

## Sports & Entertainment Law First, Baseball to Follow

■ By Priscilla J. Mattison

CHANGE IS THE SPICE OF LIFE, AND OCCASIONALLY taking Philadelphia Bar Association CLE out to the ball game can be a welcome diversion. On Aug. 31, Bernard Resnick, of Bernard M. Resnick, Esq., P.C., presented a CLE titled “Ethics in Sports & Entertainment” at Citizens Bank Park. Before the Philadelphia Phillies game that evening against the Washington Nationals, this was the second course in the Philadelphia Bar Association CLE Entertainment Law series. Admission to the game was included with the cost of registration for the course.

Before the game, Resnick first discussed Pennsylvania Disciplinary Rule 1.5. He reviewed a sample contingent fee agreement and a sample hourly rate agreement, highlighting items such as the scope and term of the agreement; exclusivity; the fee or commission; expense reimbursement and accounting; electronic data communication and storage; and file retention. Contingent fees for transactional entertainment matters, he said, are generally lower than those for personal injury cases.

In the final segment, Resnick discussed Pennsylvania Disciplinary Rules 1.7 and 1.8 (“Conflict of Interest: Current Clients” and “Conflict of Interest: Current Clients: Specific Rules”). He examined the requirements regarding “informed consent” by a client to a lawyer’s

potential conflict of interest – especially important because of the relatively small number of lawyers practicing in the area of entertainment.

Halfway through the program, a surprise appearance was made by a special guest, Philadelphia Eagles tight end Brent Celek, who answered questions from Resnick and the audience. Celek explained that what he valued most in his interaction with attorneys and other professional advisors was communication, including the advisor’s ability to explain business and legal concepts in an understandable way. Communication, Celek said, is one of the two keys to life, along with sleep!

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### CLE Topic Idea?

To submit a topic idea for a CLE course or volunteer to be a course planner or presenter, contact Director of Continuing Legal Education, Tara D. Phoenix, at 215-238-6349 or tphoenix@philabar.org.



Photo by Tara D. Phoenix

**Bernard M. Resnick (left) with Philadelphia Eagles Tight End Brent Celek at the Philadelphia Bar Association CLE at Citizens Bank Park on Aug. 31.**

## PHILADELPHIA BAR ASSOCIATION CLE

## Managing Cyber Risk in an Ever-Changing Digital World

■ By Annie Kernicky

CHANCES ARE, GIVEN THE EXPONENTIAL GROWTH OF data creation in today’s society, most attorneys and their clients are unaware of the data trails that are left every day. Not only does the accessibility of data have implications, such as cyber security risks for attorneys and law firms, but it also presents the potential for new types of discovery in our modern digital world. On Aug. 17, Sean Dennin, CEO, and Peter L. Mansmann, president of Precise, Inc. presented a timely Philadelphia Bar Association CLE titled “Discovery in a Digital World” on modern investigative techniques and cyber security through computer forensics.

Dennin and Mansmann offered practical information on cyber-exposure risk management and computer forensics best practices, including new types of discovery and investigatory practices. Dennin explained that, from a law firm’s perspective, the use of mobile devices, new communication methods and web-based platforms present new opportunities for hackers to steal data. He also pointed out that employees themselves pose the largest risk to a law firm’s cyber security efforts, albeit often unintentionally. It is generally easier for a criminal to try to attack an organization by deceiving an employee to click on a link or download a document than it is to break through a company firewall.

In addition, as Dennin explained, ransomware is a type of malicious software designed to block access to a computer system until a sum of money is paid. Ransomware is a real, growing threat to law firms and once a device is infected it can spread easily by an employee’s activity. For example, if an employee whose device has been infected with ransomware clicks on a network drive, that server will become infected; when other users access the infected location, their devices will also become infected. If infected with Ransomware, Dennin suggested paying the ransom because there is no way to unlock the encrypted data, and criminals will follow through on their threat to delete the data.

Mansmann further discussed the effects that computer forensics have in our modern, digital environment. Examples of items that can be easily received from a computer that are well-known and can be important to discover include Internet search history, websites visited, documents accessed and login times. However, the most “disruptive” piece of technology in the last 25 years as it relates to people’s data, according to Mansmann, is the smartphone. Most phones’ default settings include the storage of frequent locations, that keeps a record of the location, time and duration of stay of that phone. He also pointed out that many phones keep a record of “app usage,” that can include tracking and counting steps the user has walked or run during that week, month and year.

Even further, cellular phone records can show cell tower “pings,” valuable data in certain types of claims, such as, for example, a claim of limited mobility.

The most interesting area of digital investigations in the coming years, according to Mansmann, will be the “Internet of Things.” He explained that the Internet of Things is the interconnectivity of devices within the web, held together through Wi-Fi or Bluetooth enabled devices. An example of this connectivity is a home security system that tells the user through its phone that the lights are left on, or fitness products that track the user’s movements and show the results on the user’s phone. Mansmann said that as more devices become connected in these ways, data will be created and tracked without people realizing it is happening, creating a potential area of information in any investigation and discovery sought.

*Annie Kernicky (annie.kernicky@flastergreenberg.com), associate at Flaster/Greenberg, is an associate editor of the Philadelphia Bar Reporter.*

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