

## *Ceremonial Swearing-in at Philadelphia Courtroom*

# Chief Justice of Pennsylvania Ronald D. Castille Takes Reigns of the Unified Judicial System

by L. Stuart Ditzen

If life were orderly and predictable, Supreme Court Justice Ronald D. Castille would have expected to become Chief Justice of Pennsylvania sometime far in the future, circa January 2014. But life handed a surprise to Justice Castille, his colleagues on the Supreme Court and the citizens of Pennsylvania last September when then Chief Justice Ralph J. Cappy announced that he would retire at the end of 2007, leaving the bench at age 64, two years before the end of his term and six years before the mandatory retirement age of 70.

Chief Justice Cappy had led the court since 2003 and had been a justice since 1990. In announcing his retirement, he said he wanted to leave the bench to cut back on a busy work schedule, which he had maintained for years, to spend more time with his family and to pursue personal interests.

As a result, Justice Castille became Chief Justice Castille in January of this year, six years earlier than anticipated.

As provided in the Pennsylvania Constitution, he automatically rose to the position of chief because, after Chief Justice Cappy, he is the justice with the longest continuous service on the court.

Chief Justice Castille, 63, was born in Miami into a military family. He went to high school in Japan and college at Auburn University in Alabama where he received a bachelor's degree in economics in 1966.

After college he was commissioned as an officer



Former Chief Justice Ralph J. Cappy congratulates newly appointed Chief Justice Ronald D. Castille at his swearing-in ceremony. (Photo: Philadelphia Inquirer)

in the U.S. Marine Corps and was sent to Vietnam. He was serving as a rifle platoon commander when he was hit and severely injured by machine-gun fire on his 23rd birthday in 1967 while on a search and destroy mission in South Vietnam. As a result of his injuries, Chief Justice Castille lost his right leg at the hip. He was awarded a Bronze Star with Combat "V," two Purple Hearts and other citations for combat gallantry.

After returning to the United States and completing rehabilitation at the former Philadelphia Naval Hospital, Chief Justice Castille entered law school at the University of Virginia School of Law in Charlottesville, Va. He received his law degree in 1971.

That same year he returned to Philadelphia and took a job as an assistant prosecutor in the Philadelphia District Attorney's Office. He remained on staff there, rising to the rank of deputy, until 1985 when he ran for district attorney—and won.

Chief Justice Castille served as Philadelphia's top prosecutor from 1986 to 1991 when he resigned to run

(Chief Justice Castille continued on page 16)

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## Justices McCaffery and Todd Top Ticket

# Elections Bring Change to Appellate Courts

by Art Heinz

Former Superior Court Judges **Seamus McCaffery** and **Debra Todd** became the newest members of the Supreme Court of Pennsylvania in a November election that brought many changes to the appellate courts.

Justice McCaffery, 57, is a native of Northern Ireland who served as a Philadelphia police officer for 19 years. After earning a law degree, he was elected to the city's Municipal Court, where he served for 10 years before moving up to the appellate court in 2003.

"I guess you might say I'm somewhat of a different Democrat," he was quoted as saying after the election. "I'm a straight shooter, a no-nonsense guy. 'Public servant' to me is not just a title. To me, it's an honor."

Justice Todd, 50, of Butler County, spent 18 years as a lawyer before she was elected to the appellate bench in 1999. She is the second woman elected to the Supreme Court.

"The message of having a woman's voice at the table resonated with the voters," she said.

Three open seats on the Superior Court of Pennsylvania were won by former Allegheny County Judge **Cheryl Allen** and judges **Christine Donohue** and **Jackie Shogan**. Judge Donohue is a former Allegheny County lawyer; Judge Shogan, a former Westmoreland County attorney.

In addition, seven statewide retention judges swept to easy victories. Supreme Court Justice **Thomas Saylor**, along with Superior Court judges **Joan Orié Melvin**, **John L. Musmanno** and **Correale F. Stevens**, and Commonwealth Court judges **Bonnie Brigance Leadbetter**, **Barney L. McGinley** and **Doris A. Smith-Ribner** easily won retention.

Justice Saylor was the only Supreme Court justice up for retention.

Of 60 county judges seeking retention in the same election, all but one were retained.

## Transitions Gina L. Earle, editor

Ext. 4095

### New to the Judicial Branch

#### Counties

**Bradley Cober** - Somerset - district court administrator

**Robert C. Halal** - Lehigh County MDJ

**Raymond L. Hamill** - Wayne County Common Pleas Court judge

**Cathy Hawley** - Susquehanna - district court administrator

**Gale Kendall** - Franklin-Fulton - deputy court administrator

**William D. Kraut, Esq.** - Chester County MDJ

**Joseph J. O'Neill** - Philadelphia Municipal Court judge

**Eugene F. Riazzi, Jr.** - Allegheny County MDJ

**Cynthia Stoltz** - Allegheny - deputy court administrator, trial court

**Dawn L. Vann** - Delaware County MDJ

#### AOPC

**Lisa Burton** - Judicial Automation - clerical assistant

**Paul Crouse** - Judicial Automation - NOC team leader

**Joseph DiGuglielmo** - Office of Assistant Court Administrator - legal intern

**Phyllis Durricks** - Office of Assistant Court Administrator - administrative assistant

**James Edwards** - Judicial Automation - student intern

**Jerry Fry** - Judicial Automation - office technology trainer

**Cathy Grosvenor** - Administrative Services - clerical assistant

**Christopher Good** - Judicial Automation - IT specialist

**Maria Ilgenfritz** - Judicial Programs - administrative assistant

(Transitions continued on page 8)

## Calendar Rhonda Hocker, editor

Ext. 2026

**3/3-3/7** Supreme Court Session (Pgh.)  
**3/10-3/14** Commonwealth Court Session (Phila.)  
**3/18-3/20** Superior Court Session (Hbg., Pgh.)  
**3/21** Good Friday Holiday  
**3/25-3/27** Superior Court Session (Phila.)  
**4/7-4/11** Commonwealth Court Session (Hbg.)  
**4/14-4/18** Supreme Court Session (Phila.)

**4/29-5/1** Superior Court Session (Phila., Hbg. Pgh.)  
**5/5-5/9** Commonwealth Court Session (Pgh.)  
**5/13-5/15** Superior Court Session (Phila.)  
**5/12-5/16** Supreme Court Session (Hbg.)  
**5/20-5/22** Superior Court Session (Pgh.)

