

DCBA MAY NEWSLETTER







In my first President's message this past February, I announced my plans to highlight the diversity that exists within our organization in my monthly President's messages. This month, the focus is on the LGBT community and there could not be a better time to address this topic as the United States Supreme Court, just a few weeks ago, heard oral arguments in two seminal cases addressing gay marriage. I asked fellow DCBA member Leo Dunn to address this topic as the Guest Columnist. As the Chair the Pennsylvania Bar Association's Gay and Lesbian

Rights Committee, Leo is eminently qualified to address the topic of sexual orientation diversity. Thank you, Leo, for taking the time to educate us on this important topic.

Jonathan W. Kunkel President

Practice Diversity By Leo L. Dunn



When Jonathan told me he was focusing on diversity during his year as our President, it made me think of my first official work on diversity as an attorney. I was tapped to serve on a committee that wrote the diversity and nondiscrimination statement for the National Inn of Courts Program. This may seem a bit odd until you understand I began law school at age 39 and was in my first year as a member of the Bowman Inn of Court. I had already dealt with diversity issues during my early career as an agricultural policy and program specialist for our state Department of Agriculture. At the National Inn of Courts we decided to state the obvious race, ethnicity.

gender, sexual orientation, and physical disabilities, but we also included less obvious categories such as economic status and background. Thus, I highly support Jonathan's initiative.

While I continue to work full time for the commonwealth as a policy, legislative, and communications specialist, I now focus on criminal justice and state parole issues rather than food and agriculture. I have a part time law practice, teach GLBT legal issues at Widener Law School, chair the Pennsylvania Bar Association's Gay and Lesbian Rights Committee, participate in Judge Hoover's Guardianship Monitoring Program, spend as many hours as possible with my partner of 18 years (Yes, we got married in New York with both of our families and many friends in attendance), boat, garden, read, and have chickens as pets.

Today is an exciting time to be practicing in this area of law, especially now we are waiting for SCOTUS to decide *Prop 8* and *United States v. Windsor. Prop 8* looks at whether same sex marriage is a constitutional right using California's Proposition 8 which nullified California's same sex marriage progress. However, in my opinion, the New York case of *Windsor* is more interesting. It asks "whether Section 3 of the Defense of Marriage Act, 1 U.S.C. § 7, violates the Fifth Amendment's guarantee of equal protection of the laws as applied to persons of the same sex who are legally married under the laws of their state." Currently, Section 3 of the federal DOMA makes it illegal for the federal government to recognize a same sex marriage for any federal purpose. This means the 1,100 plus federal benefits and burdens attached to marriage are not applicable to married same sex couples. Some of the major ones are filing a joint tax return, exemption for the federal estate tax, social security death benefits, and taxation of health insurance covering a spouse based on such insurance being imputed income to the employee.

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My law school students and other attorneys at my presentations are often amazed at the subtlety of the differences between what documentation needs to be completed when working with a gay couple as opposed to a straight couple. Making sure that powers of attorney are in place giving the other partner the right to make decisions in cases of incapacity without being barred from the hospital or deathbed and the right to take control of the body upon death. Writing wills that identify family and pass property rights without the partner being evicted from a house that was solely in the name of one partner. Of course, better planning puts the house in both names or in trust! Planning for long term care and the surviving partner needing to pay 15% state inheritance tax on 50% of jointly owned property or on 100% of non-jointly owned property that a spouse would pay no tax on the title transfer. Writing contracts for surrogacy, second parent adoptions, and helping venue shop for a birth location to allow for birth certificates with both parents name. Realizing that gay youth make up a huge proportion of the juvenile justice system because of bullying and ostracization in many school systems.

All of these concerns make for some interesting class discussion! More importantly, knowing these differences allows you and your firm to provide services to clients that will otherwise assume you "don't get it" and look for another attorney. "May your life be interesting" is a potent curse, but it's not boring! I enjoy helping and educating people and so far my life has been great! Not bad for a Potter County farm boy in the big city!

"REALIZING THE DREAM: EQUALITY FOR ALL!"

