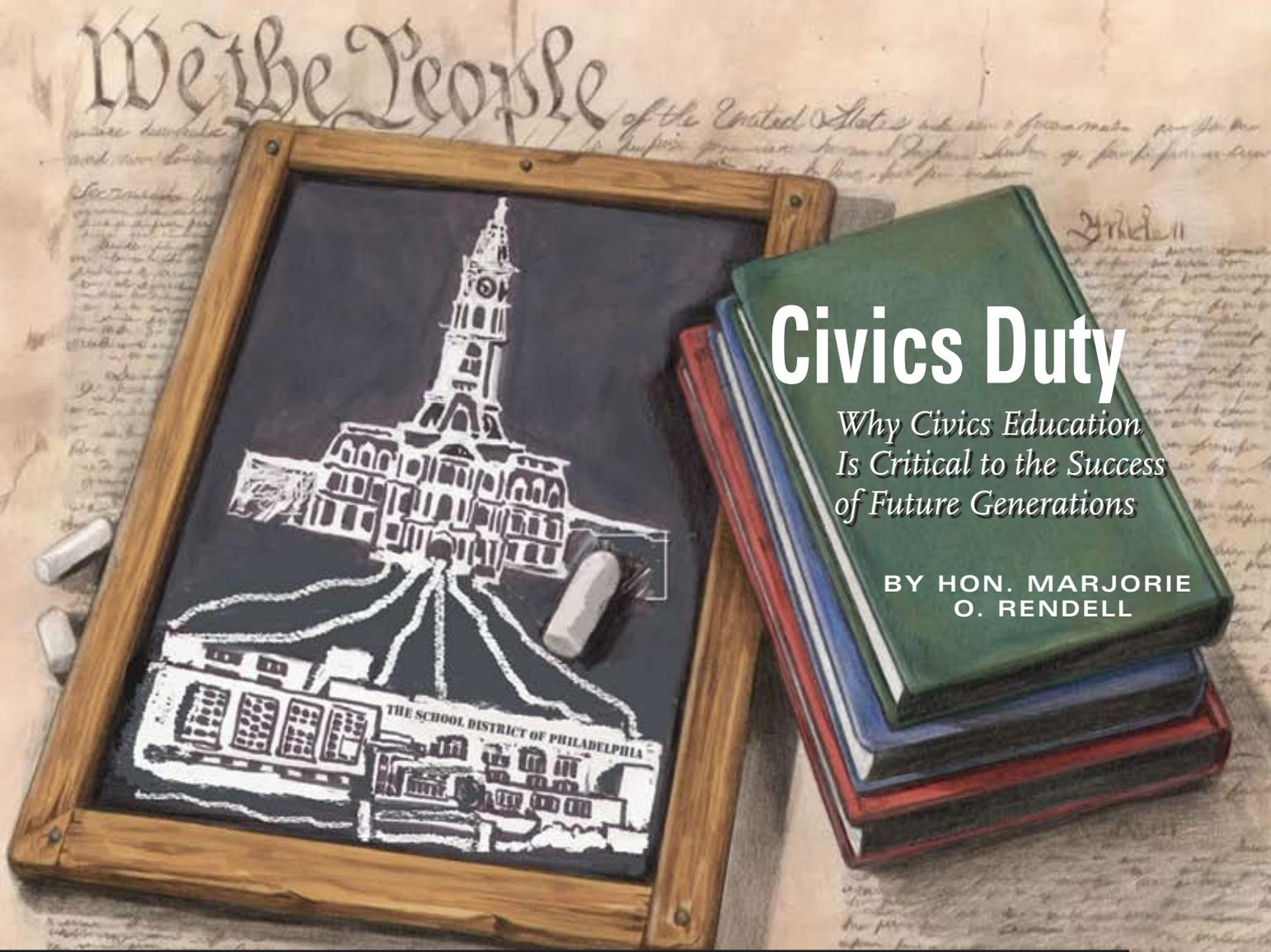


THE PHILADELPHIA LAWYER

Vol. 71, No. 2

Philadelphia Bar Association Quarterly Magazine

Summer 2008



Civics Duty

*Why Civics Education
Is Critical to the Success
of Future Generations*

BY HON. MARJORIE
O. RENDELL



Standing a Chance

BY ADRIENNE
CORNWALL



10 Questions for Chief Justice Ronald D. Castille

INTERVIEW BY
DAVID I. GRUNFELD



Training Ground

BY STATE SEN.
MIKE STACK

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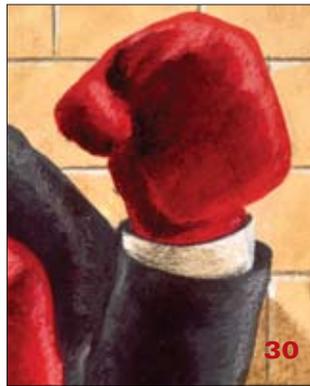
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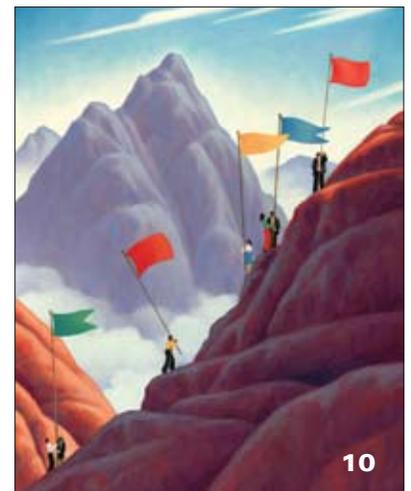
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A weekend or maybe longer – whichever you decide one thing is for certain, you will love Talbot County, Maryland. See our 602 miles of shoreline, five rivers, exquisite sunsets, and the Chesapeake Bay. Indulge as you experience our culinary destination showcasing the most remarkable, talented and creative chefs who serve the freshest local seafood and produce in casually chic restaurants. Talbot County offers something for everyone – sailing, yachting, kayaking, shopping, biking, golfing, the arts, theater, festivals, wineries, and rich colonial and maritime history. Discover the picturesque hamlets of St. Michaels, Tilghman Island, Oxford and Historic Easton. So Much, So Close, and So Memorable!



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Top Prospects

BY ADRIENNE CORNWALL

Learning is a lifelong activity, one we perform formally and informally at various times. We learn new skills on the job, we learn from our mistakes, we learn ways to make the future a more welcoming and exciting time in which to live. Authors in this issue explore the many lessons we can learn from our past and present situations to lead us into a brighter future.