# "Merely Judgment"

by Zig Pines

In the annals of Pennsylvania's judicial history, 2008 will be considered a momentous year. Three new "links" were added to the "chain of destiny" (to paraphrase the words of Winston Churchill) of the oldest judicial system in North America: Justice Ronald Castille ascended to the position of Chief Justice of Pennsylvania, and former Superior Court judges Debra Todd and Seamus McCaffery joined him as associate justices and colleagues. And sometime in 2008 we will welcome another justice to fill the vacancy created by Chief Justice Ralph Cappy's resignation.

Clearly, for a judicial system that traces its origins to the arrival of William Penn in 1682, these changes are historic. At the investiture of Chief Justice Castille, we were reminded especially of the importance of our mission in the context of continuity and change.

Addressing an audience filled with family, friends and dignitaries, Chief Justice Castille spoke of the power and limitations of the judicial branch. Against a mural backdrop of Philadelphia's Independence Hall (the intermittent seat of our Supreme Court from 1743 to 1824), Chief Justice Castille quoted Federalist Paper No. 78: "The judiciary, on the contrary [to the Executive Branch], has no influence over either the sword or the purse...It may truly be said to have neither force nor will, but merely judgment." But the phrase "merely judgment" connotes an awesome power.

As he echoed the words of our founding fathers, one had to be struck by the mysterious austerity of the occasion. Peering at the chief justice and members of the Court was the spectral presence of 15 chief justices past (all from the eastern district)—from John Bannister Gibson (1827-1851) to Robert N.C. Nix (1984-1996).

Their portraits and marbled busts grace the walls of City Hall's historic courtroom, many of them distant links in the history of our judicial system.

But Chief Justice Castille's eyes were fixed on the bigger picture when he reflected on the sacred bond that united him with his colleagues and forebears: "We are simply elected to serve a higher calling, and that calling is justice."

For me, what gave those words physical and metaphorical strength was the immense marble and bronze bench from which the chief justice delivered his comments. If one looked closely at the Supreme Court's secular altar, so to speak, one could see a phalanx of caryatids, draped female figures. Arrayed along the bench, these toga-clad symbols of justice face the audience without the traditional, more modern device of a blindfold. Perhaps the message to us is that justice's wisdom and virtue are unassailable and need no protective shield.

Upon closer observation of the Court's bench, we can see that some are carrying books (to reflect wisdom); some hold rods or fasces (the symbol of the power to punish and even execute); and interestingly, only one carries a sword (which represents the rigor of justice). These bronze figures are ancient symbols of mankind's solemn mission—righteous judgment.

As we begin an historic era in our Unified Judicial System, we here at the Administrative Office of Pennsylvania Courts wish Chief Justice Castille and his colleagues the wisdom, strength and virtue that the symbol of justice inspires.

## Around the Judiciary

**Harold Don**, counsel for the Civil Procedural Rules Committee, retired at the end of December after serving 37 years with the organization. Harold, who lives in Philadelphia with his wife Mona, plans to concentrate on being a full-time grandfather to his four grandchildren. **Karla Shultz**, the committee's research assistant, was named to succeed Harold. She has been with the committee for three years.



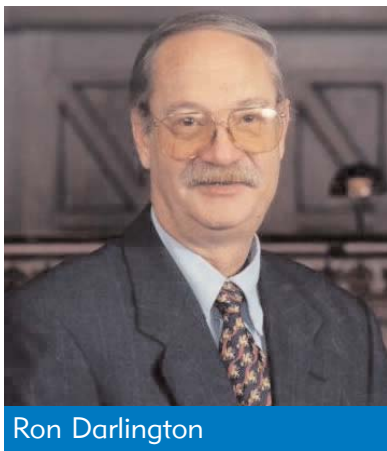
*'They will be missed'*

## Darlington and Schuckers Left Profound Mark on Commonwealth Court

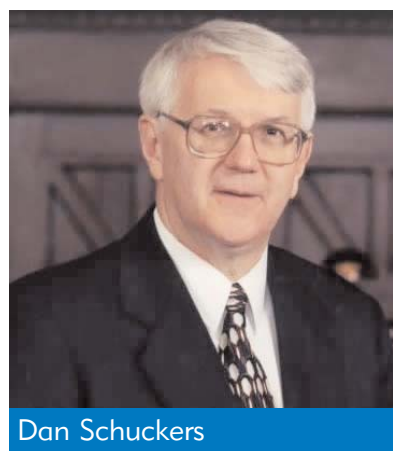
by L. Stuart Ditzen

Two long-serving executives of the Commonwealth Court, **G. Ronald Darlington**, the executive administrator, and **Daniel R. Schuckers**, the prothonotary, retired at the end of last year after distinguished careers.

Darlington, 60, worked for the Commonwealth Court for 34 years—almost as long as the court itself has existed. He began in 1973 as an administrative assistant to then-President Judge **James S. Bowman** just three years after the Commonwealth Court was formed. In 1976, at age 29, he was named prothonotary. From 1986 until last year, he held the unique position of executive administrator with authority over the prothonotary's office and all administrative and fiscal operations.



Ron Darlington



Dan Schuckers

Schuckers, 64, was the court's prothonotary for 20 years, from 1987 until last year. He was a deputy prothonotary for three years before that. In earlier phases of his career, Schuckers was a law clerk to former Commonwealth Court Judge **Roy Wilkinson Jr.**, an assistant attorney general in the

Department of Labor and Industry and a deputy to former Attorney General LeRoy S. Zimmerman.

In addition to their long and successful working partnership at Commonwealth Court, Darlington and Schuckers are co-authors with two others of a three-volume treatise titled *Pennsylvania Appellate Practice*, a standard legal reference work.

Commenting on the retirement of Darlington and Schuckers, Commonwealth Court President Judge **Bonnie Brigrance Leadbetter** said: "I don't think anyone can

remember the Commonwealth Court without Ron Darlington. In his 34 years with the court, he has done more than any other to shape the essential character of the court's operation. And if Ron has been the engine that made us go, Dan Schuckers has been our heart, our soul, our cheerleader. While we judges like to take credit for the court's fine reputation, they have truly been the 'wind beneath our wings.' They will be missed."

The new prothonotary of Commonwealth Court is **Kristen W. Brown**, a former deputy prothonotary. The position of executive administrator is not expected to be filled. Judge Leadbetter said a core group of deputies assembled by Darlington would remain in place with **Nicholas L. DiLorenzo**, a former deputy prothonotary, as court administrator.

"They are a great team and work seamlessly together," Leadbetter said.

Darlington said he never planned for a career in the judiciary. "It was fortuitous," he said. "I was in the right place at the right time.

"It has been a very rewarding job in a number of senses," he added. "I enjoyed working with our appellate judges and putting together an outstanding cadre of staff."