To All Members of the Dauphin County Bar Association:

Each year during the month of May, our nation celebrates Law Day. The purpose of Law Day is to educate people of all ages about the American legal system. In its annual Law Day celebration, the American Bar Association hopes to accomplish this goal by encouraging lawyers and judges to visit their local schools and teach students about this year's theme: "Realizing the Dream: Equality for All!" The promise of equality under the law is what has set our nation apart. 2013 is also the 150th anniversary of the Emancipation Proclamation.

The Dauphin County Bar Association and the American Bar Association are working together to ensure that lawyers and judges visit each school district in Dauphin County during this year's celebration. Last year we had 71 who volunteers visited 108 local classrooms in order to educate our youth about the great freedoms that we, as a nation, are afforded. The Honorable John F. Cherry, Jennifer M. Caron, Chair, Young Lawyers Section, and I would like to encourage your participation in this year's program so that we can ensure that an attorney or judge will be available to visit each and every classroom that wishes to participate.

If you would like to volunteer, visit the ABA website by copying and pasting the following link.:

http://www.americanbar.org/content/dam/aba/images/public education/lawday-guide-2013.pdf

At this website, you can download a lesson plan. There are links to lesson plans appropriate for students from elementary through high school.

Once it is available, DCBA members will be sent a list of schools and grades. We ask that you make two selections in order of preference and send an email to Joyce at joyce@dcba-pa.org to request your preferred classes. She will respond with the appropriate contact information and you will need to contact the teacher directly to set up a mutually convenient date and time for your visit. While Law Day is officially observed on May 1, 2013, the classroom visits can be held at any time in May.

We hope that we can count on your cooperation and involvement in making Law Day 2013 a success. If you would like more information, visit the PBA website at http://www.americanbar.org/aba.html

Honorable John F. Cherry

Dauphin County Court of Common Pleas

Kristen Sinisi, Esq.

Chair, Young Lawyers Law Day Committee

YOUNG LAWYERS MEET THE JUDGES PHOTOS









BAR BRIEFS



Andrew H. Cline is now Vice President of Legal Affairs and General Counsel at Milton Hershey Schools.



Neil E. Hendershot of Serratelli, Schiffman & Brown PC, will be honored by the PBA at the Annual Meeting in Pittsburgh for providing more than 30 years of service as editor of the PBA Real Property, Probate and Trust Law Section's newsletter and for his service as chair and council member of the section.



Kathleen Misturak-Gingrich has relocated to the Law Offices of Peter J. Russo, P.C. effective April 1, 2013.



Spencer G. Nauman, Jr., will be recognized by the PBA on May 10 in Pittsburgh at the House of Delegates Meeting for 50 years of membership.



Henry W. Rhoads, will be recognized by the PBA on May 10 in Pittsburgh at the House of Delegates Meeting for 50 years of membership.



Joseph G. Skelly, will be recognized by the PBA on May 10 in Pittsburgh at the House of Delegates Meeting for 50 years of membership.



Charles T. Young, Jr. is now with the Law Offices of Griffith, Strickler, Lerman, Solymos & Calkins in York.

CALLING DAUPHIN COUNTY ORPHANS' COURT PRACTITIONERS!

The Pennsylvania Supreme Court's Orphans' Court Procedural Rules Committee published proposed new statewide Orphans' Court Rules on April 13, 2013, in the *Pennsylvania Bulletin*, Vol. 43, No. 15 (See: http://goo.gl/2WslV). The deadline for public comment on the proposed rules is **June 13, 2013**. We want to make sure that the voices and views of Dauphin County's Orphans' Court practitioners are heard! To that end, we are reconstituting the Orphans' Court Rules Subcommittee of our Local Court Rules Committee. The subcommittee will meet before the comment deadline with an expectation of submitting comments to reflect Dauphin County practitioner concerns. If you would like to serve on the Subcommittee, please contact Charlie Beckley (233-7691), Neil Hendershot (nhendershot@ssbc-law.com) or Liz Simcox (323-7536) by May 7, 2013, for information about the initial meeting on May 14, 2013 at 4:00 p.m.

WE NEED YOU!

We all know how difficult it can be to lose a job. Some of us have been there or shared the pain with someone we love. However, many of us are lucky enough to have emergency savings, family members or other resources to help us until we find a new job. Unfortunately, not everyone has those resources.

In these tough economic times, Unemployment Compensation (UC) can be an important source of temporary financial support that can keep a family together until new employment is found. When a UC claim is contested, the welfare of workers and their families is at stake especially if the worker is unrepresented at the hearing.

