



# The Anne Arundel County BARRISTER

The Newsletter of the Anne Arundel Bar Association

September 2009

## Dates to remember

August 28  
**AABA Annual Pre-Crab Feast Golf Tournament**  
Queenstown Golf Course  
8:00 am  
*See the enclosed flyer for details*

August 28  
**AABA Annual Crab Feast**  
Sandy Point State Park  
1:00 pm - ?  
Free to AABA Members in good standing

Sept. 9  
**CLE: Estates & Trusts**  
Circuit Court for Anne Arundel County  
9:00 am

Sept. 17  
**CLE: Intellectual Property**  
Circuit Court for Anne Arundel County  
5:30 pm

Sept. 22  
**CLE: Foreclosure**  
Circuit Court for Anne Arundel County  
5:30 pm

Oct. 1  
**CLE: Labor Law**  
Circuit Court for Anne Arundel County  
5:30 pm



For meeting details, visit [www.aabar.org](http://www.aabar.org)

## A new beginning

According to Webster's New World Dictionary, Third College Edition, the definition of beginning is: to start doing, acting...to get underway...

As my presidency "gets underway", and the New Year begins, I can't help but wonder what the year will bring. I am looking forward to all

of the experiences that this year will bring. I also realize with this beginning, there are endings. It is at this point that I remember the past presidency of **Jonathan Kagan**. When I reflect on all of the great contributions that Jonathan has given to the AABA, I have memories of his constant hard work and dedication. In the upcoming year, I will continue and build upon his legacy of creating community based programming and expanding social and professional programming. For all that Jonathan has done for our association we say, "Thank you and Best Wishes".

I am ready to pick up the torch and carry it into the 2009-2010 year. I am also excited to be working with the current Board of Trustees, Committee Chairs, and the staff. I know that this is going to be a great new year, and with pencil case in hand, we begin the journey.

I also must recognize that new beginnings are happening not only for the AABA, but our individual members as well. On July 16, 2009, the members of the Bar Association along with family and friends celebrated the illustrious career of the **Hon. Michael E. Loney**. A festive atmosphere surrounded the event, which was very well attended.

Speakers included, **Martin Lessans, Hon. Nancy Davis-Loomis, T. Joseph Touhey, and Jonathan Kagan**, who presented Judge Loney with the 2009 AABA Trustess Award, and I presented Judge Loney with his portrait which will be displayed in the Circuit Court. As I was looking around the room, I realized that everyone was there

President's Message  
by Danielle M. Mosley



to acknowledge and celebrate the many accomplishments that Judge Loney has contributed to the legal community and the community at large. Again, it is with great admiration, that we applaud Judge

*AABA President Judge Danielle Mosley with retiring Judge Michael Loney.*

*Continued on page 9*

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## The Barrister

### Anne Arundel Bar Association

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# Practice Notes...

Compiled by Hon. Philip Caroom

**Punitive damages - discovery sanctions:** 1) Even if defendants are jointly liable for compensatory damages, punitive damages must be assessed on individual basis considering factors separately such as culpability and ability to pay. 2) Even if trial judge properly granted default order as discovery sanction, Maryland Rules did not permit preclusion of all participation by defendant in default judgment proceedings to assess amount of damages. Fisher v. McCrary Crescent City, LLC, – Md. – (6/8/9).

**Real property - “general easements” - specific location:** Where deed calls for an easement but does not state specific location, court may look to parties’ actions to recognize actual agreed location. In this situation, facts showing such use “in a particular location over a long period of time, it becomes as definitely established as if the grant or reservation had so located it by metes and bounds

and the location of the right of way as thus defined can only be changed by agreement of the owners of the dominant and servient tenements.” Rogers v. P-M Hunter’s Ridge, LLC, 407 Md. 712 (2009).

**Criminal procedure - plea offers - appeals:** 1) Applying principles of contract law, an inquiry about the possibility of more favorable terms does not equate to rejection of a plea offer. 2) Trial judge’s refusal to enforce alleged plea agreement was immediately appealable. Rios v. State, – Md. App. – (6/12/09).

**Criminal procedure - partial courtroom closure:** Where defendant’s father and two friends had threatened State’s witness, the trial judge properly could exclude those three persons from courtroom without violation of public trial rights. Four factor weighing test reviewed. Longus v. State, 184 Md. App. 680 (2009).

**All bar association members are invited to contribute Practice Notes as to any legal points or information which might be useful to other attorneys. These should be sent to: Attn.- Hon. Philip Caroom, Court House, P.O. Box 2395, Annapolis, Md. 21404 or by email to [ctcaro44@aaccounty.org](mailto:ctcaro44@aaccounty.org).**

## Correction

Jonathan Rosenthal’s name was inadvertently left off the list of 2009-2010 Anne Arundel County Bar Foundation Board of Directors. Sorry for the oversight.