The credo he lived by, Darlington said, was this: "Take great care whom you hire, but once you hire them, get out of the way."

Darlington said that in retirement he plans to work part time for the law firm of Buchanan Ingersoll & Rooney in the firm's Harrisburg office.

He and his wife of 37 years have two adult children.

Schuckers said he plans to teach part time at Widener University School of Law at the Harrisburg campus.

He and his wife of 38 years have three adult children.

"It has been a real pleasure working for the court and with the judges and with Ron Darlington," said Schuckers. "I would just like to say that."

[Stu Ditzen is the AOPC's assistant for communications.]

# Upgrades Slated for Magisterial District Judge Computer System

by Steve Schell

At a three-day Joint Application Design session in September, the AOPC's Judicial Automation staff kicked off efforts to redesign the Magisterial District Judge System (MDJS) used by more than 3,000 employees in 546 district courts throughout the state. The new system's upgrades will be aimed at enhancing performance, flexibility and accessibility.

One of the most important new features will allow users to search all of Pennsylvania's magisterial district judge, Common Pleas and appellate courts for criminal information on a defendant.

"Quick and easy access to the most current court information regarding prior convictions, bail history, pending charges and outstanding warrants is critical to judges, particularly when making decisions on bail for potentially dangerous defendants," Chief Justice of Pennsylvania **Ronald D. Castille** said.

In addition, the new system will make it easier for defendants to remit fees, fines and costs owed. Defendants will be able to pay courts costs via the Internet with a credit or debit card, avoiding a visit to a district court office or the nearest post office. Electronic filing of citations and police criminal complaints—a new feature to be piloted on the current system in late 2008—also will be available on the redesigned MDJS. E-filing is expected to significantly reduce the need for court officials to enter data into the system.

A Joint Application Development Committee has been appointed by the Supreme Court to assist the AOPC in new system development. The committee brings together judges, court administrators and staff with the AOPC's business analysts and computer application developers.

"System users are actively participating in the development of the new system," said **Amy Ceraso**, Judicial Automation director. "In addition, we will incorporate into the new system many changes recommended by users over the last several years.

"The new system will take advantage of the latest technology and the AOPC's newest software developments," Ceraso added. "The system will be more flexible and easier to modify as court procedures and laws change in the future. Court management will become more efficient through increased interaction between other systems used by the courts, law enforcement and executive branch agencies."

The design, coding and implementation of the new system are expected to take several years. The Joint Application Development Committee will continue to meet with AOPC staff through 2008. Testing is scheduled to begin in 2009, while system rollout is slated to begin on a county-by-county basis in 2010. When the rollout is complete, approximately 26 million cases are expected to be transferred from the old to the new system.

Originally developed in the early 1990s with then state-of-the-art technology, the MDJS was Pennsylvania's first statewide case management system that automated all magisterial district judge offices onto one computer network, and moved district courts toward more uniform practices and procedures. Rapid computer technological advances over the last two decades, however, have made the old system less compatible with other systems and more difficult for the Judicial Automation staff to maintain and modify.

[Steve Schell is an AOPC communications coordinator.]

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**Managing Editor**  
Art Heinz

**Contributors**  
Gina L. Earle  
Art Heinz  
Rhonda Hocker  
Steve Schell

**Graphic Design**  
Gina L. Earle

**Editor**  
Jim Koval

**Executive Editors**  
Tom Darr  
Andrea B. Tuominen

For more information about Pennsylvania's courts, please visit [www.courts.state.pa.us](http://www.courts.state.pa.us) or call Rhonda Hocker at (717) 795-2026.

## Supreme Court of Pennsylvania

Ronald D. Castille  
Chief Justice

Thomas G. Saylor  
Justice

J. Michael Eakin  
Justice

Max Baer  
Justice

Debra Todd  
Justice

Seamus P. McCaffery  
Justice

Zygmunt A. Pines  
Court Administrator  
of Pennsylvania

# Commission Recommends Jury Service Changes

by Art Heinz

Sweeping changes are being recommended to make jury service in Pennsylvania's court system more efficient, fairer and more citizen-friendly.

Pennsylvania's Interbranch Commission for Gender, Racial and Ethnic Fairness and the Commission for Justice Initiatives compiled the recommendations after researching the best practices among judicial districts in Pennsylvania and nationally.

Implementation of all of the recommendations would require separate but related action by the Supreme Court of Pennsylvania, the state legislature and county governments. It would also necessitate changes in both the Pennsylvania Rules of Civil Procedure and Pennsylvania Rules of Criminal Procedure.

The Interbranch Commission has received input on the recommendations from members of the bench, bar associations and the public. The work was undertaken at the request of the Supreme Court after a 2003 study by the Committee on Racial and Gender Bias in the Justice System—a forerunner of the Interbranch Commission—found widely differing jury selection procedures in judicial districts across Pennsylvania. The study concluded that jurors are underpaid, underutilized and under-representative of their communities.

The recommended changes cover 13 areas of jury practice and focus on making service more efficient and effective, and a more rewarding experience for jurors.

Among the recommendations:

- Enhance treatment of jurors by providing more pay, beefed-up security and privacy protections, and day-care facilities at county courthouses.

- Respect jurors' time by requiring counties to adopt a one-day, one-trial model or a one-day, multiple-trial process of summoning and selecting people to serve.
- Conduct a statewide multi-faceted education and appreciation campaign in each county about the importance and mechanics of jury service in Pennsylvania.
- Obtain more diversity in juries by expanding the lists of potential jurors to include information from the Departments of Revenue and Public Welfare. A statewide master list will be administered by the AOPC and distributed to each judicial district on an annual basis.
- Direct judges to briefly give a short statement describing each case to the assembled pool of potential jurors, explaining the concept of *voir dire*—or juror selection by opposing attorneys—especially with regard to bias issues.
- Draft juror summonses so that they can be understood by average citizens and with practical information about the manner in which citizens are to respond.
- Require trial courts to adopt standardized procedures for juror exemptions, deferrals or excusals from service.

[Art Heinz is an AOPC communications coordinator and the managing editor of AOPCConnected.]

## Around the Judiciary

Chester County commemorated the 10th anniversary of its Drug Treatment Court with a graduation celebration. A dozen previous graduates attended to share stories about how the program impacted their lives. One of the first in the state, the Chester County program for certain non-violent offenders has served as a model for other counties that are hoping to stem recidivism and promote productive citizenship. Common Pleas Court Judge William P. Mahon, who presides over the court, is shown here admiring some of the artwork by a recent graduate while providing an overview of the judicial process.



