar Foundation. She is also a member of the National Associa-

tion of Women Judges and the National Association of Workers' Compensation Judiciary.

In 2016, she completed her term on the Pennsylvania Supreme Court's Appellate Court Procedural Rules Committee, which she chaired for five years. Judge Cohn Jubelirer served as Co-Chair of the Pennsylvania Supreme Court's Public Access Working Group – Trial and Appellate Court Records, which recommended a new public access policy. In January 2017, the Supreme Court adopted the policy, establishing the first uniform set of standards for all appellate and trial court case records, and she continues to assist with its implementation, serving as co-chair of the Implementation Committee. She was recently appointed to the newly formed Continuing Judicial Education Board of Judges, which will be responsible for guiding development and delivery of continuing judicial education to all commissioned judges in the Commonwealth. Judge Cohn Jubelirer also serves on the Workers' Compensation Liaison, Appellate Advocacy, Judicial Administration, and Women in the Profession Committees of the Pennsylvania Bar Association.

Judge Cohn Jubelirer was first elected to the Commonwealth Court in November 2001 and was retained for another ten-year term in November 2011. Her home chambers are located in State College.

## JUDGE ROBERT “ROBIN” SIMPSON



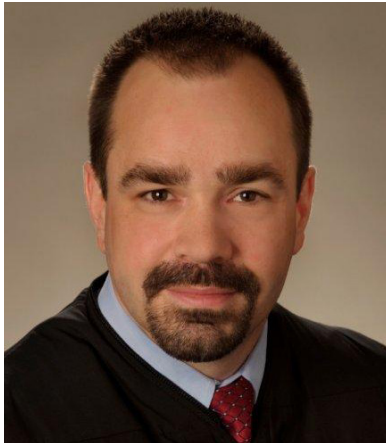
Judge Simpson was elected to the Commonwealth Court in 2001, and he was retained in 2011. He previously practiced as a trial lawyer, and he served as a trial judge from 1989 through 2001. During this time he handled all manner of cases, including capital murder, complicated product liability, professional negligence, zoning and workers' compensation. While a trial judge in Northampton County, he instituted a summary jury trial program for alternate dispute resolution of complex civil litigation.

In addition to his duties in court, Judge Simpson is active in the profession. He became a member of the Board of Directors of the Pennsylvania Bar Institute in 2014. Between 1998 and 2005, he served as an adjunct professor of law at the Dickinson School of Law of the Pennsylvania State University, teaching Advanced Pretrial Advocacy. Also, by gubernatorial appointments in 1999 and 2005, he served as a member of the Pennsylvania Minor Judiciary Education Board. He was a founding member of the Judge Clinton Budd Palmer American Inn of Court in Northampton County, and served as its president from 1996 to 1997. He is a member of the Pennsylvania Conference of State Trial Judges, and the American, Pennsylvania, Dauphin, and Northampton County Bar Associations. Further, he frequently writes and speaks to judges, professionals, community leaders and students. In particular, he helped develop and present programs on current trends in land use, the new Right-to-Know Law, alternate dispute resolution, advocacy, and various other topics.

His most recent law review article, "A Historical Review of the Land Use Jurisprudence of Pennsylvania's Commonwealth Court," was

published in the *Widener Law Journal* in 2010. His land use articles, "The Duty of Good Faith Review in Pennsylvania Land Development Proceedings," "Important Trends in Pennsylvania Land Use," and "Current Trends in Pennsylvania Land Use," were published in the Pennsylvania Bar Association *Quarterly* in October, 2009, April, 2008, and January, 2006, respectively.

Judge Simpson is a *magna cum laude* graduate of Dickinson College and a graduate of the Dickinson School of Law. After law school, he served as law clerk to Judge Glenn E. Mencer of the Commonwealth Court.



Judge P. Kevin Brobson was elected to the Commonwealth Court in November 2009 and was commissioned and took the oath of office on January 4, 2010. In August 2015, the Supreme Court of Pennsylvania appointed him to serve a four-year term on the Judicial Conduct Board of Pennsylvania. He currently serves on the Executive Committee of the Board.

Prior to taking judicial office, Judge Brobson was a shareholder in the Harrisburg office of Buchanan Ingersoll & Rooney PC, focusing his practice on commercial and administrative litigation. He represented numerous clients

in cases before the Commonwealth Court and various Pennsylvania agencies. While in private practice, Judge Brobson was rated among the Best Lawyers in America in 2009 and 2010 and was a recipient of both the *Legal Intelligencer* and *Pennsylvania Law Weekly* "Lawyers on the Fast Track" award and the *Central Penn Business Journal* "Forty Under 40" award.

In every aspect of his life, Judge Brobson has been a strong proponent of community and pro bono service. Prior to being a commissioned Judge, he received awards and recognition from both the Dauphin County Bar Association and the Pennsylvania Bar Association for his role in designing and implementing an innovative pro bono legal services program for nonprofits. He also served on the Middle Paxton Township Planning Commission and is a past chair and member of the Board of Directors of Jump Street, a nonprofit community arts and outreach organization. For six years, Judge Brobson served on the Advisory Board of The Four Diamonds at Penn State Hershey Children's Hospital and served as Chair of the Advisory Board from 2012 to 2014. In 2013, the Penn State IFC/Panhellenic Dance Marathon (THON) presented Judge Brobson with the Diamond of Honesty Award, in recognition of his support for and commitment to The Four Diamonds and THON and to conquering childhood cancer.