Due to the large number of UC filings and a proportionately large number of UC denials, MidPenn Legal Services needs YOUR help to represent low-income Dauphin County residents in UC referee hearings.

By taking a pro bono UC case, your can make a real difference for a family in need. You also can complete your pro bono participation in a short time and without ongoing responsibility – your representation ends at the hearing, As with all MidPenn Legal Services pro bono referrals, MidPenn staff will be available for advice and guidance as needed.

Please contact Sandy Ballard at <u>sandy@dcba-pa.org</u> or 232-7536 if you have questions and/or might be willing to take a UC case as part of your 2013 pro bono commitment.

HOW DOES THE DCBA ASSIST THE NEEDY IN OUR COMMUNITY?

Value of Your Pro Bono Service

Dauphin County pro bono attorneys donate an average of 1,852 hours per year. Using a modest billing rate of \$150/hour, your pro bono efforts provide \$277,825 of free legal services each year. Those hours are spent assisting roughly 282 clients each year.

Most of the pro bono cases (70%) are family law matters. Each case takes an average about 7 hours of the attorney's time. However, some attorneys donate many more hours and other cases settle more quickly.

Many attorneys choose to participate in the Pro Bono Program by making a charitable donation to MidPenn in lieu of accepting pro bono referrals. The recommended contribution in lieu of pro bono service is \$300. These donations average \$33,366 each year. Pro Bono donations combined with your valuable in-kind legal services of \$277,825 equals an average of \$311,191 used to assist low-income people in Dauphin County.

Each year, roughly 430 Dauphin County attorneys, paralegals and law students participate in a wide variety of pro bono efforts. The Dauphin County Bar Association recognizes these pro bono participants by listing their names in the monthly newsletter and by hosting an annual recognition event for pro bono participants. This invitation-only reception is attended by judges and bar leaders. The president judge addresses the group to commend them for their service. As a special treat, Chief Justice Castille participated in the 2013 reception.

Program Coordination

Pursuant to a resolution adopted by the membership, each member (on an alphabetical basis) is asked to participate by accepting two *pro bono* referrals from MidPenn Legal Services, participating in a special pro bono project, or contributing \$300. Since 2003, the Dauphin County Bar Association has employed a full-time Public Services Coordinator, Sandy Ballard, to organize the effort. You may have received one of Sandy's Pro Bono Invitation emails. Due to the number of Bar Association members, most attorneys are only asked to accept new pro bono cases once every two years.

Although the Bar Association's Public Services Coordinator schedules the pro bono attorney for his/her biannual rotation, MidPenn staff screens the client, gathers additional information, and, if appropriate, schedules the client with a pro bono attorney.

Once an attorney accepts the appointment time and date, MidPenn calls the attorney to determine what types of cases the attorney prefers. MidPenn makes every effort to match the pro bono attorney's interests and skills with the client's needs.

When a client presents a conflict for MidPenn, the Bar Association's Public Services Coordinator provides the necessary screening and, if appropriate, makes the referral to pro bono counsel. All attorneys accepting a pro bono referral are covered by MidPenn's malpractice insurance.

If an attorney receives a case in a substantive area about which you do not feel completely comfortable, MidPenn staff attorneys are available to provide assistance. Also, the Miller Center for Public Interest Advocacy at The Penn State Dickinson School of Law can provide volunteer law students to assist attorneys. Finally, a group of DCBA Civil Dispute Resolution Program mediators are available to do a <u>free</u> mediation as a useful way to resolve pro bono matters in a more timely fashion.

The Bar Association's Public Services Coordinator monitors the status of pro bono referrals. In the event that there is a delay in receiving the Status/Closing Form, Sandy will contact the pro bono attorney for an update. She continues to monitor cases until the case-closing documentation is returned. We also encourage attorneys to send a closing letter to the client and petition the court to withdraw their appearance.

The Bar Association does not want to exclude anyone from having the opportunity to participate in the pro bono program. As a state capital, the Bar Association includes many government employees, lobbyists, trade association staffers and inhouse corporate counsel. We understand that an attorney's position may limit or restrict their ability to participate. However, thanks to the wide variety of special pro bono projects (e.g., the Pro Se Custody Clinics, Homeless Outreach Project, or Guardianship Monitors Program), many attorneys in various professional categories are able to participate.