# New AOPC Video Offers Civics Lesson on the Courts

by L. Stuart Ditzen

Just about everyone agrees that government “of the people, by the people and for the people” is a great idea, but an amazingly large number of Americans apparently do not know what those words mean.

Many citizens can't name even one of the three branches of their government. A huge number don't bother to vote. And many of those who do vote are poorly informed—so very poorly informed that a Virginia economics professor contends in a much talked-about new book that “irrational” voters are running democracy into the ground.

This pervasive lack of public understanding of government—with civics education forgotten or marginalized in schools—is deeply troubling to judges in Pennsylvania and around the nation. Judges worry that if people don't understand government, they certainly don't appreciate the role the courts play in protecting their rights and freedoms. And it follows that if people are unaware of the role of the courts, they may see no harm in a growing pattern of political attacks on judges and attempts to weaken or strip courts of their powers.

A new 15-minute video, “Pennsylvania's Unified Judicial System,” will help address this problem. The video describes the role of the courts in a democracy, how the Pennsylvania court system is structured and how various types of legal cases advance through the system.

Aimed at a broad audience, the video is being distributed to president judges of all Common Pleas Courts for use at their discretion, but with the specific suggestion that it be played daily in jury assembly rooms. More than 200,000 people summoned to jury duty each year in Pennsylvania potentially could see the film. Beyond

that, all judges within the Unified Judicial System will be able to use the video when making presentations at schools or community meetings or giving speeches to fraternal organizations or other groups.

The original idea for an educational video on the courts came from Edward W. “Ned” Madeira Jr., chairman of the Commission for Justice Initiatives of the Pennsylvania Bar Association. Superior Court Judge **Jack Panella**, a member of the commission, wrote a script and developed a concept for graphics. JPL Productions of Harrisburg and JPL staffer Kim Lefever provided creative and production services, collaborating with Deputy Court Administrator **Tom Darr** and Panella. Darr also recruited the video's narrator, Ron Martin, co-anchor of WGAL-TV in Lancaster, who was filmed at Independence Hall in Philadelphia and at the State Capitol in Harrisburg in the opening and closing sequences of the video.

The “stars” of the video are Chief Justice **Ronald D. Castille**, Superior Court President Judge **Kate Ford Elliott**, Commonwealth Court President Judge **Bonnie Brigance Leadbetter**, Allegheny County Family Court Administrative Judge **Kim Berkeley Clark**, and Magisterial District Judge **Charles A. Clement Jr.** of New Cumberland. In the script, each of these jurists explains the function of his or her level of the court system and outlines how cases proceed, if appealed, to the next higher level of the system.

*(For more information about the video, please contact Stu Ditzen at 215-560-6052 or e-mail him at: [stu.ditzen@pacourts.us](mailto:stu.ditzen@pacourts.us).)*

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## AOPC Employee Service Milestones

A number of AOPC employees have reached service milestones between October and December 2007. They are:

### 15 Years

**Bo Hobaugh** - Administrative Services

### 10 Years

**Nancy Kranz** - Human Resources

**Beth Schneider** - Human Resources

**Carole Sheriff** - Administrative Services



L. to r.: Bo Hobaugh, Beth Schneider, Carole Sheriff and Nancy Kranz

## Transitions, continued from page 2

**Jenah MacDonald** - Judicial Automation - help desk operator

**George Matta II** - Judicial Automation - Support Manager

**Adam McKay** - Judicial Automation - IT specialist

**Sandra Moore** - Judicial Programs - administrator - Office of Children and Families in the Courts

**Elke Moyer** - Judicial Programs - Administrative Assistant

**John Skocik** - Judicial Automation - database administrator

### Appointments

#### Counties

**Eugene B. Strassburger III** - apptd. administrative judge of civil division - Allegheny County

### Other Job Changes

#### Counties

**Neil E. Burkholder** - Franklin-Fulton - promoted to district court administrator

### Deaths

**Toby L. Dickman** - Montgomery County Common Pleas Court judge

**James N. Diefenderfer** - former Lehigh County Common Pleas Court (sr.) judge

**Armand Martin** - Allegheny County MDJ

**Lisa A. Richette** - Philadelphia Common Pleas Court sr. judge

**Fordham Wood** - former Bradford County (sr.) district justice

**Thomas Wood Jr.** - former Lycoming County Common Pleas Court judge

### Retirements

#### Counties

**Kathleen Riley** - Somerset - district court administrator

**William Sheaffer** - Franklin-Fulton - district court administrator

**Mary Foster** - Susquehanna - district court administrator

### Resignations

#### Counties

**Richard L. Alloway** - Franklin County MDJ

**Michael T. Conahan** - Luzerne County Common Pleas Court judge

**Harold A. Deardorff** - Adams County sr. MDJ

**Arthur S. Kafrisen** - Philadelphia County sr. Common Pleas Court judge

**Robert W. Stack** - Lycoming County sr. MDJ

### AOPC

**Andrea Jelin** - Judicial Programs - administrator - Office of Children and Families in the Courts

**Andre Warner** - Judicial Automation - LAN technician

**Patricia Weightman** - Judicial Programs - administrative assistant

### Appointments

#### Supreme Court Committees

**C. Lee Anderson, Esq.** - reaptd. to Civil Procedural Rules Committee

**Richard J. Antonelli, Esq.** - reaptd. to Continuing Legal Education Board

**Judge Nancy L. Butts** - apptd. to Criminal Procedural Rules Committee

**Leonard Dubin, Esq.** - reaptd. to Continuing Legal Education Board

**Nancy H. Fullam, Esq.** - reaptd. to Civil Procedural Rules Committee

**Charles J. Grant, Esq.** - reaptd. to Criminal Procedural Rules Committee

**Martin Greitzer, Esq.** - reaptd. to Continuing Legal Education Board

**Robert C. Heim, Esq.** - reaptd. to Continuing Legal Education Board

**Professor Sandra D. Jordan** - reaptd. to Committee on Rules of Evidence, redesignated chair

**Judge Stewart L. Kurtz** - reaptd. to Civil Procedural Rules Committee, redesignated vice chair

**Robert O. Lampl, Esq.** - apptd. to Civil Procedural Rules Committee

**Michael J. Manzo, Esq.** - reaptd. to Committee on Rules of Evidence

**Howard F. Messer, Esq.** - reaptd. to Civil Procedural Rules Committee

**MDJ Thomas G. Miller** - apptd. to Minor Court Rules Committee

**Leonard Packel, Esq.** - reaptd. official reporter to Committee on Rules of Evidence

**Robert K. Reitzel** - apptd. to Pa. Lawyers Fund for Client Security

**Neil R. Rosen, Esq.** - reaptd. to Committee on Rules of Evidence

**Andrew J. Stern, Esq.** - reaptd. to Civil Procedural Rules Committee

**Cynthia K. Stoltz, Esq.** - reaptd. to Juvenile Court Procedural Rules Committee

**Andrew F. Susko, Esq.** - apptd. to Pa. Interest on Lawyers Trust Account Board

# Judicial Candidates Cannot Promise Particular Rulings

by David M. Donaldson

In one of the first lawsuits I defended when I began my tenure with the AOPC in 1991, a candidate for the Court of Common Pleas of Chester County sued to invalidate the canon restricting judicial candidate speech as violative of the First Amendment (*Stretton v. Disciplinary Board*). Now that a federal district court judge, in October 2007, has accepted our argument and ruled that Pennsylvania's judicial canons can prohibit judicial candidates from promising to rule a particular way if elected judge, a review of the history of how we got to this point seems appropriate.