Judge Marjorie O. Rendell hopes that by providing civics education to schoolchildren, our nation's youth will be better prepared to become active citizens and participants in government and our country's future leaders. In her cover story, "Civics Duty," Judge Rendell discusses the importance of civics education in schools, her involvement in civics education in Pennsylvania and the launch of the Philadelphia Bar Association's Advancing Civics Education initiative. These efforts aim to provide today's schoolchildren with the foundation of understanding of our nation's democratic principles and origins they need to succeed in maintaining our democracy.

Technology provides endless opportunities to learn as it, and our uses for it, evolve and advance. In "Virtual Schoolyard," May Mon Post and Mark Franek explore the emerging phenomenon of cyberbullying, which involves children using the Internet to verbally abuse each other. Because much of the computer activity takes place away from school, administrators are in uncharted territory on how to deal with the impact it has on the school environment.

Some of life's hardest lessons are learned the old-fashioned way – through trial and error. In "Standing a Chance," meet a few Philadelphians trying to right old wrongs after spending time in prison. The article highlights a pilot federal prisoner re-entry program in the Eastern District of Pennsylvania and the ex-offenders who are making it an early success. By taking active roles in their transitions back into their communities, these program participants are setting positive examples for future participants to follow.

Even legal professionals are sometimes subject

to reprimand, as was the case with the defendant's attorney in *GMAC v. HTFC*. Hoping to learn from missteps in that case's profanity-laden deposition, in "Civility," John Myers looks to Judge Eduardo C. Robreno's opinion for signposts to steer other lawyers safely through on-the-record proceedings with uncooperative clients.