Judge Brobson received his undergraduate degree from Lycoming College, *magna cum laude*. He graduated from Widener Commonwealth Law School (Widener Commonwealth) *summa cum laude* and second in his graduating class, where he also served as a managing editor of the school's Law Review. In 2015, Judge Brobson was appointed to the Board of Advisors for Widener Commonwealth. Judge Brobson currently serves as Jurist in Residence at Widener Commonwealth, teaching and lecturing on the complex intersection of legislation, regulation, policy, and the law. In addition to his Jurist in Residence duties, Judge Brobson has been a continuing legal education lecturer for the Pennsylvania Bar Institute, the American Inn of Court, and county bar associations.

Immediately following law school, Judge Brobson clerked for the late Honorable James McGirr Kelly, United States District Court for the Eastern District of Pennsylvania. He is a member of the American Bar Association, the Pennsylvania Bar Association, the Dauphin County Bar Association, and the James S. Bowman Chapter of the American Inns of Court.

Born in Montoursville, Pennsylvania, Judge Brobson now resides just outside of Harrisburg in Middle Paxton Township, with his wife, Lauren (Cotter), and their three children—Claire, Will, and Gabe.



Judge Patricia A. McCullough is a *magna cum laude* graduate of the University of Pittsburgh where she was selected as a Chancellor's Undergraduate Teaching Fellow and obtained her J.D. degree from the University of Pittsburgh's School of Law in 1981. Judge McCullough also attended the Summer Semester Program for International Law and Human Rights at the University of Strasbourg, Strasbourg, France in 1980. While in law school, she was a law clerk for the Appellate Division of the Allegheny County District Attorney's Office.

After graduating from law school, Judge McCullough clerked for the Honorable Samuel

Rodgers in the Washington County Court of Common Pleas. She then embarked on a multi-faceted career path gaining experience in non-profit corporate law, taxation, intellectual property, professional employment contracts, estate law, litigation and family law. She was Assistant General Counsel and an adjunct faculty member for the University of Pittsburgh and also a member of its NCAA Career Counseling Panel. During her tenure at the University, she negotiated its AT&T Campus of the Future Network agreement and its athletic television syndication agreements. She then entered private practice and was a three term member of the Allegheny County Board of Property Assessment Appeals and Review, serving first as its vice chair and then as chair. Judge McCullough served as the Executive Director of Catholic Charities of Pittsburgh, where she oversaw the implementation of its free healthcare center and hosted a radio program, "In Our Times."

Judge McCullough has been active in many civic and charitable activities, including serving as a state and local committeewoman; a member of: the Allegheny County Bar Association's Anti-Bullying Program for elementary and secondary students, its Family Law and Women in the Law Committees; the United Way Strategic Planning Committee; Immigrants Against Domestic Violence Task Force; the Pennsylvania Health Concerns Committee;

and the Pennsylvania Catholic Committee on Social Concerns. She is a former member of the National Association of College and University Attorneys, the Board of Directors for the Pittsburgh Leadership Foundation and the Advisory Board of Storehouse for Teachers.

In 2005, Judge McCullough was nominated by the Governor and unanimously confirmed by the Pennsylvania State Senate as a Judge on the Court of Common Pleas of Allegheny County. She commenced her ten-year term as a Judge on the Commonwealth Court of Pennsylvania in January, 2010.

Judge McCullough is a member of the Supreme Court of Pennsylvania Appellate Court Procedural Rules Committee, a member of the Pennsylvania Bar Association's Appellate Advocacy Committee, Judicial Administration Committee, and Government Lawyers Committee; the Board of Directors of the Foundation of HOPE, and the Pennsylvania and Allegheny County Bar Associations. She volunteers as a lecturer and course planner for Continuing Legal Education courses for the Pennsylvania Bar Institute, county bar associations and community organizations, and is a volunteer for the Foundation of HOPE's Chaplaincy prison ministry, a program of the Christian Associates of Southwestern Pennsylvania.



Judge Anne E. Covey was elected in November 2011 to a ten-year term on the Commonwealth Court of Pennsylvania, beginning January 2012. Prior to her election, beginning in 2002, Judge Covey served as the first woman appointed to the Pennsylvania Labor Relations Board. She was initially appointed by Governor Mark Schweiker, and then appointed to a second term in 2005 by Governor Ed Rendell. In addition, she practiced Labor and Employment Law with Covey & Associates, P.C., which she founded in 1996 and owned. While in private practice, Judge Covey was recognized as a national expert on Labor and Employment Law. She also worked for several law firms,

including, Blank Rome, McCarter & English, and Giordano, Halleran & Ciesla. Judge Covey served a Commonwealth Court clerkship under President Judge David W. Craig and was a staff attorney to the Pennsylvania Labor Relations Board.

Judge Covey has written extensively, including authoring the book, *The Workplace Law Advisor*, and chapters in the best-selling books, *Business: The Ultimate Resource* and *The Compensation Guide*. She has developed and taught courses for professional associations, including the Society for Human Resources Management and the American Compensation Association, and served as an adjunct professor at Monmouth University. She has been interviewed as an expert by UPI, WNYC, WFAN, and many other media outlets. In celebration of the Commonwealth Court's fortieth anniversary in 2010, Judge Covey co-authored, "Contribution of the Commonwealth Court to Public Employee Labor Law: The First Forty Years" for publication in the *Widener University School of Law Journal*.