In 1991 the candidate Sam Stretton argued that the canon prohibiting "announcements" on issues that may come before the court meant that he could not make such statements as "I promise to give every litigant a fair shake, including those who are *pro se*; I promise to construe the law broadly to protect individual rights; Chester County needs a Democrat on the bench."

That is not how my clients—the judicial and attorney disciplinary officials—and I construed the canon. We construed it narrowly to mean that a candidate could not promise to rule a particular way if elected judge, (e.g., "I will jail all violent offenders"); but that all other candidate statements short of a promised ruling are permissible and protected by the First Amendment. We still construe the canons that way. While the federal district court in 1991 rejected our arguments and invalidated the canon, the Court of Appeals for the Third Circuit reversed and accepted our narrow construction.

In 2002 the U.S. Supreme Court struck down Minnesota's version of the same "announce" canon upheld in *Stretton*. It held that the canon was so broad that it prohibited virtually any statement a judicial candidate could make to inform the voters who would be electing him or her. The Court noted that the First Amendment provided its greatest degree of protection when candidates spoke to the electorate and that, like all other candidates, judicial candidates hold views, which voters are entitled to know.

The Court invalidated the "announce" canon, finding that even if it did seek to protect the due process rights of future litigants, who are entitled to an impartial judge, it was not sufficiently narrowly tailored to address that interest. The Pennsylvania Supreme Court almost immediately eliminated the "announce" canon and promulgated the "pledge, promise and commit" canon.

In the fall of 2005, a so-called "pro-family" advocacy group, represented by the attorney who had won the U.S. Supreme Court victory, sued to invalidate Pennsylvania's "pledge, promise and commit" canon, arguing

that the U.S. Supreme Court's decision meant the canon violated the First Amendment. We successfully argued that this advocacy group lacked standing to challenge the canon because it failed to show that there was a candidate who would answer the group's candidate questionnaire if not for the canon. The Third Circuit affirmed in late May 2007.

Virtually on the eve of the 2007 judicial primary, six Lancaster County Court of Common Pleas judicial candidates and the same advocacy group sued to invalidate Pennsylvania's "pledge, promise and commit" canon. This time, the federal district court found standing and preliminarily invalidated the canon, following the lead of five district courts across the country that had invalidated virtually identical canons.

After discovery, the parties filed cross motions for summary judgment. We argued that the plaintiffs lacked standing and that the canon, when narrowly construed to prohibit judicial candidates from pledging, promising or committing to rule a particular way if elected, protected due process rights of future litigants in the narrowest way. Bucking the trend of the other district courts, Judge Marvin Katz held that the canon, when so narrowly construed, complied with the First Amendment.

The tide of invalidation of the canon appears to be turning. Both the Ninth and the Seventh circuits have reversed district court invalidations of the canon, accepting the standing argument we successfully argued in our previous Third Circuit victory.

Now attorneys defending judicial canons in other states are citing our Pennsylvania precedents. Somewhat surprisingly, given their zeal in pursuing these issues in other jurisdictions, plaintiffs have not appealed the upholding of Pennsylvania's judicial canon.

Now it is clear that judicial candidates are prohibited from promising particular rulings when they become judges. This means that judicial candidates are free, if they wish, to say such things as "I promise to treat repeat drunk driving convictions, crimes with guns, and crimes of violence very seriously"; but may be disciplined if they say such things as: "I promise to jail all repeat drunk drivers, criminals using guns, and violent criminals." The First Amendment protects the first set of statements, and due process allows prohibition of the second set.

Future judicial campaigns will see vigorous speech by judicial candidates, with the caveat that they not promise particular adjudications.

[David Donaldson is the AOPC's chief of litigation.]

# Former AOPC Director Makes Some Noise Over Hearing Hardware

## Let's Hear It for Those Who Conquer Their Fear of Hearing Hardware

by John Davenport

Amy Ceraso would lean over to me during a meeting and whisper, "tz...sdz...fid..." into my ear. Having worked with her for 15 years, I pretty much knew her position on any subject. What I didn't know was what in the world she had just said. Should I fake it and agree, ask her to repeat it louder or write her a note? What if she didn't say, "The rule is in committee," and instead said, "The roof is collapsing?"

I knew it wasn't Amy's fault that she spoke in an audio frequency beyond my range. My audio range had changed with exposure to the firing range in the Army, an industrial production line in high school, high speed impact printers in the computer room and probably rock music.

In 1990, in order to prove that those around me had begun to mumble and speak more softly, I went to an audiologist to have my hearing checked. She told me that if I wanted to pick up the higher frequencies, I'd have to get a hearing aid. Furgedaboutit. I'd rather do without high pitched squeals and hard rock guitars than look like some old geezer with a wad of bubble gum in his ear.

About the same time, I noticed that the leaves on the trees had started to lose their definition and that menus were being set in type too tiny for me to read at arm's length. Of course I found no problem in getting fitted for a pair of mono-vision contacts, one eye for reading and one eye for distances. Voila! The trees had leaves again, and I could order whatever I wanted rather than the special, which I couldn't hear because the waitstaff had mumbled it. Not only that, but—surprise! surprise!—contact lenses were covered by AOPC health insurance.

It wasn't until shortly before retirement that I noticed some ads for digital hearing aids. Maybe some rethinking should take place. I noticed that most of the people in church took out their reading glasses when they stood up to sing. No one gives reading glasses a second thought. So why should help for the hearing be any different? Why is facing a sight problem easier than facing up to a hearing problem? Both are the results of aging.