For example, many government attorneys volunteer their time at monthly custody clinics, where information is provided regarding the pros and cons of pursuing a custody action. When the client concludes that filing a custody petition is in his/her child(ren)'s best interest, the attorneys at the clinic assist with the preparation of all necessary documents. In 2012, we launched a new clinic to help parents prepare for their custody conference by participating in mock conciliations.

How Does a Person Get Help?

<u>Step One</u> -- A low-income person needing free civil legal help should first go to **MidPenn Legal Services**, 213A North Front Street, Harrisburg or call **1-800-326-9177** to see if s/he is eligible for free legal representation or pro bono assistance. All people seeking pro bono assistance from Dauphin County Bar Association members must contact Midpenn to request service. All pro bono referrals are screened by a MidPenn staff attorney.

MidPenn is a non-profit, charitable organization and, unfortunately, does not have enough charitable donations to help every person with every type of issue. To be considered by MidPenn:

- 1. The person must have income at less than or equal to the MidPenn Income Guidelines which are based on the federal poverty level, and
- 2. The issue must be one MidPenn can address (e.g., not a criminal matter or a fee-generating case like personal injury).

Some of the topics MidPenn has traditionally covered include domestic violence, child support, welfare, debt collections, bankruptcy, landlord / tenant, custody, divorce, and other poverty-related issues.

<u>Step Two</u> -- If the person is <u>not eligible</u> for free services, MidPenn will encourage the person to call the Dauphin County Bar Association **Lawyer Referral Service** at **(717) 232-7536.** Due to the large number of calls we receive, the Lawyer Referral does not take "walk-ins" and can be reached ONLY by phone. Often callers have to wait on hold for several minutes while we are helping other callers.

If the caller was not eligible for MidPenn, the Lawyer Referral staff can screen the caller for the **Modest Means Panel**. Lawyers on the Modest Means Panel agree to take cases at a reduced hourly rate of \$50/hour with **a \$500 down payment**. To be eligible for a Modest Means lawyer, the caller must have income at less than or equal to twice the federal poverty level and, yet, be able to give the attorney the \$500 retainer. Fee-generating matters are not eligible for the Modest Means.

If the caller is not eligible for the Modest Means Panel, the Lawyer Referral staff can refer the caller to a regular-priced attorney.

<u>Step Three</u> – The Lawyer Referral staff also tries to refer callers to other community resources that may be available to help them. The Lawyer Referral staff may share legal information with the caller from <u>www.PaLawHelp.org</u> (an easy-to-read online guide to legal information and legal services in Pennsylvania). However, the Lawyer Referral staff <u>cannot</u> take that information and apply it to a caller's particular case because then it becomes legal advice.

The Lawyer Referral staff may also encourage callers to consider contacting the **Neighborhood Dispute Settlement** (NDS) at 233-8255. NDS provides free mediation to help folks try to resolve their disputes (including custody, landlord tenant, etc.) without having to hire attorney. Mediations can be especially helpful in custody cases and can be scheduled without delaying a hearing or other court deadline.

The Lawyer Referral staff may also encourage a caller to consider using the Courthouse **Self-help Center** which is a help-ful resource even if someone hires a lawyer. The Self Help Center is located on the 4th floor of the Dauphin County Courthouse, Front & Market Streets or online at www.dauphincounty.org/court-departments/self-help. The Center provides forms and instructions for the following:

- 1. Divorce when parties have been separated for two years and no property needs to be divided (\$10)
- 2. Emergency custody (\$10)
- 3. Custody, partial custody, or visitation when there is no existing custody order (\$10)
- 4. Modification of an existing custody order (\$10)
- 5. Divorce where the parties consent and no property needs to be divided (\$10)
- 6. In Forma Pauperis (\$5)
- 7. Driver's License Suspension Appeal (\$10)
- 8. Adult Name Change Petition (\$10)
- 9. Minor Name Change Petition (\$10)
- 10. Motion for Transcript (\$5)
- 11. Motion for Continuance (\$5)

Packets are available free of charge online.