In "Changing Times," author Corey Davis offers his analysis of the progress being made to protect the rights of transgender individuals. Although the efforts for inclusion nationwide have seen some success, at the federal level and in many states, the legal protections available to gay and lesbian citizens have yet to be extended to the transgender community. Many steps remain on the road to a more diverse and tolerant legal environment for all minority groups. In recognition of the inclusion of transgender people in the gay and lesbian community's struggle for legal rights, the Philadelphia Bar Association's Committee on the Legal Rights of Lesbians and Gay Men has been renamed the LGBT Rights Committee.

Understanding what led to our present circumstances informs how we shape the future for ourselves and future generations. This issue's contributors show there is no shortage of chances or arenas in which we can choose to act. ■

Adrienne Cornwall is managing editor of The Philadelphia Lawyer. Her e-mail address is acornwall@philabar.org.



Photo courtesy Hon. Marjorie O. Rendell

Hon. Marjorie O. Rendell has made civics education a key issue of the Governor's Office of the First Lady.

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Lawyers Just Want to Have Fun

BY MICHAEL J. CARROLL

This is my last column as editor. The year has gone by quickly, and it has been fun. Trying to chair the monthly meetings of the editorial board is a little like attempting basic home plumbing. Sometimes it is incredibly satisfying when you manage to replace some minor fixture and water does not gush into the ceiling light fixtures. Other times, well, other times I felt like one of those rodeo cowboys trying to hang on to a bucking bull and often ending up beneath it. You know what naturally tends to accumulate under a bull.

Another task of the editor is writing this column in each quarterly issue. The difference between the editor's column and other articles is that no one votes "yay" or "nay" on the editor's column. Barring major errors of grammar or syntax, it goes in. A magazine tradition. That *has* been fun.

I got into a little trouble with a few readers now and then. There was an irate letter to the editor about my fall opinion column accusing me of saying that President Bush wanted old people starving in the streets. I never said he *wanted* that. I may have implied in my signature subtle way that pension and social security proposals and trends would not help retirees eat or live very well at home, on the street, or anywhere else.

And there was the other letter — also somewhat irate, I'm afraid — about my winter column. It accused me of *demonizing* the National Rifle Association (NRA). Now I might have softly suggested that the organization might not be in the mainstream of public opinion, or be a completely constructive and positive force in the gun debate, but I am not big on demons. I suspect demonize pops up in the NRA letters that appear in response to suggestions that assault weapons should be banned from civilian life or that there should be a cap on the number of monthly gun purchases. The recurrence of demon might just be another example of great minds thinking alike, I suppose, and not some coordinated attack activated whenever any regulation of guns is proposed in any publication anywhere.

Better to be attacked than ignored, some say. Overall, the responses I have received have been positive.

So what about this final column? This year it is thirty years since I graduated from Rutgers Law School and was admitted to the Pennsylvania Bar. Referring back to the fun theme above, time does fly when you are having it. I want to use this last column to do something that if you told me three decades ago I would be doing now, I would have said you were smoking too much of some non-tobacco weed — and that unlike Bill Clinton, you were inhaling it. I want to write a column in defense of lawyers.