I switched to a better audiologist, one who seemed to be in-tune (so to speak) with the new digital hearing hardware. In 2002 she fitted me with a small computer that hid behind my ear and was connected by a clear

plastic tube to a small plug that was almost, but not quite invisible in my ear. I had her set up four programs, which I could switch by hitting a button on the device—one for meetings, one for restaurants, one for music and the fourth for surveillance. (My audiologist is married to a Pennsylvania State Police officer and said, "Gee, I don't know if I can do that." I said, "OK, call it bird calls, but boost the volume way up.")

## Voices

The difference was immediately earth-shattering. Paper actually makes a noise. Who knew? Communications with my wife Brenda were cut in half for me and doubled for her. I could hear my granddaughter. Why didn't I do this before?

The audiologist uses her desktop computer to tune the digital signal processors in the devices for your specific hearing loss frequencies, lifestyle, age and hair color. The device automatically adjusts volumes and frequencies according to what is happening around you.

After yearly software upgrades and tuning, I'm now trying out new models to replace the worn out and obsolete model from five years ago. The size has, of course, shrunk; the ear piece is completely invisible now; a choice of colors is available to blend with your hair, scalp, tattoo or jewelry; and you can choose to continue with four programs or let the device switch on its own. You can even choose a model with Bluetooth to pair with your cell phone and iPod. The quality of sound has improved drastically as well.

There are three hidden benefits to facing hearing problems. The first is that those around you benefit as much as you do since they don't have to repeat themselves or wonder if you got what they just said or just are not interested in what they are saying. The second benefit is the fact that both parts of the device are hidden inside and behind your ear.

The third benefit is the best of all. It is hidden on page two on the AOPC insurance coverage charts as "\$1,500 per ear every 36 months." A digital hearing device costs between \$1,500 and \$3,000 each, and this benefit can be used to defray most of the expense.

[John Davenport retired as the AOPC's Judicial Automation director in 2002.]

# Allegheny Court Administrator Visits Mexican Courts

by **Raymond L. Billotte**

As Allegheny County District Court Administrator, I participated in a criminal justice assessment project in Mexico from November 3-11, 2007. The project, sponsored by the Rule of Law USAID/Mexico organization, sought the assistance of the International Association of Court Administration to conduct a review of the recently-enacted criminal justice reforms in the states of Chihuahua and Oaxaca.

In addition to me, the five-member assessment team included the Hon. Ken Fields, a judge from Phoenix, AZ; Hon. Robert Hyslop, a judge from Newfoundland, Canada; Jeffrey Apperson, deputy clerk, Federal District Court in Louisville, KY; and Cathy Huiser, court administrator in Hamilton, Ont.

During the eight-day project, which included site visits to Mexico City, Chihuahua, Juarez and Oaxaca City, team members met with Mexican Supreme Court justices, the Canadian ambassador to Mexico, American Embassy personnel, state and federal judges, state attorneys general and members of the defense bar and court officials.

The team also observed court proceedings, including a homicide trial in Chihuahua; visited a crime lab in Juarez and toured court facilities and rehabilitative justice centers in each state.

In recent months, criminal justice reforms have been introduced in a number of Mexican states to allow for open and public trials of individuals charged with criminal offenses. While juries are not being considered at this time, the reforms enacted demonstrate a significant change in the justice system in Mexico.

Team members were asked to review a wide array of administration of justice issues, including pre-trial processes and programs, trial processes, attorney advocacy skills, court record preservation, post-trial processes and programs, court leadership, and rehabilitative justice and specialized court programs.

Team members are preparing a comprehensive report for Mexican court officials, the Rule of Law organization, and the American and Canadian embassies.

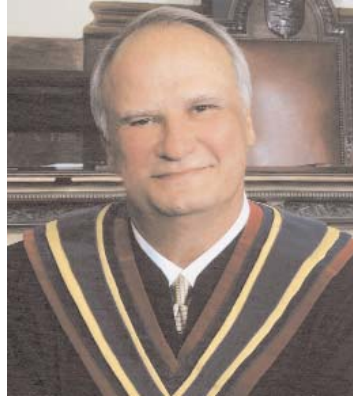
## Around the Judiciary

Representatives of the Supreme Court of Korea visited the Philadelphia and Lancaster County court systems to learn how civil division prothonotaries interact with the public and litigants. Pictured here in the lobby of the Lancaster County Courthouse with District Court Administrator **Mark Dalton** (fifth from right, standing) and Eleanor Gerlott, Lancaster law librarian (fourth from right, standing), the group was particularly interested in self-help centers—of which Lancaster County is recognized as having one of the best. Lancaster County President Judge **Louis J. Farina** joined other court officers in addressing the group. In Philadelphia the Korean delegation was hosted by Judge **D. Webster Keogh**, administrative judge, trial division, Philadelphia Common Pleas Court.



## Honors & Dispatches

Former Chief Justice of Pennsylvania **Ralph J. Cappy** was named the recipient of two distinguished honors for his contributions to Pennsylvania's Judiciary.



Chief Justice Cappy was awarded the Bar Medal, the highest honor conferred by the Pennsylvania Bar Association. He is just the ninth person to receive the award in the association's 112-year history. The award recognized his efforts to significantly improve the administration of justice. The award was presented to him during the Committee/Section Day, which took place in December in suburban Harrisburg.

He also was named the recipient of the Philadelphia Bar Association's top award for distinguished service.

"The [Philadelphia Bar Association] Bar Medal is presented at the discretion of the chancellor in recognition of extraordinary service," association Chancellor Jane Leslie Dalton said. "It is reserved only for the highest accomplishments and most impressive achievements. [Chief Justice Cappy] energetically and effectively unified and modernized the judicial system in the Commonwealth, ensuring access to justice for thousands of Pennsylvanians. Because of [his] exceptional leadership, the Pennsylvania courts are poised for even more enhancements in the years to come."

Chief Justice Cappy said he was honored to receive the award and that he would accept it "not only in my own behalf, but on behalf of all the members of my court who have worked with me over the past five years to improve the administration of justice in Pennsylvania."

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Superior Court President Judge **Kate Ford Elliott** received the 2007 St. Thomas More Award following the 49th annual Red Mass of the Diocese of Pittsburgh.

The St. Thomas More Society is an association of judges and lawyers who publicly support and promote the spiritual development of the group's members in their Catholic faith. The group chose as its patron St. Thomas More, an English barrister and judge who lived from 1477 to 1535, and had a reputation as a family man with a profound commitment to his faith and profession. The Red Mass is celebrated annually by judges,

prosecutors, attorneys and government officials to reflect on the responsibilities of the legal profession.

\*\*\*

**William H. Lamb**, a former Supreme Court of Pennsylvania justice, unanimously was voted president judge of the Court of Judicial Discipline.