Step Four – In appropriate cases, the Lawyer Referral staff may refer callers to other agencies including:

- **A.** Dauphin County Area Agency on Aging at (717) 780-6130, 255-2790 or toll-free at (800) 328-0058 ext. 6130 for free legal help for folks **60 years old or older**.
- **B.** Senior Helpline toll-free at (877) 727-7529 for free, confidential telephone service for folks **60 years or older.** Provides free legal information, advice and referrals on topics including consumer problems, health care, estate planning, pensions, family law and housing.
- C. YWCA Domestic Violence Legal Clinic at (717) 724-0516 provides free legal assistance to victims of domestic violence who are unable to afford an attorney on topics including protection from abuse, defiant trespass letters, custody, divorce, child support, spousal support, landlord-tenant/housing, consumer, unemployment compensation, bankruptcy, wills/powers of attorney.
- D. **American Civil Liberties Union of PA** at (717) 238-2258 assists with issues including freedom of speech, freedom of religion, privacy, discrimination, police misconduct, inhumane prison conditions, and other issues of unfair treatment by the government.
- **E. PA Immigration Resource Center (PIRC)** at (717) 600-8099 for legal support to vulnerable immigrants. PIRC services are available for immigrants detained by Immigration and Customs Enforcement, specifically torture survivors, families, and those with mental or physical disabilities. PIRC also offers services for detained and non-detained victims of domestic violence, sexual assault, human trafficking and other serious crimes.

F. **Harrisburg Fair Housing Council** (717) 238-9540 provides services that promote fair housing rights and further other housing opportunities for all persons. Tenant Helpline, walk-in office and workshops provided.

Conclusion

In short, the Bar Association, through your pro bono service and our Lawyer Referral Service, does all we can to assist those in need of legal representation. Unfortunately, our efforts are not enough to help everyone with every issue. Yet, we continue to strive to do more each year and frequently launch new projects to help folks in need. The Membership's commitment to pro bono service and helping those in need is equally supported by the members of bench. Thus, through the support of the bench, the bar and legal services, our pro bono program is known as among the best in the state.

PRO BONO RECOGNITION

The following participants provided *pro bono* service during the month of April by accepting new clients, making a financial contribution to MidPenn Legal Services, participating in one of our *pro bono* programs, or conducting one of our family law clinics:

Attorneys:

Justin S. Abel Thomas S. Beckley Patti S. Bednarik Guy P. Beneventano Michael R. Bonshock Christine Taylor Brann Jan L. Brown Kelli Brownewell Statt Suzanne M. Butler Loudon L. Campbell John J. Cantwell John W. Carroll Christopher M. Cicconi Mary Ann Kennedy Claraval Robert F. Claraval Daniel Clearfield Andrew H. Cline Andrea M. Cohick Thomas S. Cook Derek J. Cordier Marsha Mills Davis John Andrew Davidson Aaron T. Domoto Lawrence G. Frank Allison C. Gossett Thomas D. Gould Charles J. Hartwell Craig A. Hatch Raymond C. Hedger Jr. Peter R. Henninger Jr. Elizabeth A. Hoffman Timothy A. Hov

John M. Hyams

Gary J. Imblum Chad J. Julius Phillip C. Kirchner Robert L. Knupp Jessica L. Kurtz Gina Lynne Lauffer Dawn L. Lisi Brian E. McDonough Debra R. Mehaffie John G. Milakovic Virginia L. Montgomery Dorothy L. Mott Linda J. Olsen Merritt C. Reitzel Ann E. Rhoads Elyse E. Rogers Lisa A. Rynard Markian R. Slobodian Elizabeth D. Snover Jan Matthew Tamanini Felix Thau James H. Turner Tracy Lynn Updike Bruce J. Warshawsky Patricia Carey Zucker

Paralegals

Michelle Armor Amanda Felty Rose Merrick Sandra Reibert Stephanie Saul Kari Umholtz

PRO BONO PERFORMANCE

So far in calendar year 2013, our Pro Bono Program has:

Assisted 250 clients
(based on new cases)
Donated 940 hours of legal services
(based on closed cases)
Valued at 141,045
Conducted 8 Pro Se Clinics

Additionally, our Lawyer Referral Program has fielded 1,302 calls and referred 819 clients, including 30 clients who qualified for Modest Means Panel.

Thanks to all those who helped maintain this tradition of community service.