Judge Covey is a Fellow of the American Bar Foundation and a member of the Bucks County and American Bar Associations. She is admitted to practice before the Bars of Pennsylvania and New Jersey as well as the U.S. Third

Circuit Court of Appeals and the U.S. District Court for the District of New Jersey. She served as a Barrister in the Employment Law American Inn of Court.

Judge Covey is a 1981 graduate of the University of Delaware, where she earned a Bachelor of Arts degree with Departmental Honors. She attended Widener University School of Law, where she was the Law Review Associate Editor of *The Delaware Journal of Corporate Law*, Case Note Author of *The Delaware Law Forum*, and a member of Phi Kappa Phi Honor Society and Phi Delta Phi Legal Honor Fraternity. She was awarded her Juris Doctorate with *cum laude* honors in 1984, and received the American Jurisprudence Award. She also studied at the University of Cambridge, England.

Judge Covey's home chambers are located in Bucks County. She is married to attorney Michael S. Morris, and they have two children, Katy and Michael.



Judge Wojcik was elected to Commonwealth Court on November 3, 2015, and was commissioned and took the oath of office on January 4, 2016. Prior to his election, Judge Wojcik was engaged in the private practice of law for over 26 years with several law firms, including Kirkpatrick & Lockhart; Weinberg & Stein; LeBoeuf, Lamb, Greene & MacRae; and Thorp Reed & Armstrong. He also served as Solicitor to the Allegheny County Controller, as Allegheny County Solicitor, and as Solicitor to the Allegheny County Airport Authority. In the course of his private and

public practice, Judge Wojcik gained experience in myriad areas of the law, including municipal law, tax and assessment law, election law, civil rights, and personal injury, to name a few, and managed the second largest municipal law department in the Commonwealth.

Judge Wojcik earned a Bachelor of Arts degree at Juniata College, in Huntingdon, Huntingdon County, and a Juris Doctor degree, *cum laude*, at the University of Pittsburgh School of Law, where he was a member of the *University of Pittsburgh Law Review*, serving as Symposium Editor for volume 50.

A native of the Borough of Central City, Somerset County, Judge Wojcik earned the rank of Eagle Scout and remains active in the Boy Scouts of America, serving as an Assistant Scoutmaster and Committee Chair of Troop 646, located at St. Bede Church in the Point Breeze neighborhood of Pittsburgh. He also is Chair of the Lackawanna District of the Laurel Highlands Council, and a member of the Board of Directors of the Laurel Highlands Council. He has served as a youth basketball coach, as general manager of the East End Boys Lacrosse Club, and as Vice President of the parents' committee of the Oakland Catholic Rowing Club.

Judge Wojcik's home chambers are in Pittsburgh. He resides in Fox Chapel, Allegheny County, with his wife, Traci L. (Yonko) Wojcik, MD, an obstetrician/gynecologist, their daughter, Chloe, who attends Gettysburg College, and son, Michael, who attends Pittsburgh Central Catholic High School.





Judge Julia K. Hearthway received her Bachelor of Arts degree in political science from Stephens College in 1978. She graduated from Rutgers University School of Law in 1984. Following graduation from law school, Judge Hearthway served as a law clerk to the Honorable Paul W. Tressler of the Montgomery County Court of Common Pleas. From 1986 to 1990, Judge Hearthway served as an Assistant District Attorney in Montgomery County, where she prosecuted felony and misdemeanor cases, pre-arrest through post-conviction. She also served as Chief of the Accelerated Rehabilitation Disposition (ARD) division. From 1990-1992, Judge Hearthway was an associate with the law firm of Hamburg, Rubin, Mullin & Maxwell. Then in 1993, Judge Hearthway

reentered public service. She worked for the Pennsylvania Office of Attorney General from 1993 to 2011. Initially, as a Deputy Attorney General, she handled a variety of criminal cases in the areas of white collar crime, political corruption, and arson. She rose through the ranks and in 2001 was appointed to serve as the Chief Deputy Attorney General for the Insurance Fraud Section. Her responsibilities included the prosecution of complex multi-million dollar financial scams, which frequently involved proactive undercover operations, use of statewide investigative grand juries and multi-jurisdictional cooperation. During this time, she also chaired the Pennsylvania Auto Theft Prevention Authority (ATPA), a quasi-governmental agency tasked with funding and coordinating a statewide strategy to fight auto theft.

From 2011 to 2015, Judge Hearthway was a member of the Governor's Cabinet, serving as Secretary of the Department of Labor and Industry, the fifth largest state agency with over 5,000 employees, 150 offices, and an annual budget in excess of \$1.2 billion. Her responsibilities included oversight of unemployment compensation taxes, benefits and adjudication; oversight of the State Workers' Insurance Fund (SWIF) and workers' compensation benefits and adjudication; administration of the state's training and workforce development programs; administration of the vocational rehabilitation services for persons with disabilities; and en-

forcement of labor-related laws and workplace safety standards.

