



NEWS BRIEF

MAY-JUNE 2018



PRESIDENT'S MESSAGE

By: **Stephanie Dellolio, Attorney at Law, GBBA President**

Greetings and Salutations, Members,

It has been an honor and a privilege to serve as the 137th President of the Greater Bridgeport Bar Association. It is heartening to see so many of you here tonight, socializing with each other and celebrating the culmination of an exciting and successful year. I believe your presence here is a strong reflection of how together we have grown and strengthened the GBBA.

The past year has seen the GBBA reach many of the goals we set at the start of the year. The GBBA can look back at the past year with pride and enumerate its many accomplishments. Most significantly, the GBBA's membership has significantly increased, and we're particularly pleased to have increased our young lawyer membership. The social events, such as the Annual Dinner Meeting here tonight, the Holiday Party at the Black Rock Yacht Club, and the Trivia Night benefit for the GBBA Scholarship Fund, to name a few, have been well-attended and much collegiality has been had. We have increased the number and strength of our CLE seminars and have sponsored both nuts-and-bolts and advanced practice workshops, many of which have been standing-room only. Our committees have been hard at work planning, organizing, and working together to meet the needs and expectations of our members.

Internally, we made the transition from the longtime leadership of Executive Director Nancy Ganassini, who is with us here tonight, to her successor, Executive Director Antoinette Manganello, who has brought a wealth of experience and enthusiasm to this demanding position. The GBBA has also been lucky enough to have hired

Antoinette's assistant, Lawyer Referral Services Coordinator Rebecca Izzzi, who also brings excellence and dedication her position. If you have not done so already, please introduce yourself and welcome these dedicated women to the GBBA.

Looking outward, the past year also saw the GBBA and its members generously supporting the local community by donating time and resources to community outreach endeavors. These events include the Thanksgiving Food Drive, the Holiday Toys for Tots Drive, the Bridgeport Middle and High School Debate League, the Merton House, and the Center for Family Justice which is hosting the annual golf outing on June 18th.

As I cross the threshold from President to Past President, I would like to thank my fellow GBBA Officers, Board of Directors, Past Presidents, and Committee Chairs for all of their support and willingness to serve. I truly valued their time, intellect, and recommendations. A special thanks goes out to all GBBA members whose loyalty is crucial to the GBBA's continued existence and success in advancing the principles of the legal profession. Thanks also to my firm, Ury & Moskow, LLC, for supporting the GBBA and all of my bar association commitments and endeavors.

To quote my president's message in the last issue of the GBBA's News Brief, it's hard to imagine that the founders of this organization could have predicted how strong and diverse an association the GBBA would have become 138 years later. The GBBA has many exciting initiatives for the upcoming year, and I know that Attorney Jim Horwitz will be an outstanding President and wish him well. ■



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TO SHARE?**

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Upcoming 2018 Events

- 6/27 Walking Wednesdays Kickoff
- 7/11 Litigation Roundtable
- 7/17 Bike Ride
- August Real Estate Roundtable
- August Summer Social
- 10/4 Cyber Liability Seminar

Please contact the GBBA office for more information on sponsorships and registration!

Law Day 2018

This coverage of our event was printed in the Tuesday, May 1, 2018 edition of the CTPost.

Law Day Marked with Breakfast, Awards

By Daniel Tepfer

BRIDGEPORT - A large crowd filled the offices of The Greater Bridgeport Bar Association Tuesday morning to mark the 60th anniversary of National Law Day.

Superior Court Judge Barbara Bellis, the administrative judge for the Fairfield Judicial District, handed out the awards to the winners of this year's essay contest, Hector Gonzalez, Cianna Fernandes and Catrina Nguyen of Central High School and Chelsea McLaren of Hallen Elementary School.

This year's essay theme was "Separation of Powers; Framework for Freedom." Gonzalez, the first-place winner, read his essay to the audience in which he described the role of the three branches of government in immigration. "The three branches must improve their system of enforcing immigration," Gonzalez concluded.

"This was the highlight of not only my day but one of the best things I get to do as a judge," said Bellis, who also handed out awards to the winners of the debate between Park City Magnet and Blackham schools. "The debate team members and the essay winners have such a good grasp of the workings of our government, our future is in good hands," Bellis added.