"I'm honored to have been selected by my peers for this post," said Lamb, who has served on the Court of Judicial Discipline since his appointment by Gov. Ed Rendell in Aug. 2004. "It's a way of staying involved in serving the Commonwealth. I'm looking forward to my tenure as president judge."

Lamb was nominated as a justice of the Supreme Court in Jan. 2003 by former Gov. Mark Schweiker to fill a vacancy created by the retirement of former Chief Justice **Stephen A. Zappala**. He returned to the West Chester law firm, Lamb McErlane PC, in Jan. 2004 where he directs the firm's post-trial and appellate advocacy group. He is active on several state judicial committees in areas that include medical malpractice mediation and alternative dispute resolution.

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**James J. Fitzgerald III**, a former Supreme Court of Pennsylvania justice, recently was honored by the Brehon Law Society of Philadelphia during a special ceremony at the Union League.

The group presented Fitzgerald with its Taoiseach Award for a lifetime of achievement in the law. Taoiseach is Gaelic for "leader" or "chief." The Brehon Society is an association of lawyers and judges that was organized to foster the profession of law among people of Irish ancestry. Philadelphia Common Pleas Court Judge **James Murray Lynn** is president of the society.

Fitzgerald was a judge on the Court of Common Pleas in Philadelphia from 1990 until March 2007 when he was sworn in as a Supreme Court Justice. Appointed by Gov. Ed Rendell in February 2007 to fill a vacancy created by the retirement of former Justice Sandra Schultz Newman, Fitzgerald's term on the court ended on Jan. 6.

\*\*\*

Lackawanna County Common Pleas Court judges **Michael Barrasse** and **Vito Geroulo** both were honored recently by the Scranton-area chapter of the National Alliance on Mental Illness.

The judges each received the group's annual Candlelight Award, recognizing their establishment of a mental

(Honors & Dispatches continued on page 13)

## Honors & Dispatches, continued from page 12

health treatment court in the county. The honors came during a candlelight vigil held at McKinley Plaza, next to the federal courthouse on North Washington Avenue.

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Lackawanna County Common Pleas Court Judge **Terrence Nealon** was among a number of past presidents recently honored by Scranton Tomorrow, a non-profit civic organization. The group is dedicated to establishing the City of Scranton as a premier urban center in northeastern Pennsylvania. Judge Nealon was honored during the group's 15th anniversary at the Radisson, Lackawanna Station hotel.

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Delaware County Common Pleas Court Judge **Patricia Jenkins** has been selected as a member of the Board of Overseers for the School of Veterinary Medicine at the University of Pennsylvania.

Judge Jenkins was appointed to the bench in 1993 by the late former Gov. Robert P. Casey and elected to two consecutive 10-year terms in 1994 and 2004, respectively. She also has taught at Widener and Villanova universities.

Judge Jenkins is the widow of former Pennsylvania House Speaker Matthew J. Ryan, for whom the School of Veterinary Medicine's companion animal hospital in Philadelphia is named.

\*\*\*

Philadelphia Common Pleas Court Senior Judge **Carolyn Engel Temin** recently was honored by the Justinian Society of Philadelphia and the criminal justice section of the Philadelphia Bar Association. Judge Temin received the 14th annual Beccaria Award during a ceremony in Philadelphia City Hall that was followed by a reception in Conversation Hall.

The Justinian Society and the criminal justice section present the award annually to a jurist, legal scholar or practitioner for outstanding contributions to the cause of justice and the advancement of legal education. Beccaria was an 18th century Italian scholar whose writings preceded the modern penal system.

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**Sandra Mazer Moss**, a judge in the Philadelphia Court of Common Pleas, has received the William Brennan Jurist Award from the Philadelphia Bar Association. The award is given to a jurist who has aided the quality of

justice in Pennsylvania. Judge Moss was honored for her work as the founder and first supervising judge of the Complex Litigation Center, and for streamlining the case management techniques used for mass tort cases. She is the second woman and the second Common Pleas Court judge to receive the award.

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Senior Magisterial District Judge **Paul M. Diehl Jr.** of York County celebrated 50 years on the bench Sept. 24, 2007. Judge Diehl was appointed justice of the peace in Heidelberg Township on Sept. 24, 1957, by then Governor George M. Leader. When the court system was reorganized after the Constitutional Convention of 1968, he ran for district justice, an office he held until he turned 70 in early 1992. Since then, he has served as a senior judge. He can continue to serve until he turns 80 in 2012.

\*\*\*

The late Judge **Evan S. Williams** of Bradford County was honored during a memorial service held in Courtroom 1 of the Bradford County Courthouse. During the service a portrait of Judge Evans to be hung in the courthouse was unveiled. Among the speakers were Bradford County President Judge **Jeffrey A. Smith** and then-Bradford County Judge **John C. Mott**. Judge Williams served on the Bradford County Common Pleas Court from 1968 through 1983. He passed away in 2005. The service was presented by the Bradford County Bar Association.

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**A. Evans Kephart**, the first Court Administrator of Pennsylvania, died Jan. 6 of heart failure at a regional care facility in South Dakota where he had lived since 2004. He was 102.

Kephart was appointed state court administrator in 1968, a post he held until he retired in 1973. During his tenure he promoted standards for the judiciary that included training sessions for court officials and a manual of jury instructions.

Prior to serving as court administrator, Kephart was a four-term Pennsylvania state senator and a lawyer who helped secure water rights for the City of Philadelphia. Kephart's father, John, was a former chief justice of the Supreme Court of Pennsylvania and his grandfather, Alvin Evans, was a U.S. representative. He is survived by his son Samuel; daughters Susy Simpson and Kate Barnes; six grandchildren and eight great-grandchildren.

(Honors & Dispatches continued on page 14)

# Honors & Dispatches, continued from page 13

Several AOPC employees answered the call for volunteers from the Philadelphia Reads program, a literacy project for elementary school-aged children. Participants from the Department of Policy and Research included: **Don Harris**, (director); **Kim Nieves**, (assistant director); **Rose Mary Figazzotto**, (research assistant); **Yan Liu**, (statistical analyst) and **Laurie Sacerdote**, (case-load statistics coordinator). Also participating were: **Barry Stephenson**, messenger/supply clerk in the Administrative Services Department and **Scott Booker**, a temporary employee in the Judicial Services Department.

Philadelphia Reads works with schools, community and faith-based organizations and businesses to provide mentors, resources and advocacy for in-school, after school and summer programs.

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**David Kutz** and **Margaret Arris** have been promoted to director and assistant director, respectively, of the Office of Human Resources. David, who was previously the assistant director, succeeds David Frankforter, who retired in mid-2007. He has been with the court system since 1989. Margi started with the AOPC in 1995 and was previously the Employment Services Administrator.