While serving as Secretary, Judge Hearthway was also instrumental in a number of legislative reforms, including the landmark passage of Acts 6 and 60 amending the unemployment compensation system, which enabled Pennsylvania to repay a \$3 billion Unemployment Compensation Trust Fund debt to the federal government. In recognition for her work on the structural integrity of the unemployment compensation system, Judge Hearthway received a national award from the Unemployment and Workers' Compensation (UWC) Association. She was also involved in securing passage of Act 184, reforming the workers' compensation system and Act 151, reforming the Child Labor Law. She further implemented a creative job-matching system that revolutionized how employers and job seekers in Pennsylvania connect.

In 2015, Judge Hearthway started her own consulting firm serving as president and CEO. The firm's areas of concentration included economic and talent workforce development, workers' compensation, and labor-management relations with a focus on helping clients develop effective interactions between the public and private sectors.

Judge Hearthway was appointed to the Commonwealth Court in July, 2016.



Judge Joe Cosgrove is a three-time graduate of the University of Notre Dame, having earned a Bachelor of Arts in Government and International Studies in 1979, and a Master of Arts in Theology, as well as his Juris Doctorate, in 1982. Judge Cosgrove also holds a Masters Degree in Studio Arts from Marywood College (now University). Following graduation from law school, Judge Cosgrove began a litigation practice, beginning with a small firm, and then opening his own office. At the same time, he was appointed Assistant Dean of Students at King's College in Wilkes Barre, and has continued to serve as an adjunct faculty member,

primarily teaching constitutional law. After his deanship, Judge Cosgrove served as law clerk to the Honorable Peter Paul Olszewski, Sr., of the Superior Court.

Throughout his career, Judge Cosgrove has had as a major focus his concern for constitutional and civil rights. He has litigated matters in this regard not only in the courts of Pennsylvania, but in other jurisdictions as well, including New York, Washington, D.C., North Carolina, Ohio and California. Some of this work has taken him overseas and has involved collaboration with Mother Teresa (now Saint Teresa) of Calcutta, with whom he shared a friendship over the last decade of her life. Judge Cosgrove has received the Kozel Award for Justice and Peace, the Rosa Parks Award of Myers Speech and Debate Tournament, and was a Thomas J. White Scholar in Law, Government and Human Rights while in law school.

In 1985, Judge Cosgrove was elected to the Pittston Area School Board, and served a four year term. He has also served as solicitor to a county row office as well as a township zoning board, the latter for more than 25 years. Judge Cosgrove has been honored by members of the legal profession by being elected president of the Wilkes Barre Law and Library Association/Luzerne County Bar Association, as well as the statewide Pennsylvania Association of Criminal

Defense Lawyers. He has also served on the boards of Marywood University, the Ethics Institute of Northeastern Pennsylvania, and Catholic Social Services in the Diocese of Scranton.

Along with his legal career, Judge Cosgrove has been involved in the television and film industry, having appeared in several films and as a character in three episodes of NBC's *The West Wing*.

Judge Cosgrove's judicial career began when then-Governor Ed Rendell nominated him to a seat on the Court of Common Pleas after the court was rocked by the infamous "kids for cash" scandal. He was confirmed unanimously by the Senate and completed his term in 2012. After leaving the bench, Judge Cosgrove became associated with ADR Options as a mediator and arbitrator, and was then appointed Chief Counsel to the Supreme Court of Pennsylvania.

While serving as counsel to the Administrative Office of Pennsylvania Courts, Judge Cosgrove was nominated to his current seat on the Commonwealth Court by Governor Tom Wolf in June of 2016, and (as with his previous judicial appointment) was confirmed unanimously by the Pennsylvania Senate.

## SENIOR JUDGE ROCHELLE S. FRIEDMAN



Judge Friedman was elected to the Commonwealth Court of Pennsylvania in 1991 and retained for a second ten-year term on November 6, 2001. In January 2009, Judge Friedman assumed Senior Judge status on the Commonwealth Court. She received her undergraduate and law degrees from the University of Pittsburgh. Prior to her election to the Commonwealth Court, she was a sole practitioner whose trial and appellate cases primarily involved criminal, first amendment and family law matters. She also served as a judicial law clerk to the Honorable James R.

McGregor, as solicitor to the Honorable Robert N. Peirce, Jr., Clerk of Courts of Allegheny County, as director of two Governors Justice Commission Projects, and as an adjunct faculty member at the University of Pittsburgh School of Public Health. Judge Friedman has also served as a consultant to the Mayor of the City of Pittsburgh and to the American University Law School, Criminal Courts Technical Assistance Program.

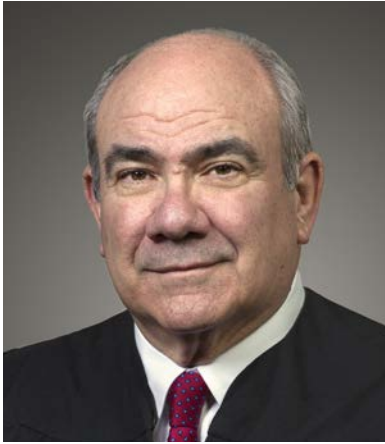
In 2008, Judge Friedman received certification as a mediator from the National Judicial College in Reno, Nevada, and in addition to her other judicial duties, served as a mediator for the Commonwealth Court for ten years.