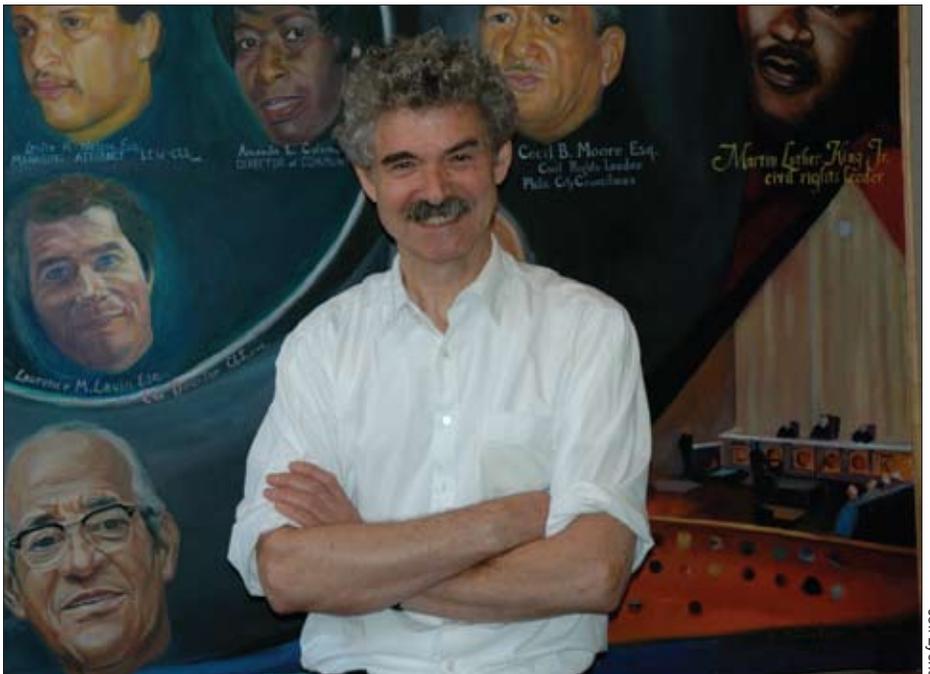
There. I've said it.

Some of the people I admire most happen to be lawyers. Some of the people I may admire least are attorneys as well, but I will not dwell on that here. There is no shortage of those who criticize lawyers frequently, loudly and harshly, and I see little danger of creating an unfair opinion imbalance by defending lawyers one time in one column.

I am what is often called a public interest lawyer. I charge no fees and have been ducking charging fees for three decades. I suppose that makes me a dinosaur and an abomination to the free market.

You might assume that lawyers I admire practice in that public interest area. Your assumption would be correct. You would, however, have to broaden your assumption to take in the entire field that I admire. Besides the public interest lawyers are "ham and eggs" practitioners in solo practices and small firms who care about clients, deliver good service and sweat at 4 a.m. about mortgage payments, college tuition and unfunded retirement. Also included in the admired are firm lawyers who find themselves just a bit out of step. They do their best to help the poor and the disadvantaged by representing them or by supporting those who do.

For my complete picture of the admired ones, you would also have to include those criminal lawyers out there for years doing the job and trying to do it right. They get little respect or support from a system and society that often blurs them with their clients, who



Jeff Lyons

are sometimes accused of doing horrible things. Criminal lawyers who constantly have to answer the question posed by friends and family (lawyers included): “How can you defend *those people*?” That question might be restated as: “Why don’t you get out of the way and allow the government to punish whomever it wishes, as often and as much as it wishes?”

Why do lawyers have an image problem? Part of the answer might be found in the reasons people seek lawyers. When was the last time a person made an appointment to tell a lawyer that everything was going great? A person who was not mentally ill, that is.

Folks see lawyers when someone dies, or someone is injured; when someone is arrested or wronged by spouse, employer or stranger. People see lawyers when they have problems, often the biggest problems of their lives. The lawyer often adds one more problem: financial. The lawyer asks for money — sometimes lots of money — at a time when the client has problems enough, financial problems included. Because of the world we live in, this money must sometimes be found in life savings, the college fund or a second mortgage on the house.

So someone dies, see a lawyer. Whether the cause is a traffic accident or medical malpractice, see a lawyer. Natural causes? See a lawyer about the estate. Murder? See a lawyer to put the murderer away. If you or yours are blamed, you know whom to see.

I could go on with examples for a long time but will try to end it after just a few more. Fired from a job wrongfully? Find a lawyer quick. Thrown in jail? Get a lawyer even quicker. Partner or spouse cheating or beating on you? Get down to that law office pronto. And always, always, always, bring that checkbook with you.

And as to that imaginary person above calling a lawyer to say all is well, that person might be committed to a mental hospital. If the patient/inmate wanted out ...well, find a lawyer.