\*\*\*

**Montgomery County** residents now have the ability to watch a jury training video from the comfort of their own homes, thanks to a new cooperative venture between Comcast and courthouse officials.

Digital cable subscribers may use the On Demand feature to access the "Montgomery County Jury Training Video" to acquaint themselves with such duty prior to coming to the courthouse. Normally shown only to potential jurors at the courthouse in Norristown, the 14-minute video details the nuts and bolts of juror duty—from the jury selection process to serving on a trial.

Company officials said Montgomery County is the only county in the country to make such a video available to residents via cable network. Well-known Philadelphia area broadcast personality Larry Kane narrates the video.



**Allegheny County Children's Court** celebrated the month of November as National Adoption Month with many locally synchronized activities. As part of the commemoration, Family Court, with the assistance of Children, Youth and Family Services and other child

welfare agencies, coordinated the finalization of 75 adoptions on Saturday, Nov. 17 in the Family Law Center on Fifth Avenue.

**Allegheny Family Court** also recently announced a special one-week Warrant Amnesty Program to facilitate the satisfaction of delinquent child support payments. Those with outstanding warrants in child support cases were permitted to meet with family division staff, make payments, report employment and income information and seek support payment modifications without penalty.

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The **First Judicial District** of Pennsylvania's Web site has been named one of the Top 10 court Web sites in the world by Justice Served, a court management consulting firm. The distinction was the second such honor within the last three years for the Philadelphia court system's online presence, which the firm lauded for adding new features to compliment those recognized in 2005. The electronic services offered include traffic citation payments, online calendars, e-filing and file retrieval and RSS feeds.

Justice Served winners are chosen from nearly 4,000 court Web sites. To visit the FJD site, go to: <http://courts.phila.gov>.



# In the News



The **Connellsville Daily Courier** reported on the AOPC's plans to upgrade the statewide Magisterial District Judge System. The paper noted how the new system will make it easier for all Pennsylvanians—including **Fayette County** residents—to remit fees, fines and costs owed.

The **Intelligencer Journal** ran a feature story on Magisterial District Judge **Janice Jimenez** that noted her distinction as the first Hispanic elected in Pennsylvania to the post outside of the Philadelphia area. In a story headlined "Long charm of the law," the paper chronicled the **Lancaster County** woman's criminal justice experience as a police officer and as a security officer at Millersville University.

The **Carlisle Sentinel** noted how the historic **Cumberland County** courthouse was added to sites in the U.S. National Park Service's Underground Railroad Network to Freedom program. The paper provided an overview of the importance of the courthouse, which was the second to be built on the current site. The current courthouse dates to 1845 when fire destroyed a previous structure.

The **Sunbury Daily Item** chronicled a day in the life of **Northumberland County** Senior Judge **Barry F. Feudale**, who told the paper he relished the variety and challenges of the cases he has presided over since taking on senior status in 1997. The story noted how the judge's fondness for mountain climbing, kayaking, bicycling and piloting airplanes occupies his spare time.

The **Altoona Mirror** covered a session of judges, lawyers and others associated with the criminal justice system in **Blair County** to caution school and community groups about the potential for Internet abuse—specifically identity theft and child predators. Common Pleas Court Judge **Elizabeth Doyle** told the paper that area attorney support and participation in the session exceeded expectations.

The **Allentown Morning Call** outlined **Lehigh County** plans to implement a new video arraignment system that is expected to save time and money while adding safety and convenience. **Northampton County** introduced a similar system in the summer of 2007, the paper noted.

The **Phoenixville News** reported how the **Montgomery County** clerk of courts has gone high tech in allowing citizens to pay criminal court-related costs via the Internet. Prior to implementation of the new system, credit card payments had to be made in person at the courthouse in Norristown, the paper said.

The **Allentown Morning Call** profiled Lehigh County Court judges and staff who were recognized at the ninth annual Judicial Employee Recognition Awards ceremony for their efforts in aiding children and families. The article lauded President Judge **William H. Platt**; former President Judge **Alan M. Black** (now a senior jurist); Common Pleas judges **J. Brian Johnson** and **Kelly L. Banach**; District Court Administrator **Susan T. Schellenberg** and **Sandra Nonemacher**, an operations specialist in the office of Magisterial District Judge **Maryesther Merlo**.

A story appeared in the **Legal Intelligencer** about the Supreme Court of Pennsylvania's decision to raise the mandatory retirement age of the Commonwealth's senior judges to 78 from 75 and establish the maximum number of years a senior jurist can serve at 10. The paper quoted Philadelphia President Judge **C. Darnell Jones II** saying, "We have a cadre of judges who perform at an incredibly high rate dispositionally and qualitatively. We just don't want to lose that caliber of judge."

## Chief Justice Castille, continued from page 1

for mayor on the Republican ticket. He lost that election. But two years later, in 1993, he ran for a position on the Supreme Court, for the seat vacated by the death of Justice James T. McDermott, and won. He took office in 1994 and was retained by voters for a second 10-year term on the court in 2003.

Unlike most members of the Supreme Court, who in the past have reached the level of seniority to become chief justice, the new chief has not had a long lead time for planning. The title of chief and the broad array of responsibilities that go with it landed on him suddenly.

In addition to adjustments relating to his new role, Chief Justice Castille is leading a court that itself is adjusting to major changes as three of the seven justices are new to the court this year. Two newcomers—Justice Debra M. Todd and Justice Seamus P. McCaffery—were elected to 10-year terms to fill vacancies on the Supreme Court last year. The third opening on the court, created by Chief Justice Cappy's retirement, must be filled by an interim appointment of the governor with confirmation by the state Senate.

"In January 2008 we expect to have three new justices," said Chief Justice Castille. "It is going to be a turnover like we have never had."

For the immediate future, he said, his goal will be to maintain stability on all fronts while allowing the new justices to settle in and the court as a whole to adjust to its new membership and its new chief.

"We're going to keep sailing the ship into the wind," he said. "We're going to keep the many initiatives begun by Chief Justice Cappy going and keep all our caseload timely. We are also going to stay involved at the national level."

But no one, the chief justice said, should look for a burst of new programs and initiatives.

At least, not for a while.

[Stu Ditzen is AOPC assistant for communications.]

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5001 Louise Drive  
Mechanicsburg, PA 17055

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The logo for the American Oversight Policy Council (AOPC) features the letters 'AOPC' in a bold, blue, sans-serif font. The letter 'O' is stylized as a circle with a downward-pointing triangle inside it.