Judge Friedman has been admitted to the United States Supreme Court, United States Court of Appeals for the Third Circuit, United States District Court for the Western District of Pennsylvania, and the Supreme Court of Pennsylvania. She is a member of the American, Pennsylvania, Bucks and Philadelphia County Bar Associations, the National Association of Women Judges, and the American Judges' Association. She has also served as Chair of District 3, Pennsylvania Chapter, National Association of Women Judges. Judge Friedman

teaches continuing legal education courses for the Pennsylvania Bar Association, Pennsylvania Bar Institute, and various county bar associations in addition to teaching law-related courses for various professional and community organizations.

Judge Friedman, who resides in Bucks County, was married to the late Irwin Mark Samuels and has two daughters and three grandchildren.

## SENIOR JUDGE JAMES GARDNER COLINS



James Gardner Colins was appointed Senior Judge, Commonwealth Court of Pennsylvania in January, 2012. Senior Judge Colins was commissioned to the Commonwealth Court in January, 1984, and served as Judge for twenty-four years, until his retirement in June, 2008. During that time, he served two terms as President Judge, from 1994 until 1999, and again from 2002 until 2007. Following his retirement and prior to his appointment in 2012, Senior Judge Colins was a Member and Shareholder at the Cozen O'Connor law firm in Philadelphia. Senior Judge Colins has served

on the Supreme Court's Statewide Computerization Committee; the Judicial Audit Committee of the Administrative Office of Pennsylvania Courts; the Compensation and Benefits Committee of the Pennsylvania Conference of State Trial Judges; the Pennsylvania Futures Commission; and the Century III Commission of the Philadelphia Bar Association.

In 1997, Judge Colins was appointed by the Pennsylvania Supreme Court to serve on the Judicial Conduct Board; he was elected and served as Chairman from January 25, 1999, to February of 2000. In June 1998, he was appointed a member of the Pennsylvania Bar Association's Judiciary, Academy and Bar Committee. In August 1998, Judge Colins was appointed by the president of the American Bar Association to serve on the Commission on Opportunities for Minorities in the Profession (Commission on Racial & Ethnic Diversity in the Profession). In 2007, Senior Judge Colins was appointed a Fellow of the College of Physicians of Philadelphia. He chaired the Pennsylvania Bar Association's Constitutional Review Commission from 2010 to 2013.

Judge Colins has been a CLE lecturer for the Pennsylvania Bar Institute, the Pennsylva-

nia Defense Institute, the Pennsylvania Bar Association, numerous county bar associations, as well as other professional organizations. Judge Colins has been the recipient of numerous awards, including the annual award for Distinguished Public Service presented by the Philadelphia Flag Day Association; the John Peter Zenger Law Society Distinguished Jurist Award, the Northeast High School Student/Senate Distinguished Service Award, and the Award of Merit presented by the American Hellenic Lawyers' Association.

Prior to being elected to the Commonwealth Court, he served on the Philadelphia Municipal Court for over three years following the private practice of law. He also served as an Assistant District Attorney in Philadelphia County.

He is an alumnus of Northeast High School (Philadelphia); the University of Pennsylvania, Villanova University School of Law, and the United States Army Infantry School (Honorable Discharge, Captain USAR, November 1, 1983).



Judge Pellegrini has been a Judge of the Commonwealth Court of Pennsylvania since January 1990. He was President Judge of the Commonwealth Court from January 2012 until January 2016, when he became a Senior Judge.

Prior to assuming the bench, Judge Pellegrini was a member of the City of Pittsburgh Law Department and became City Solicitor in 1982 until he joined the Court. From 1985 to 1990, he was a trustee and member of the Executive Committee of the National Institute of Municipal Law Officers, a group of 1,800 city and county attorneys from the United States and Canada.

He received his B.A. in 1967 from Duquesne University, and his J.D. in 1970 from Duquesne University School of Law. He served on active duty in the field artillery of the United States Army, rising to the rank of Captain. He has taught at the Institute of Judicial Administration at the New York University School of Law, the National Judicial College, and the Turkish Judicial Academy.



Judge Leadbetter was appointed to the Commonwealth Court of Pennsylvania by Governor Ridge in May of 1996, was elected to the Court in 1997, and was retained for an additional ten-year term in 2007. From 1999 until 2003, she also served as a member of the Pennsylvania Court of Judicial Discipline. She was elected by her colleagues on the Commonwealth Court to be President Judge effective January 7, 2007, and served in that capacity until the end of her five-year term in 2012. In addition

to her other judicial duties, Judge Leadbetter supervised the receivership of the City of Harrisburg, which terminated successfully in 2014, and continues to supervise the liquidation of Reliance Insurance Company. From 1990 until she joined the Commonwealth Court, Judge Leadbetter was a shareholder in the law firm of Fineman & Bach, P.C., where she specialized in civil litigation, and also served as a Judge Pro Tempore of the Philadelphia Court of Common Pleas (1991-96). Judge Leadbetter is a Fellow of the American College of Trial Lawyers and a Director of the Commonwealth Court Historical Society. She served two terms as a Director of the Pennsylvania Bar Institute (2008-14), and now serves as its treasurer.