You have long since received my point: Lawyer-client contacts do not generally provide the most fertile ground for friendships, or even positive relationships.

When people decide they need a lawyer, what qualities do they look for? Do they want their lawyers to be nice? Certainly not. They want them to be pit bulls. They want them to kick butt. Too many clients don’t think a lawyer is doing a competent job unless the lawyer is yelling, rotating arms in the air, and generally being obnoxious to the other side ... the enemy side.

And when a lawyer is found and retained, what sort of conversations might take place? That depends somewhat on the type of case, but let’s look at a few examples.

Criminal lawyers must sometimes look the client in the eye and recommend that the accused accept a plea bargain. Not all cases go to trial. Not all should. Defense counsel’s job may be to recommend that the client *agree* to go to prison for five years and suggest that it is a good idea. It may indeed be the best of a number of bad options because going to trial would likely lead to a twenty-year prison sentence. Good deal and good advice notwithstanding, it can still make for awkward conversation — more awkward still for that client who is a stranger to the criminal justice system.

While we are on the subject of awkward conversation, lawyers must sometimes respond to some version of this: “Just tell me what to say, counselor.” Another way of putting it might be, “Tell me how to lie,” or, “Tell me how to commit perjury.” Awkwardness and unpleasantness aside, such a question might say something about the moral compass of the client, the client’s opinion of the morals of the lawyer, and maybe of lawyers and the legal system in general. (TV cop/lawyer shows may go a long way to explain such opinions, but that’s a whole other column.)

Other questions are often stated indirectly in terms like, “I only want what’s rightfully mine... what’s owed me...what’s fair,” when a more direct and honest statement might be: “How can I hurt him/her/them?” This can be asked in cases that range from family law to landlord-tenant, to just about anything that pits humans against each other in the legal system (a system that, with all its faults, is superior to rowhouse trial-by-baseball-bat or street-corner decision-by-9mm-Glock.)

Other questions come as much from the society at large as from individual clients. Lawyers may be asked to defend contingency fees that allow them to take a share of the money the client wins in court

— if the client wins. Some critics allege that a lawyer might take too big a chunk of change for taking a dead winner case — from wherever those semimythical can’t-lose cases are found. Or allege that a lawyer might cash in on a less-than-adequate pre-trial offer, take the percentage fee and run. On the other hand, too good a settlement (read: too big) may trigger bad press and worse legislation. Can’t win.

Life can get complicated with contingency fees. There is pressure on the lawyer to become a banker, putting out money for all the expenses that go with taking on a corporation, or an entire industry. Being banker and lawyer creates its own tensions.

The problem is that without the imperfect contingency fee system, an injured client may be priced out and locked out of court. Especially in these days of shrinking government protection and regulation, other options for protection and redress too often turn out to be no option at all. Without the contingency fee, warts and all, most people would be out of court and out of luck.

The questions go on and on, but I did promise to end this, and end it I will. Before I say goodbye, let me state a little of what I hope is obvious. I have no time for the liars, the cheats, and the nasty. They exist in every job and profession, including mine — although not in the numbers and percentages one might think based on TV portrayals and talk radio. But as I said earlier, there is no shortage of volunteers to point out the problem lawyers, so I choose not to take on that job here.

To the lawyers out there doing the job day after day, year in and year out, fighting for a fair shake for clients, fighting for fair compensation, fighting to hold punishment to the proportional and just, I say chin up and keep it up. And try to have a little fun now and then. ■

Michael J. Carroll is a public interest lawyer in Philadelphia.

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most happen to be lawyers.
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least are attorneys as well,
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who criticize lawyers frequently,
loudly and harshly.*

Briefs

■ BIG DEALS ■ RECRUITMENT UP ■ SPENDING HIGH ■ NECROLOGY ■

Firm Mergers Steady in First Quarter of 2008

Seventeen new law firm mergers in the first quarter of 2008 maintained the pace set in the previous three quarters. That total surpassed the same quarter in 2007, when only ten mergers were reported, according to MergerLine, an online tracking service from legal consulting firm Altman Weil.

