

BAR ELECTION SEASON BEGINS

Don't Miss Your Opportunity to Be a Leader

By Lauren P. McKenna

Philadelphia Bar Association election season begins this month, and we're seeking strong leaders who want to make their voices heard in our community.

Candidates can run for Vice Chancellor, Secretary, Treasurer, Assistant Secretary, Assistant Treasurer or one of five seats on the Board of Governors, each of which carries a three-year term. Members of the Young Lawyers Division can run for one of seven open seats on the YLD Executive Committee.

Volunteer leaders are the lifeblood of our community and the chance to serve as a member of Association leadership brings many rewards, including the chance to lend your unique perspective to shaping the future of the organization and working to benefit and strengthen the Philadelphia legal community.

I decided to take on a Bar leadership position after a

colleague recommended me as chair of the Women in the Profession Committee. I had such a positive experience that I decided to continue my involvement, culminating in my service as Chancellor in 2021. During my year leading the Association, I was inspired by working with such a committed and collaborative group of professionals, as we spearheaded several important initia-

tives, spoke out on issues of importance to the profession and planned engaging CLEs and events.

Whatever your professional goals, Bar Association involvement will provide you with experience and contacts that can help you achieve them, while exposing you to new ideas, insights and approaches to problem-solving. You will also gain new mentors, colleagues and friends who you would have never met otherwise.

But you don't have to take my word for it. Here is what some other members of Bar leadership and our elections committee had to say about the value of their experience:

Wesley R. Payne IV, Chancellor: "If you want a voice in what's happening in our community and within the profession, then bar leadership is a great place to gain that voice. You gain access to the judiciary

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New Ethics Opinion Focuses On Legal Fees

By Sarah Sweeney

The Philadelphia Bar Association Professional Guidance Committee and the Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility recently issued Joint Formal Opinion 2022-300 (the "Opinion") in an effort to offer attorneys clarity on the proper handling of legal fees paid at the outset of an engagement. This is a subject that has long since caused confusion

among practicing attorneys, and is consistently among the most common bases for ethics hotline inquiries.

While most attorneys are aware that even the unintentional mishandling of legal fees could have serious ethical implications, many find it difficult to evaluate what exactly is required of them in any given situation. The Opinion seeks to answer the most common questions by offering practical guidance about the handling of different types of legal fees. As nei-

ther committee has issued formal guidance on this subject since 1995, the Opinion is certainly timely.

The Opinion identifies various terms used to describe the different types of fees an attorney may receive from a client at the outset of an engagement, including advance fees, flat fees, refundable and non-refundable retainers, and fees earned upon receipt. While attorneys may use some of

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Past HBALEF Scholarship Recipients Share the Impact of Funding for Latino Law Students

■ By Suzanne Prybella

The Hispanic Bar Association of Pennsylvania Legal Education Fund (HBALEF) is the 501(c)(3) sister organization of the Hispanic Bar Association of Pennsylvania (HBAPA). For more than 35 years, the HBAPA has been a proud advocate for the Latino community in Pennsylvania. It seeks to advance and support Latino lawyers in the Commonwealth and to ensure equal access to justice for the communities in which its members live and work.

The HBALEF is specifically dedicated to the educational advancement of Latinos in the legal profession. It fundraises each year to provide scholarships to Latino law students attending law schools in Pennsylvania, New Jersey, and Delaware. Scholarship recipients are selected via a competitive application process and honored at the HBALEF's annual scholarship banquet.



Faunes

Since 1979, the HBALEF has awarded more than 175 scholarships and provided mentorship opportunities for countless Latino law students, many of whom are now HBAPA members.

"The HBALEF Scholarship program has been hugely meaningful for my professional development.

As a recipient, I had the opportunity to build relationships with attorneys and judges who continue to guide me years later. As a member of the board, each year I'm honored to help identify future leaders of our organization and meet incredibly talented students with a diversity of experience that will enrich our profession for years to come," said James P. Faunes (scholarship recipient 2009 & 2010), partner at Feldman Shepherd, former HBAPA and HBALEF president, cur-



Naveira López

rent HBAPA board member. "The HBALEF Scholarship provided me with the financial assistance I needed while I was in law school. By receiving the scholarship money, I was able to worry less about my finances and focus on my studies and my career. In addition to this, receiving the scholarship was an acknowledgment of the hard work and dedication I had put into my first two years as a law school student," said Isabel Naveira López (scholarship recipient 2018), associate at Hangley Aronchick Segal Pudlin & Schiller, current HBALEF president.