She has taught trial and appellate advocacy in various venues, including Temple Law School's LL.M. Program in Trial Advocacy and continuing legal education courses sponsored by the American Bar Association Appellate Judges' Conference, the Pennsylvania Bar Institute, the Eastern District Continuing Legal Education Committee, the Philadelphia Bar Association, and the Academy of Trial Advocacy. Judge Leadbet-

ter previously served on the Third Circuit Lawyers' Advisory Committee (1988-91, chair 1991), the Federal Courts Committee of the Philadelphia Bar Association (1990), as a Director of the Historical Society of the United States District Court for the Eastern District of Pennsylvania (1990s) and as a member of that Court's Local Rules Advisory Committee.

Before entering private practice, Judge Leadbetter was an Assistant District Attorney for Philadelphia County (1971-76) and an Assistant United States Attorney for the Eastern District of Pennsylvania (1976-81). She graduated in 1968 from Rice University and in 1971 from the University of Pittsburgh School of Law, where she served as Managing Editor of the Law Review.

VISITING SENIOR JUDGE  
**KEITH B. QUIGLEY**



Judge Quigley is a graduate of Gettysburg College and the Dickinson School of Law. He was a member of the United States Marine Corps Reserve.

Prior to becoming a judge, he engaged in the private practice of law and served as solicitor for several municipalities in Cumberland and Perry Counties. Judge Quigley also served as the Perry County District Attorney for five years.

In 1976, Judge Quigley was appointed President Judge of the Court of Common Pleas of

the 41st Judicial District (Perry and Juniata Counties). He was then elected to that position in 1977, and retained by the voters of Perry and Juniata Counties in 1987 and 1997. He was the only judge in both counties until a second judicial seat was created and filled in 1992.

In 2004, he assumed the status of Senior Judge and joined the Commonwealth Court as a visiting Senior Judge.

Judge Quigley is married and the proud father of three sons.

VISITING SENIOR JUDGE  
**J. WESLEY OLER, JR.**



Judge J. Wesley Oler, Jr. received his B.A. in 1963 from Hamilton College, where he was elected to Phi Beta Kappa. In 1972, he graduated from the Georgetown School of Law, where he was on the editorial staff of the Law Review. Following graduation from law school, he clerked for the Honorable Robert Lee Jacobs of the Superior Court of Pennsylvania. Thereafter, until he became a trial judge, Judge Oler engaged in the private practice of law in Carlisle, Cumberland County. He served as editor of the *Cumberland Law Journal*, as a part-time public defender (1978-87), and as solicitor for the Borough of Carlisle (1986-1991).

From 1986 to 1995, he was a member of the Pennsylvania Supreme Court's Criminal Procedural Rules Committee. Judge Oler also authored *Pennsylvania Criminal Law: Defendant's Mental State* (Michie Co., 1986).

Judge Oler was elected to the Cumberland County Court of Common Pleas in 1991 and retained for a second term in 2001. On January 1, 2012, he was appointed as a Senior Judge, serving primarily in Cumberland County, and as a visiting Senior Judge on the Commonwealth Court. Since 2013, he has also served as a supervising judge of the statewide investigating grand jury based in Harrisburg.



**ADMINISTRATIVE OFFICES**





Office of the **EXECUTIVE ADMINISTRATOR**

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**Gary L. Hollinger**  
Executive Administrator

The Executive Administrator is responsible for the administrative activities necessary for the efficient operation of the Court. Those responsibilities include fiscal management, personnel administration, information technology, telecommunications management, library and online legal research services, judicial and administrative office procurement and facilities management, mail and delivery services, court security, and other administrative services.

The office is responsible for all aspects of the Court's financial operations, including expenditure control, fiscal reporting, budget preparation and review, accounts payable, filing fees, escrow accounts, and augmentation funds.

Responsibilities related to personnel management include the maintenance of all employment records, personnel transactions and annual performance evaluations, as well as administration of the medical and other benefit programs provided to the Court's 108 employees.

The office also provides the telecommunication services, information technology, office equipment and furnishings, and mail and delivery services vital to operation of twelve chambers statewide. The information technology staff manages and maintains the state-of-the art courtroom technology, statewide network of email and file servers, personal computers, software, printers, and video conference equipment. They also provide training as well as technical support services to all judicial and administrative offices. The Court utilizes a high-speed data network for e-mail, file transfer, video conferencing, case management, electronic legal research, and administrative applications.

The administrative staff also oversees a central law library located on the fourth floor of the Pennsylvania Judicial Center and online research materials through contracts with Westlaw and Lexis.



## Office of the **CHIEF CLERK**

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**Michael F. Krimmel, Esq.**  
Chief Clerk

The Chief Clerk primarily oversees the operation of the Court's filing office. The filing office is responsible for the receipt, docketing, and maintenance of all documents filed with the Court, scheduling of the Court's argument sessions, and maintaining caseload inventory and statistics. The Chief Clerk's Office accepts and time-stamps all filings upon receipt, and ensures the distribution of appropriate notices and orders to litigants and the public. The office reviews each filing and, where appropriate,

forwards filings to the Prothonotary for action or referral to the appropriate judge or judges for disposition. The Chief Clerk also monitors the receipt of records from the various courts of common pleas and administrative agencies in order to ensure

that records are received timely and complete. The Chief Clerk prepares the Court's argument lists and assigns judges to panels in consultation with the President Judge. After cases are assigned for argument or referred to a panel of judges for disposition on briefs, the Chief Clerk's Office sends appropriate notices to the parties and distributes the briefs to the judges of the Court for their review and subsequent action. The Chief Clerk prepares monthly and annual statistical reports.