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# The pay it forward president

*Hon. Danielle Mosley takes the helm of the AABA*

**A**s a new lawyer in the Anne Arundel Bar Association Danielle Mosley had the good fortune of working with some of the best attorneys in the county. She learned the ins and outs of litigation from people who had decades of experience and were generous with their knowledge and time.

She built her law career on that foundation and now as AABA 2009-2010 President she wants to help others to continue to make those connections.

## The Early Years

After majoring in Foreign Relations at the University of Virginia, Judge Mosley attended Washington & Lee Law School in Lexington, Va. While corporate law was what she had in mind when she began law school, “anything but corporate law” was what she intended to pursue upon graduation. She had internships in the State’s Attorney’s office and the county office of law in the summers during law school. She clerked for Judge Warren Duckett at the Circuit Court and landed a job with George Lantzas

after passing the bar. In those small settings she was able to learn the things they don’t teach you in law school such as crafting a case, managing client expectations and dealing with opposing counsel.

She found what she loved -- being a trial attorney. “To me, it was like putting together a puzzle,” she says. She spent several years in the State’s Attorney’s office and was named to the District Court bench in late 2005.

Joe Devlin was a partner with Law Offices of Touhey, Lantzas and Devlin when Judge Mosley was there. “She was very bright, a good listener, and showed a good grasp of cutting through the many issues of a case to get to the critical one(s),” says Devlin who has known her since 1991.

Judge Mosley’s first encounter with the AABA was as a Trevor Kiessling-recruited “worker bee” at the annual Crab Feast. It wasn’t long after that she was heading up Law Day events. She has since served as a division chair, committee chair, secretary and treasurer.

Judge Mosley has participated in bar activities in other counties as well and thinks Anne Arundel County bar has a great mix of an involved membership, strong and relevant traditions and a dedicated staff.

“Whether they know it or not, young lawyers arriving in our county are coming to a pretty special place,” she says. “We are a growing bar association, which has managed to maintain its ‘small bar’ feel.”

*Continued on page 6*

*Hon. Danielle Mosley was elected AABA president at the association’s Annual Membership Meeting in June.*



*Judge Mosely*

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## Sports gaming in Delaware? You betcha!

*So even though I would have made more money putting my 401(k) on the Steelers this past year instead of GoboCompuHyperTech, or whatever company my retirement was incinerated in, apparently that's not socially appropriate or responsible.*

Let me state at the outset that I am not a big gambler. I participate in an NCAA pool or two per tournament. I play blackjack when I'm in Las Vegas. I've been to the racetrack a few times. I've played in one fantasy league in which anything more than pride is at stake. My gambling highlight was when I won \$1,000 from the Steelers winning the AFC Championship in 2005 from a futures bet I placed the prior August in Vegas. So when I write about sports betting being legalized in Delaware, it's not from the perspective of a degenerate.

However, I'm still a big fan of this move. Between Dewey Beach, no sales tax and now this, well, you can say Delaware is boring, but it's not

from a lack of effort. Let me state off the bat that I've never seen the problem with gambling. Most of us gamble every day. Unless you keep all your money in a shoebox under your bed, in T-bonds or in a CD, you are placing it in the hands of basic speculation. So why not speculate on something that's fun, and that you actually know something about?

Mel Proctor, the old voice of the Orioles in the 1980s, once said something to the effect that he wished that he knew as much about something useful, like business, as he knew about sports. Well, the past couple of years have shown that even people that fancy themselves as business aces don't know that much about it. So even

*Continued on page 5*

### THE WHEELHOUSE

*Sports Commentary by  
Jonathan Pasterick*



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## Wheelhouse...

*Continued from page 4*

though I would have made more money putting my 401(k) on the Steelers this past year instead of GloboCompuHyperTech, or whatever company my retirement was incinerated in, apparently that's not socially appropriate or responsible. Whereas credit default swaps, the profitability of which have never been explained to me or anyone I know, are totally legit.

And I don't want to hear about how gambling is morally wrong or leads to reckless behavior or whatever. There are tons of legal things that can be abused. My parents are both about to turn 67. They've been married 38 years. They raised one beautiful, successful child and me, so they're batting at least .500 on that. My dad was a Catholic priest and my mom was a Catholic nun. That's how they met. And there is nothing they enjoy more than carting themselves off to the slots on weekends. If it's not Charlestown or Dover, it's St. Louis or New Orleans. As a matter of fact, I believe

they were both recently made honorary Mohegan Indians this past summer. So it is possible to have a healthy relationship with gambling.