"In 1998, I moved from Miami to Philadelphia for law school. I brought with me a couple of sweaters and a wind breaker. I was told if I dressed in layers the cold would not be a problem...that was a lie. I was doing well in law school, but I felt down and out - I was cold, I felt alone, like I did not have a friend in the world. Then, I received a HBALEF scholarship for \$600. I went to Boyds and I bought a \$600 leather jacket. Because of the scholarship I felt warm; I no longer felt alone; I felt empowered. Of course, it wasn't the leather jacket that made me feel this way; it was the people that supported the HBALEF and me and the shared purpose of the HBA family that made me feel that way," said Thomas A. Warnock (scholarship recipient 1999), associate general counsel, Litigation and Specialties-Corteva Agriscience, current HBAPA advisory board member.



Warnock

rent HBAPA board member.

"I was incredibly grateful to be the recipient of the generous HBA scholarship two years in a row while in law school. The HBA embraced me as part of their family beginning in my 1L year and provided me with invaluable support that helped me thrive during law school. I joined the board immediately after graduating from law school and eventually became president of both organizations. Serving as the president of the HBAPA and the HBALEF has been one of the highlights of my career and it has been my honor to continue to work with both organizations and mentor LatinX law students," said Priscilla Jimenez (scholarship recipient 2009 & 2010), associate at Kline & Specter, former HBAPA and HBALEF president, current president of the Hispanic National Bar Association (Region IV), current HBAPA board member.



Jimenez

In 2021, the HBALEF was proud to award eight scholarships, including the inaugural Judge Nelson Díaz Scholarship, created in partnership with Al Día and named in honor of one of the HBAPA's founding members, the Honorable Nelson A. Díaz. This year marks the HBALEF's 32nd scholarship banquet, which will be held on September 29 at Franklin's View in Philadelphia. We encourage you to join us in celebrating the accomplishments of this year's scholarship recipients. Tickets can be purchased via the HBALEF website at www.hbapa.net/lef-banquet. Thank you for your support as we continue to make a difference in the lives of aspiring Latino law students!

Suzanne Prybella is the treasurer of the Hispanic Bar Association of Pennsylvania.

Opinion

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these terms interchangeably, the Opinion warns attorneys to choose their words wisely to ensure that both the attorney and the client have a common understanding as to the nature of fees paid. Specifically, attorneys must distinguish between nonrefundable, earned-upon-receipt fees on the one hand, and funds paid in advance to be drawn down as earned on the other hand; and the nature of the fee must be communicated to the client in the written fee agreement. Any ambiguity in the fee agreement, such as referring only to the fee as a "flat fee," is likely to be resolved in favor of treating it as an advance (*not* earned upon receipt) payment.

Whether the fee falls into one category or

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You can read the full opinion, and find an archive of previous ethics opinions, on the Philadelphia Bar Association website: <https://philadelphiabar.org/?pg=EthicsOpinions>

the other will determine the attorney's obligations as far as the handling of such fees under the Rules of Professional Conduct. Because nonrefundable fees become the property of the attorney upon remittance by the client, they are not subject to Rule 1.15, and therefore may be deposited into the attorney's operating account. On the other hand, funds paid in advance remain the client's property unless or until legal services are performed and commensurate fees are earned (with any unearned amount being returned to the client at the conclu-

sion of the matter). Accordingly, funds paid in advance are indeed subject to the requirements set forth in Rule 1.15 and must be deposited in a client trust account (unless the client gives informed consent, confirmed in writing to an alternate arrangement). It is worth noting, as cautioned by the Opinion, that all fee arrangements are subject to Rule 1.5's prohibition on excessive fees, regardless of whether the fees are designated as nonrefundable and earned upon receipt.

The distinction between these two categories of fees paid at the outset of an engagement, and the guidance offered by the Opinion as far as the proper handling of each type of fee, will hopefully go a long way towards clarifying this historically complicated issue.

Sarah Sweeney is counsel at Cozen O'Connor and co-chair of the Professional Guidance Committee.

As neither committee has issued formal guidance on this subject since 1995, the Opinion is certainly timely.