Attorney Kathleen Dunn presented the bqar association's annual Liberty Bell Award to Ronald Rapice. Established in 1958 by President Dwight D. Eisenhower, Law Day is a national day to celebrate the rule of law and its contributions to the freedoms Americans enjoy.

This year's Law Day celebration began with a breakfast at the GBBA's offices at 1057 Broad St. in Bridgeport. "It's days like this that make it all worth it," concluded GBBA Executive Director Antoinette Manganello. "Let's keep the support going."

The GBBA was established in 1880, one of the oldest, continuously active bar associations in the United States.

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Law Day 2018



Law Day 2018

Liberty Bell Award Presentation

By Kathleen M. Dunn, Esq.
to
Ronald Rapice, Esq.

Separation of Powers Debate

Amari Blank and Eric Vives of Park City Magnet School
vs.
Matthew Hibbert and Jaden Jones of Blackham School

Announcement—Debate Winners

Essay Award Presentation

By The Honorable Barbara N. Bellis to
Hector Gonzalez, Cieanna Fernandes,
and Catrina Nguyen of Central High School
and Chelsea McLaren of Hallen Elementary School

Reading—Hector Gonzalez's Winning Essay
"How does the United States distribute power over
immigration between the three branches of
government? Has the separation of powers led to an
even distribution of this power in the United States,
as was intended?"

Hector Gonzalez
Central High School

1ST PLACE ESSAY WINNER

Immigration in the U.S.

The United States has an extensive history regarding the topic of immigration even going back to the 1860s. Immigration has played a big role in our economy's growth as many of these immigrants are taxpayers, workers, and consumers. Even with the positive impacts of immigrants, the topic of immigrants staying in the U.S has many controversies which makes it hard for the lives of immigrants and their families in the U.S. This is where the federal government comes into action. It is the job of our government to enact and enforce our nation's immigration laws as they have the exclusive power to do so. The legislative, Judicial, and Executive branch all play a vital role in enforcing these laws. Some laws that the government enacts and enforces may be beneficial or harmful to millions of immigrants in the U.S.

In the U.S, the distributions of powers is essential for our government. The same is for enforcing the immigration laws of today. It all started with the Supreme Court when they took the role in deciding how the immigration power would be distributed between the three branches. In the end, the Court gave the three branches "plenary power" or the absolute power over immigration issues to Congress and the Executive in a doctrine called the "plenary power" doctrine. The Court had also allowed Congress to give authority over immigration to the Executive branch which lead to Congress giving away most of its plenary power over immigration to the Executive. Due to the plenary power doctrine and the doctrine that allows Congress to share its power to the Executive.

When immigration became a political issue in the U.S, the three branches of government were intended to understand that immigration was to be regulated administratively by the branches. But has changed as the court gave the plenary power to both Congress and the executive branch in the area involving immigration which gave equally separate powers to each branch to control immigration. The legislative branch has the power " To establish an uniform rule of Naturalization" and is solely vested in Congress to do so which can be found in Article 1 section 8 clause 4. Congress has power to set up the process for which immigrants can become citizens. The executive branch has the authority to determine if immigrants should be granted a temporary protected status, to grant immigrants permission to stay in the U.S. and many more. The judicial doesn't play a big role involving immigration but it does contribute by giving plenary power to the other two branches and making sure both branches are in check.

Overall the three branches and the separation of powers has led to an even distribution of the power the U.S but can be improved. Congress need to make sure that the laws are clear and conclusive to the issue and that the executive branch must defend and enforce these laws. This topic must be regularly expressed by the legislative and executive branch. Immigration will continue to be a big issue in the U.S. which is why the three branches must improve their system in enacting and enforcing immigration laws.