For each appeal the Court decides, there are at least seven documents filed (and usually many more). Parties may file documents on paper or electronically via the PACFile electronic filing system. Regardless of how a document is filed, an electronic image of every filed document is maintained in the Court's automated case management system. Each document must be individually identified, entered on the appropriate docket, and filed for later reference. Trial court and agency records also may be filed on paper or electronically.

The Chief Clerk's Office is, for most litigants and counsel, the public face of the Court. The staff makes every effort to provide courteous and quality customer service.



## Office of the PROTHONOTARY

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**Kristen W. Brown, Esq.**

**Prothonotary**

ing procedural and substantive matters, and provide the Court with legal analysis relevant to the Court's jurisdiction, appellate procedure, and other developments in the law.

The Office of the Prothonotary is the non-chambers legal staff of the Court. Its staff reviews all pleadings, motions, petitions, and applications filed with the Court, schedules hearings and arguments, coordinates judicial schedules in consultation with the President Judge, and provides support for senior and visiting judges. Staff attorneys recommend disposition of matters presented to the duty judge, review all circulated draft opinions in order to communicate with the authoring judge regard-

The Prothonotary's Office is also responsible for providing legal support in the insurance company receiverships, including both rehabilitations and liquidations. A staff attorney reviews matters filed with the Court, facilitates the flow of communication between the Court, the Pennsylvania Insurance Department and the litigants, coordinates the litigation, and assists in resolution of the substantive disputes.

Members from this office respond to inquiries from the bar and the public, including the press and all branches of government.



## HISTORY OF THE COURT



# ORIGIN AND HISTORY OF THE COURT

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The Commonwealth Court of Pennsylvania came into existence in 1970 as a result of the Pennsylvania Constitutional Convention of 1967-68. The Court is unique among state intermediate appellate courts in the United States in that it is the only such court that specializes in governmental and administrative law matters. Moreover, its jurisdiction as an intermediate appellate court is novel in that approximately 18% of its caseload lies in its original jurisdiction.

The jurisdictional features of the Commonwealth Court are due to the unique role played by the Dauphin County Court of Common Pleas before 1970. As early as 1811, the General Assembly vested jurisdiction in the Dauphin County Court to hear cases involving the settlement of public accounts and the payment of public monies. Later, the court was given exclusive jurisdiction of questions concerning the nomination of candidates for state offices. Clinton County Judge Abraham Lipez served as Chair of the Pennsylvania Bar Association's (PBA) committee for implementation of Article V, "The Judiciary," of the 1968 Pennsylvania Constitution. Judge Lipez noted in "History of the Commonwealth Court" (in Volume 1 of the Pennsylvania Commonwealth Court Reports), that the General Assembly's Act of April 7, 1870, "recognized the need for a court with statewide jurisdiction at the seat of government." The Dauphin County Court was the obvious choice. Between 1870 and 1970, the Dauphin County Court's Commonwealth Docket became increasingly important in the development of administrative law in Pennsylvania.

In his 1935 "History of the Court of Dauphin County," then President Judge Hargest observed that the "Dauphin County Court [was] especially commissioned . . . as the forum in which Commonwealth cases shall be heard in the first instance." Thus, the Commonwealth Docket of the Dauphin County Court included appeals (mostly involving state taxes), and original jurisdiction actions against state government (usually actions in equity or mandamus) or by state government (usually actions in equity) against private parties.

The increase in the number of state agencies in the decades after 1935 and the emergence of a more litigious society by the 1960s led to calls for a second intermediate appellate court in Pennsylvania. Dauphin County President Judge Kreider is quoted in Don Sarvey's "The History of Law and Lawyers in Dauphin County" as saying that the "flood of litigation" involving state issues had become "an intolerable burden" and the Dauphin County Court "simply could not handle expeditiously the disposition of these important State cases." Numerous other states encountered this same rise in litigation during this time period.

The delegates to the Pennsylvania Constitutional Convention of 1967-68 met in Harrisburg and addressed this dramatic increase in litigation in a manner unique among the states. The delegates, according to Judge Lipez, "envisioned, not only a court which would take over the Commonwealth jurisdiction of the Dauphin County Court, but a third appellate court which

would relieve the increasingly heavy burdens on [the Pennsylvania Supreme Court and the Pennsylvania Superior Court].”

Instrumental in creating this third appellate court were two distinguished Dauphin County lawyers, Robert E. Woodside and James S. Bowman. Woodside had a distinguished career as a state representative, Dauphin County Court judge, Pennsylvania Attorney General, and Superior Court judge; he was a delegate to the 1968 Constitutional Convention and co-chaired the subcommittee that wrote the Judiciary Article for the new Constitution. Bowman was a Dauphin County Court judge from 1964 to 1970, who was recognized as an outstanding jurist with special expertise in jurisdictional and procedural matters.

The Judiciary Article, which created the Commonwealth Court, was approved by the Constitutional Convention and submitted to the electorate along with other new constitutional articles. They were approved on April 23, 1968. The PBA appointed a committee to assist in the implementation of the Judiciary Article, with two sub-committees to make recommendations concerning the Commonwealth Court’s original and appellate jurisdiction; Judge Bowman was the chair of the subcommittee on original jurisdiction.

The PBA approved the recommendations of the Implementation Committee. Many of the recommendations were incorporated in the Commonwealth Court Act of 1970, and others were incorporated in the Appellate Court Jurisdiction Act of 1970.