The other drawback I always hear about sports gambling is that players would be susceptible to outside influences and it would somehow affect the integrity of the games. To which I say, what's new?

In the past year alone, we've had Manny Ramirez suspended for steroids, and it's come out that Alex Rodriguez and David Ortiz tested positive for them as well. Michael Phelps' coach is claiming that his competitor's swimsuit is making him faster. Tim Donaghy was jailed for betting on NBA games he was reffing. Bill Belichick illegally tapes all his opponents' sidelines. And THIS was supposed to affect the integrity of these games? I think it's safe to say that there are variables in any gambling schemes, but unlike half of Wall Street, at least I know my favorite teams will still be around next year. ■

---

***The other drawback I always hear about sports gambling is that players would be susceptible to outside influences and it would somehow affect the integrity of the games.***

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## Andrew H. Robinson, Esquire,

an attorney in the firm's Columbia Office, has become one of only 486 attorneys in the nation and one of only 23 attorneys in Maryland to earn Leadership in Energy and Environmental Design (LEED®) accreditation from the U.S. Green Building Council. LEED is an internationally recognized green building certification system, providing third-party verification that a building or community was designed and built using strategies aimed at improving performance for energy savings, water efficiency, CO<sub>2</sub> emissions reduction, improved indoor environmental quality, and stewardship of resources and sensitivity to their impacts. LEED Accredited Professionals (LEED APs), such as Mr. Robinson, have demonstrated a thorough understanding of green building practices and principles and the LEED Rating system.

# Pay it forward....

Continued from page 3

“When people are turning to ‘online everything’ we have several committees who meet over coffee monthly to stay on top of the trends and stay tuned in... It helps them with their practices and it helps them better service their clients.”

She notes that while other bars are seeing a drop off in attendance at social gatherings in these tough economic times, the AABA events continue to thrive. “AABA members like to get together – it’s a kind of tradition with us. We appreciate each other – we always have.”

She marvels at the quality of the CLE programming offered by the bar association – which stems directly from the commitment of its members.

“The Anne Arundel bar has phenomenal members who are willing to share their time and talent,” she says. “Our CLEs are such high quality and they are developed by members, for members. Admission is minimal, and often free, and the insight provided by the presenters is priceless – the content is from people practicing law here and now. Attorneys in other places have to spend big bucks for programs that are probably less relevant

to their practices.”

## Looking Ahead

Looking to the year ahead, Judge Mosley wants to build on the many successes of her predecessors. She believes the community services the AABA provides are important to the people in the county. She intends to continue Jonathan Kagan’s push to make members more aware of pro bono opportunities. She would also like to reach out to young lawyers to encourage their participation in the many AABA activities and committees.

According to those who know her well, Judge Mosley is a people person who doesn’t sweat the small stuff. She is energetic and logs countless volunteer hours for local non profit organizations such as the Annapolis Area Boys and Girls Club and Youth Outreach Foundation and the Annapolis Symphony Orchestra. As bar president, Judge Mosley will bring that same enthusiasm to her presidency in the AABA, says friend Charlotte Weinstein.

Devlin adds that Judge Mosley will make an excellent AABA president given her breadth of background, ability to listen, and work ethic. ▣