Law Day 2018



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**ADDITIONAL BENEFITS
ON PAGE 16!**

Award of Attorney's Fees for Consumer in Commercial Contract



By Ronald D. Japha, Esq., Co-chair, Business/Commercial/Bankruptcy Law Committee

Our Supreme Court on April 17, 2018 issued a decision in the case of Meadowbrook Center, Inc. v. Buchman clarifying the impact of Practice Book Sec. 11-21 on Gen. Stats. Sec. 42-150bb, which allows for an award of attorney's fees to a consumer successfully defending a commercial party's claim for damages where the contract provides for such party to get fees if it prevails on its action. In the case, the plaintiff nursing home sued the defendant, who had signed an admission agreement as a responsible party for his mother, seeking recovery for a balance alleged to be due for nursing care. After trial, the court found for the plaintiff in the amount of \$47,561.15. The parties' contract provided that the defendant pay the plaintiff reasonable attorney's fees on collection. The defendant appealed from the judgment and the Appellate Court ruled in the defendant's favor, remanding the case to the trial court to enter judgment for the defendant. Thirty-five days after such judgment was rendered, the defendant filed a motion for attorney's fees seeking an award of \$74,918.70 for sums incurred by him during the course of the litigation in defending against the plaintiff's claims. The trial court denied the motion on the basis that it was untimely, having been filed after the 30day deadline established in Practice Book Sec. 11- 21. The defendant then appealed this

denial to the Appellate Court, which, again, ruled in his favor. The plaintiff sought certification from the Supreme Court, which was granted, setting up the framework for the current judgment.

The Court reviewed the interpretation of the word "shall" in Sec. 11-21 wherein a party is given up to 30 days to file a motion for fees after a judgment is rendered. Based on prior case law, the Court found that the word was directory rather than mandatory in the context of that Section, thereby allowing the trial court discretion to hear a movant's late fee application. This was found to be true as the provision in question did not have any language invalidating or penalizing a motion filed beyond the deadline, and there was no prejudice to the non-movant. The remand by the Appellate Court for hearing on the motion for attorney's fees was upheld, and it will be interesting to see if the trial court ultimately awards the defendant a fee amount in excess of the plaintiff's original damages claim. A commercial party suing for damages and accompanying fees now has one less defense against an award of fees to an adverse consumer defendant in the event of a decision in his/her favor. ■

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Public Act No. 18-186



By: Brian D. Kaschel, Esq., Co-chair, Juvenile Law Committee

AN ACT CONCERNING THE PROVISION OF TIMELY NOTICE OF CHILD PLACEMENT INFORMATION FROM THE DEPARTMENT OF CHILDREN AND FAMILIES TO THE ATTORNEY OR GUARDIAN AD LITEM REPRESENTING THE CHILD IN A CHILD PROTECTION MATTER.

Effective October 1, 2018, C.G.S § 46b-129 will be amended so that attorneys for children guardian ad litem are aware of placements and important meetings concerning the children they advocate for in Juvenile Court.

Here are the highlights:

Initial placement

DCF shall provide written notification of the initial placement, including the name, address and other relevant contact information relating to the placement, to any attorney or guardian ad litem appointed to represent the child.

Changes in placement

DCF shall provide written notification to the child's attorney and/or guardian ad litem of any change in placement of such child, including a hospitalization or respite placement, and if the child or youth absconds from foster care. DCF shall

provide such written notification not later than ten (10) business days prior to the date of change of placement in a non-emergency situation, or not later than two (2) business days following the date of a change of placement in an emergency situation.

Meetings

DCF shall notify the child's attorney and/or guardian ad litem in writing not less than five (5) days prior to the date of any meeting in which DCF is considering removing the child from their household, except, in the case of an emergency, 96 hour hold or Order of Temporary Custody.

Regardless of the child's age, DCF shall provide not less than five (5) days advance written notice of any permanency team meeting concerning the child's permanency plan to an attorney or guardian ad litem.

At least every six months, DCF shall, review the written case plan of each child under their supervision to determine whether such plan is appropriate and make any appropriate modifications to such plan. DCF shall notify the child's attorney or guardian ad litem in writing not less than twenty-one (21) days prior to the date of any administrative meeting to review the plan. ■

Debate League Finals



By: Stephanie Dellolio, Attorney at Law, GBBA President

Blackham School, a Bridgeport public school serving pre-kindergarten through eighth grade, took home the parliamentary debate league championship trophy on Saturday, June 2, 2018. The GBBA commends all of this year's participants in the Greater Bridgeport Public School Debate League. Debating is one of the most valuable academic tools in which a student can engage. Debating, for children as well as adults, is also one of the most challenging experiences as it involves public speaking and opening one's self up to constructive criticism. The June 2nd debate commenced with four rounds of 16 competing teams. The resolution topics were: introducing a system of universal healthcare; allowing military women to take part in combat; arming teachers; and increasing the number of immigrants in the United States. The debate students exhibited critical thinking, impassioned arguments, and dedication to educational enrichment. We hope that GBBA members continue their contributions to this worthwhile program which has a positive long-term impact on the lives of the urban youth. ■