Adapted from Daniel Schuckers, Esq., *The Dauphin County Court – Origins of the Commonwealth Court in Dauphin County Court of Common Pleas 1785-2015* (2015).

Although the seven original judges of the Commonwealth Court, including Judge Bowman as President Judge, were nominated by Governor Raymond Shafer and quickly confirmed by the Senate and installed in April 1970, the Commonwealth Court Act provided that the court would not begin to perform its judicial duties until the Governor proclaimed its readiness to do so. The Governor issued this proclamation September 1, 1970, and the new Commonwealth Court immediately set out to rule on the more than 1000 cases that were initially transferred from the Dauphin County Court’s Commonwealth Docket.

As the Commonwealth Court’s caseload increased over the years, the Court was expanded from seven to nine judges in 1978. Today, the Court continues to operate with a complement of nine commissioned judges and three senior judges, handling an average of 4000 new appellate and original jurisdiction cases per year.

Even with advances in technology that aid the Court in its adjudicative responsibilities – including automated case management and document management systems, electronic filing, and online legal research – many of the Court’s original operating procedures and administrative efficiencies established by President Judge Bowman have stood the test of time and are still in effect today. It is this solid foundation that has enabled the Commonwealth Court to have such a significant impact on Pennsylvania jurisprudence despite its relatively brief history.

# THE ORIGINAL MEMBERS OF THE COMMONWEALTH COURT



Judges of the Commonwealth Court 1970

(Standing Left to Right) Glenn E. Mencer, Roy Wilkinson, Jr., Louis L. Manderino, Alexander F. Barbieri  
(Seated Left to Right) James C. Crumlish, Jr., James S. Bowman, President Judge, Harry A Kramer

## PRESIDENT JUDGES

James S. Bowman	1970 - 1980	James Gardner Colins	2002 - 2007
James C. Crumlish, Jr.	1980 - 1990	Bonnie Brigance Leadbetter	2007 - 2012
David W. Craig	1990 - 1994	Dan Pellegrini	2012 - 2016
James Gardner Colins	1994 - 1999	Mary Hannah Leavitt	2016 -
Joseph T. Doyle	1999 - 2002		

## COMMISSIONED JUDGES

James S. Bowman	1970	Doris A. Smith-Ribner	1988
James C. Crumlish, Jr.	1970	Dan Pellegrini	1990**
Harry A. Kramer	1970	James R. Kelley	1990
Roy Wilkinson, Jr.	1970	Robert L. Byer	1990
Louis L. Manderino	1970	Rochelle S. Friedman	1992
Glenn E. Mencer	1970	Sandra Schultz Newman	1994
Alexander F. Barbieri	1970	Jim Flaherty	1996
Theodore O. Rogers	1971	Bonnie Brigance Leadbetter	1996**
Genevieve Blatt	1972	Renée Cohn Jubelirer	2002*
Richard DiSalle	1977	Robert Simpson	2002*
John A. MacPhail	1978	Mary Hannah Leavitt	2002*
David W. Craig	1978	Johnny J. Butler	2008
Robert W. Williams, Jr.	1980	P. Kevin Brobson	2010*
Madaline Palladino	1980 & 1984	Patricia A. McCullough	2010*
Joseph T. Doyle	1982	Anne E. Covey	2012*
Francis A. Barry	1983	Michael H. Wojcik	2016*
James Gardner Colins	1984**	Julia K. Hearthway	2016*
Bernard L. McGinley	1988	Joseph M. Cosgrove	2016*

\* CURRENTLY SERVING

\*\* CURRENTLY SERVING AS SENIOR JUDGE







JAMES S. BOWMAN  
En Banc Courtroom

COMMONWEALTH COURT **HISTORICAL SOCIETY**

# COMMONWEALTH COURT HISTORICAL SOCIETY

The Commonwealth Court Historical Society is a nonprofit, nonstock corporation which, according to its bylaws, has as its purpose the education of the public about the history of the Commonwealth Court and the preservation of the Court's heritage and contribution to Pennsylvania jurisprudence since 1970.

Among its activities, the Historical Society presents continuing legal education programs that touch on the Court's unique, broad jurisdiction. Commonwealth Court judges are frequently presenters or moderators, together with nationally-known scholars and law school professors. In the period covered by this report, the Historical Society presented the following programs:



[WWW.PACCHS.ORG](http://WWW.PACCHS.ORG)

## 2016:

**October** (at Widener University Commonwealth Law School, Harrisburg) "The Contributions of Justice Antonin Scalia to the Development of Administrative Law"

**April** (Pittsburgh) "Uber and the Sharing Economy - The Future of Regulation"

**February** (Philadelphia) "How Presidential Legacies are Built (or Torn Down)"

## 2015:

**September** (Harrisburg) "The Future of Regulation"

**March** (Harrisburg) "Right of Privacy in the Age of Big Data"

## 2014:

**November** (Pittsburgh) "Harm Caused by Access to Court Records: An Attorney's Ethical Obligations"

**September** (Harrisburg) "Impact of *Hobby Lobby* and *Conestoga Wood* decisions of the Supreme Court"

**March** (Philadelphia) "Civil Forfeiture in Pennsylvania: Is Possession Still 9/10ths of the Law?"



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