<div style="border: 2px solid green; padding: 5px; text-align: center; margin-bottom: 10px;"> <h3 style="margin: 0;">CREATIVE DISPUTE RESOLUTIONS, LLC</h3> </div>  <div style="background-color: #00a09a; color: white; padding: 2px; text-align: center; font-weight: bold;">The Path to Common Ground</div>	<h4 style="text-align: center; margin: 0;">Panel of Mediators and Arbitrators</h4> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;">                 James B. Astrachan, Esq.                  Hon. DeLawrence Beard (Ret.)                  Jerome H. Berman, Esq.                  Leslie G. Billman, Esq.                  Henry C. Clarke, Jr., Esq.                  Daniel P. Dozier, Esq.                  Dena C. Feeney, Esq.                  Hon. John M. Glynn (Ret.)                  James M. Greenan, Esq.                  Edward J. Gutman, Esq.                  William E. Hewitt, Jr., Esq.                  Andrew L. Isaacson, Esq.                  Erik C. Johnson, Esq.                  Ellen F. Kandell, Esq.                  Hon. Edward G. Ketchen (Ret.)                  Richard L. Lyon, Esq.                  Hon. Dennis M. McHugh (Ret.)                  Joyce A. Mitchell, Esq.                  Stephen E. Moss, Esq.             </td> <td style="width: 50%; vertical-align: top;">                 Joseph J. Mulhern, Esq.                  John Noble, Esq.                  Robert C. Park, Jr., Esq.                  N. Alfred Pasternak, Esq.                  Joann Robertson, Esq.                  Hon. William J. Rowan, III (Ret.)                  Don F. Ryder, Jr., Esq.                  Joel M. Savits, Esq.                  Mark F. Scurti, Esq.                  Keith L. Seat, Esq.                  Diane A. Seltzer, Esq.                  Elliot H. Shaller, Esq.                  Steven A. Shapiro, Esq.                  Hon. Carol E. Smith (Ret.)                  Suzanne M. Snedegar, Esq.                  Theodore P. Stein, Esq.                  Hon. Ann N. Sundt (Ret.)                  James S. Wilson, Esq.             </td> </tr> </table>	James B. Astrachan, Esq. Hon. DeLawrence Beard (Ret.) Jerome H. Berman, Esq. Leslie G. Billman, Esq. Henry C. Clarke, Jr., Esq. Daniel P. Dozier, Esq. Dena C. Feeney, Esq. Hon. John M. Glynn (Ret.) James M. Greenan, Esq. Edward J. Gutman, Esq. William E. Hewitt, Jr., Esq. Andrew L. Isaacson, Esq. Erik C. Johnson, Esq. Ellen F. Kandell, Esq. Hon. Edward G. Ketchen (Ret.) Richard L. Lyon, Esq. Hon. Dennis M. McHugh (Ret.) Joyce A. Mitchell, Esq. Stephen E. Moss, Esq.	Joseph J. Mulhern, Esq. John Noble, Esq. Robert C. Park, Jr., Esq. N. Alfred Pasternak, Esq. Joann Robertson, Esq. Hon. William J. Rowan, III (Ret.) Don F. Ryder, Jr., Esq. Joel M. Savits, Esq. Mark F. Scurti, Esq. Keith L. Seat, Esq. Diane A. Seltzer, Esq. Elliot H. Shaller, Esq. Steven A. Shapiro, Esq. Hon. Carol E. Smith (Ret.) Suzanne M. Snedegar, Esq. Theodore P. Stein, Esq. Hon. Ann N. Sundt (Ret.) James S. Wilson, Esq.														
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## Member Notes

**Richard C. Goodwin**, a U.S. Administrative Law Judge (ALJ) in the Office of Hearings, U.S. Department of Transportation, Washington, D.C., was elevated to Vice Chair of the American Bar Association Judicial Division during the recent Annual Meeting in Chicago in August 2009. He lives in Fresno, CA. and conducts hearings throughout the western United States. Dick was born and raised in Annapolis and practiced law in Annapolis prior to becoming an ALJ.

AABA Members **Leslie G. Billman** of Trainor, Billman, Bennett, Milko & McCabe, LLP, and **Joseph J. Mulhern** have joined the dispute panel of Creative Dispute Resolutions, LLC. Leslie serves as a mediator for all types of family law and domestic disputes, and Joe serves as a mediator and arbitrator for personal injury, contract, construction, torts, products liability, and insurance-related claims. ■

## President's Message...

*Continued from page 1*

Loney and say, "Thank you for your contributions to the bar and the bench, and we wish you well in the future."

Also, **Jon Brassel** started a new beginning as the AABA representative to the Trial Courts Judicial Nominating Committee. Mr. Brassel was appointed by the AABA on July 14, 2009. On behalf of myself and the members of the AABA, I would like to congratulate Mr. Brassel on his appointment and wish him a successful term.

We also cannot forget that with a new year comes the year's kick off event, the **Annual Crab Feast**, on August 28, 2009, 1 pm. at Sandy Point State Park. This event promises good food, great fun and lots of laughs. I look forward to seeing everyone there.

With a new beginning comes a clean slate. We are starting over and our future looks promising. I am excited to work with all of you in the upcoming year and I am dedicated to the success of the AABA. And don't forget, good ideas and feedback are appreciated. I believe that together we will continue the traditions of the AABA and create an enjoyable and memorable year.

Happy New Year/ Happy New Beginning!!!!!! ■

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The Judges of the United States District Court for the District of Maryland, the MSBA Litigation Section Council, and the Federal Bar Association – MD Chapter will be sponsoring the 6th Biennial Bench-Bar Conference in the United States Courthouse, Southern Division, Greenbelt, MD, on Oct. 30 at 1:30 p.m. Information about speakers, RSVP processes, etc., will be sent out in the near future, according to organizers.



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