Asserting a Trade Secrets Case Under Seal



By: Frederick A. Spaeth, Esq., Chair, Intellectual Property Committee

Dur-A-Flex, Inc., based in East Hartford, is preparing for trial on a trade secret misappropriation case in May 2018, in Hartford Superior Court (HHD-CV14-6049281-S). In January, Dur-A-Flex filed a Motion to Seal, asking the court to close the courtroom and seal the record to the named defendant for a key portion of the trial – the part where Dur-A-Flex discloses the trade secrets it accuses the defendant of having taken.

To be fair, the former employee was not the only party to be excluded under the proposed Motion – Dur-A-Flex was trying to prevent unnecessary disclosure of the secret coating formula to other parties to the suit who did not yet know the formula, as well as the public in general. But it is hard to imagine how the accused employee would mount a defense without knowing what the information was that he was accused of misappropriating.

In an Order issued Feb. 27, 2018, the Court weighed the factors required in connection with the Motion to Seal, including Practice Book Sec 11-20 (favoring trials open to the public) on one hand, and on the other hand Conn. Gen. Stat. § 35-55, “Protection of Trade Secrets by Court,” part of Connecticut’s version of the Uniform Trade Secret Act. The court struck a measured balance between statutory protection for trade secrets, the defendant’s right to due process, and the interest of the public in having a transparent judicial system. Granting the motion in part, the court found that the public has little interest in disclosure of Dur-A-Flex’s secret formula,

whereas making the formula available to Dur-A-Flex competitors would cause Dur-A-Flex harm. The former employee, who presumably already knew the formula, would be allowed to access to that evidence and thus afforded an opportunity to assist counsel in explaining exhibits and cross-examining witnesses.

Key to proceeding under CUSTA will be the need for Dur-A-Flex to show that the formula in question meets the classic statutory criteria for trade secret, i.e., that the information (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Reasonable efforts typically include limiting access of the information to those who need to know, and requiring those employees having access to sign written agreements to keep the information confidential and to refrain from working for competitors. Thus, when a former employee takes trade secrets to a competitor, the former employer can normally assert a breach of contract claim in addition to statutory CUSTA remedies, as Dur-A-Flex has claimed in this case. In some cases, federal statutory remedies might be claimed under the Defend Trade Secrets Act (DTSA) of 2016.

Of course, once information becomes known to the public, the employee is freed from his

obligation to protect that information. So Dur-A-Flex has made certain strategic choices by applying for patent protection for some of its formulations, which have been published as such, e.g., in U.S. Patent 9,657,191 and U.S. Patent Application Publications 2017/0158884 and 2017/0029653. The defendant employee in the case just mentioned is not a named inventor in any of these documents, so these documents might have no bearing on that case.

Companies that develop new technology often face the trade secret vs patent decision, balancing the risks and benefits of these two competing forms of protection. A trade secret can potentially last forever, as long as it is secret, but it cannot be enforced against others who discover the secret independently by legitimate means. On the other hand, patents put the information out there for all to see, but if an application matures into a patent, it can be asserted against anyone who uses the patented invention, regardless of whether they developed it independently. Patents eventually expire, twenty years from their filing date, but in some industries, innovations come so quickly that twenty years is as good as a lifetime. But if finding infringement poses a problem (e.g., if it is hard to know whether a competitor is using the same floor coating claimed in a patent), protecting a trade secret may be the more attractive option. ■

Litigation Update



By: Etan Hirsch, Esq., Litigation Committee Co-Chair

According to Judge Bellis, there were 19 civil jury verdicts rendered between March 1, 2018 and April 30, 2018. One verdict of note occurred in the case of Island Fusion Restaurant and Lounge, LLC v. Bridgeport Phase II Commercial LLC, FBT-CV16-605521-S. According to the operative pleadings, Island Fusion entered into a Lease with the Defendants in order to operate a restaurant on premises located at 1001-15 Main Street in Bridgeport. The restaurant was operated by Plaintiff Esther Mohammed and her husband, Plaintiff Moses Mohammed.