“We do not expect the pace to slacken in 2008, even in the face of a looming recession. Many firms are talking and they will continue to make deals,” said Altman Weil principal Tom Clay.

The two largest deals occurred in the South, with Richmond-based McGuire Woods acquiring Charlotte firm Helms Mulliss

& Wicker, and Richmond firms LeClairRyan and Wright Robinson Osthimer & Tatum announcing their merger into a 275-lawyer operation.

The remaining fifteen deals were largely regional combinations in the South, Midwest, Mid-Atlantic, New England and West regions of the U.S., with one multiregional real estate boutique deal.

MergerLine, an online service that records law firm mergers as reported in the news and by individual firms, also showed ten deals from the fourth quarter of 2007 that took effect in the first quarter of 2008.

Sixteen or seventeen law firm mergers were reported in each of the last four quarters.



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Philly's Callback Acceptance Rate Among Highest in U.S.

Keeping pace with the previous four years, recruiting statistics for entry-level lawyers remained high last year, according to a report on fall 2007 recruiting by NALP, the Association for Legal Career Professionals.

Recruiting of unaffiliated third-year students was consistent at 38 percent of firms. The Northeast saw the highest level of third-year recruiting, with an average of 26 callback interviews, but acceptance rates for the callbacks varied widely, with Philadelphia's callback acceptance rate topping 70 percent compared with only 20 per-

cent in Los Angeles.

Summer program recruiting and outcome numbers were consistent with recent years, with firms making an average 39 offers to second-year law students for summer 2008 jobs. Students accepted at a consistent rate of 29.1 percent as well.

Nearly all participants in summer programs — 93 percent — were offered associate positions and 77 percent of the offers were accepted. Offer rates met or exceeded those recorded in 2000 and were the highest reported since 1995.

The median summer class size of

six was unchanged from 2006. But the average class grew to thirteen from eleven the prior year.

On-campus interviewing rates showed that more than half of the reporting schools saw at least a 5 percent increase in the number of employers recruiting on campus.

Large firms of more than 250 attorneys tended to make more offers from callback invitations overall than firms of 100 or fewer attorneys, but the smaller firms saw a higher acceptance rate of about 50 percent, compared with 27 percent at the large firms.

Law Department Expenses Spike at Large Companies

Total expenditures for law departments at the largest U.S. corporations increased significantly in 2007, according to a survey by legal consulting firm Altman Weil.

Internal spending increased more significantly than external expenditures, with total law department costs rising from .19 percent to .27 percent of annual revenue. For corporations earning annual revenues of at least \$5 billion, this increase translates to \$13.27 million in spending on legal services.

Internal costs jumped by 7 percent from 2006, increasing to \$346,497 per lawyer. Salary and benefits, which comprise the largest single internal cost, increased 19.2 percent to \$313,747 per lawyer.

Litigation, products liability and risk management were the top spending categories for external expen-

ditures last year. Total external costs increased 1.4 percent, with the chemical manufacturing industry seeing the highest average outside expenditures of more than \$1 million per lawyer. The insurance industry had the lowest cost per lawyer at just more than \$250,000.

Letters to the Editor

Your comments are welcome on any topic relating to the law, the profession, the Philadelphia Bar Association or *The Philadelphia Lawyer* magazine. Editors reserve the right to condense for clarity and space considerations. Letters must be signed, but names will be withheld upon request. Send letters to Managing Editor, *The Philadelphia Lawyer*, Philadelphia Bar Association, 1101 Market St., 11th floor, Philadelphia, Pa. 19107-2955 or e-mail to tplmag@philabar.org.

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The Editorial Board of *The Philadelphia Lawyer* magazine welcomes submissions and is particularly interested in receiving substantive articles from attorneys and other professionals in which they share their expertise on law-related topics. Articles must be original and previously unpublished.

Those interested in submitting manuscripts should adhere to the following word counts:

- * Major law-related articles, 2,500 words
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