OTHER UPCOMING NON-DCBA EVENTS

Monday, June 10, 2013 - Tuesday, June 11, 2013 Workers' Compensation Conference; Hershey Lodge & Convention Center. For more information click here: http://www.portal.state.pa.us/portal/server.pt/community/annual_conference/12991

HARRISBURG AREA COMMUNITY COLLEGE PARALEGAL INTERNS

Harrisburg Area Community College is seeking to place paralegal interns with local firms and attorneys for its summer and fall internship programs. Internships can be full or part time, paid or unpaid. Interested parties may contact Heather Paterno at hlp@goldbergkatzman.com to receive more information.



CAREER OPPORTUNITIES

Managing Attorney, Detained Immigrant Programs Pennsylvania Immigration Resource Center (PIRC)

The Pennsylvania Immigration Resource Center (PIRC) is a non-profit legal services organization that provides education and legal services to vulnerable immigrants in the community and detention, including survivors of torture, individuals with mental illness, families in detention, and victims of violence. PIRC has an opening for a full-time Program Managing Attorney for the Detained Immigrant Programs starting May 1, 2013. Managing Attorney will report to the Executive Director and will manage the Detained Immigrant Programs: the Legal Orientation Program (LOP), Vulnerable Persons in Detention, and the Protection Advocate Initiative. For more information, please contact liz@deba-pa.org.

Workers' Compensation Judge, The Pennsylvania Department of Labor & Industry's Workers' Compensation Office of Adjudication

Workers' Compensation Judge Location: Multiple Locations State Wide Salary: \$77,516-\$110,377 annually Application Deadline is June 1, 2013

In order to be considered for these civil service opportunities, application is made through the **PA State Civil Service Commission** by applying online at **www.scsc.state.pa.us** or submitting a completed paper application found on the PA State Civil Service Commission's website.

JUNE NEWSLETTER DEADLINE

If you would like an event or member updated advertised in our next newsletter, please submit it NO LATER THAN FRIDAY, June 21, 2013 to bridgette@dcba-pa.org.

Thank you.

May 2013

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Sun	Mon	Tue	Wed	Thu	Fri	Sat
			8:00am - Law Day Breakfast - Hilton 11:30am-1:30p.m. Ask A Lawyer @ Strawberry Square	2 11:30am-1:30p.m. Ask A Lawyer @ Strawberry Square	3 11:30am-1:30p.m. Ask A Lawyer @ Strawberry Square 2013 Bench Bar Conference Annapolis, MD	4 2013 Bench Bar Conference Annapolis, MD
5 2013 Bench Bar Conference Annap- olis, MD	6	7	8 5:00pm Bowman Inn of Court	9 4:30pm Family Law Section Meeting 5:30 Volleyball Starts	10	11
Happy Mother's Day 2013	13 5:00pm Lipsitt Inn of Court	14 11:30am Lunch 12 Noon program "Dealing with Disabled Clients, Witness', Applicants and Employees: ADA/PHRA Guidance for Today's Legal Practitioners' https://www.dcbapa.org/Calendar/Signup.aspx? EventNo=136	15 12:00pm Family Law Section Subcommittee	16 4:30 Board of Directors Meeting 5:30 Volleyball	17	18
19	20 12:00pm CLE Committee Meeting	21	22	23 5:30 Volleyball	24	25
26	DCBA Closed - Memorial Day	28 11:30am Lunch 12 Noon program "Tax Assessment and Recording Documents in Dauphin County" https://www.dcba- pa.org/Calendar/ Signup.aspx? EventNo=68	29	30 6:30pm - 8:30 p.m. Senior Lawyers River Boat Cruise 5:30 Volleyball	31	

June 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
						1
2	3	5:00pm - CAMP Dinner	5	6 5:30 Volleyball	7	8
9	10	11 11:30am Lunch 12 Noon program "AG Law Primer for the Non-AG Lawyer" https://www.dcba- pa.org/Calendar/ Signup.aspx? EventNo=244	12	13 5:30 Volleyball	14	15
16 Happy Father's Day	17	18	19 12:00pm Family Law Section Subcommittee	20 4:30 Board of Directors Meeting 5:30 Volleyball	21 Summer Begins	22
23	24	25 11:30am Lunch 12 Noon program More Information to Follow	26	27 5:30 Volleyball	28	29
30						