It was further alleged that there were two incidents which occurred on the premises. The first incident involved a collapse of the kitchen floor on or about November 28, 2015, with the Plaintiffs claiming loss of property and revenue. The second incident involved Mrs. Mohammed's claimed injuries as a result of a second collapse on the premises on or about January 25, 2016; in particular, injuries to her head and brain resulting in vertigo and hearing loss. Mr. Mohammed brought a loss of consortium claim arising from his wife's injuries.

The Defendants alleged that Mrs. Mohammed was comparatively negligent in several ways, including failing to keep a proper lookout. The Defendants also filed a counterclaim, alleging breach of contract, indemnification, and that the Plaintiffs failed to procure required insurance policy(ies) under the Lease, all of which caused the Defendants to sustain damages.

The personal injury claim and the defendants' counterclaims were tried to a jury before the Hon. Anthony Truglia. After a three-week trial, the jury returned a Defendants' verdict on the personal injury claim and awarded the Defendants \$4,959.09 on their claim for damages for indemnification.

The Plaintiffs were represented by Attorney Andre Cayo of Stamford. The Defendants were represented by Attorneys Stephen P. Brown and Chloe Richland of Wilson Elser Moskowitz Edelman & Dicker LLP of Stamford. ■

LITIGATION COMMITTEE QUARTLY ROUNDTABLES

Starting in January, the GBBA Litigation Committee has been holding a quarterly roundtable series which involves discussion of litigation-related matters of general applicability. The Roundtables have twin benefits: sharpening one's litigation skills and attendees are provided with CLE credit.

On April 17, 2018, the Committee held its second Roundtable meeting, produced and moderated by Attorney Thomas Maxwell of Pullman & Comley. Attorney Maxwell led an excellent discussion on issues that arise during depositions, which included an emphasis on applicable case law, common terminology, and practice pointers.

The next Litigation Committee Roundtable is scheduled for July 11, 2018 at 1:00 p.m. at the bar offices. The slated topic is "Issues that arise during trial." In addition to a vibrant discussion, there will be materials provided to attendees as was done at prior sessions. ■

TRIVIA NIGHT 2018

1ST PLACE TEAM

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ON WEDNESDAYS, WE WALK!



The GBBA welcomes all members, judges, friends and colleagues to join us!



Break out your comfortable walking shoes, we look forward to seeing you!



Each Wednesday we will meet behind the courthouse, rain or shine, and walk for about a half hour, giving everyone enough time to be back in court by 2:00 P.M.



KICKING OFF - WEDNESDAY, JUNE 27, 2018 AT 1:10 P.M.

CONTACT THE GBBA AT 203-384-9346 OR GBBA@BRIDGEPORTBAR.ORG FOR MORE INFORMATION.

2018 WALKING WEDNESDAYS



EVERY WEDNESDAY AT 1:10 P.M.

Greater Bridgeport Bar Association, Inc.

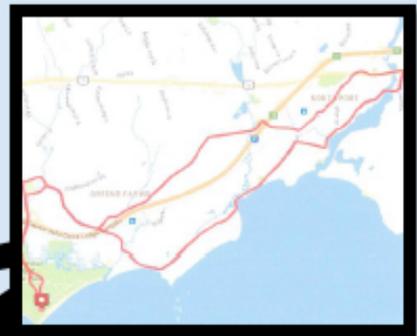
Bike Ride

Tuesday, July 17th, at 5:30 P.M.

Meet At The Pavilion Parking Lot at [Sherwood Island State Park](#) in Westport, CT.

Route is 10.3 miles through Sherwood Island State Park, Southport, and Green Farms.

Relaxed pace, flat level route, all bikes and experience levels welcomed! Ride support will be provided to handle any bumps in the ride!



RSVP to Steven A. Levy, slevy@nlsattys.com or
Charleen E. Merced Agosto, cmerced@cmplawoffices.com.

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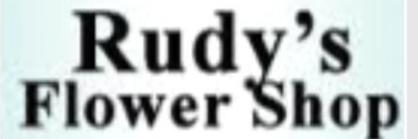
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