

MEET THE NEWEST MEMBER OF THE ORPHANS' COURT AND STATE OF THE ORPHANS' COURT DIVISION

By Michelle C. Berk, Esq.



RICHARD QUINDRY PHOTOGRAPHY, LANSDALE, PA

Honorable Cheryl Lynne Austin

On February 16, 2016, the Elder Law Committee, Chair Robert C. Gerhard III, Esq., and Michelle C. Berk, Esq., Vice-Chair, were honored to co-sponsor a reception welcoming Judge Cheryl Austin as the newest member of the Orphans' Court Bench. The meeting was jointly sponsored by the Probate and Tax Section, Orphans' Court Rules Committee. Members of the Bar Association, Register of Wills staff, Orphans' Court Clerks and recent and Senior Judge Stanley R. Ott, were our guests. Judge Ott shared his wit and wisdom with us. The Honorable Lois E. Murphy offered remarks on the state of the Montgomery County Orphans' Court.

The Honorable Cheryl Lynne Austin considers herself a career public servant. Her election as the first female African-American on the Montgomery County Common Pleas Court in November 2011 is the capstone of her career, although we are delighted that she will now share her elder law and estates practice and expertise to rule from the Orphans' Court bench. Prior to ascending to the bench, she was an attorney practicing elder law, criminal defense and estate resolution. Before entering private practice, Judge Austin served as Assistant Solicitor and Assistant District Attorney for Montgomery County, where she prosecuted individuals charged with felony and white collar crimes. Judge Austin also served as an adjunct professor at Palmer Theological Seminary in Wynnewood, PA.

While an undergraduate student at Northwestern University, Judge Austin entered the Navy Reserve Officer Training Corps in its first class of women. Upon graduation from Northwestern University, she was commissioned as an officer in the U.S. Navy. Judge Austin retired as a U.S. Navy Captain in 2004, after 24 years of active duty and reserve service. She attended Capital University Law School in Columbus, Ohio at night, while working as Human Resources Director for the Ohio Secretary of State.

Judge Austin has been recognized by the American Business Women's Association as an "Outstanding Business Woman" and was named a "Rising Star" among Elder Law attorneys for *Philadelphia Magazine*. *The Legal Intelligencer* awarded Judge Austin its "2012 Woman of the Year" award. She was also featured in the PA Commission on Women-sponsored book *Voices*. Her



Just last year, Skytop invested in a \$3.7 million makeover of all 192 guest rooms, incorporating the history of the hotel and the flavor of the 1930s with upgraded technology and top-notch amenities. Skytop's website explains: "Pulling from local history and tradition, each newly remodeled guest room has been designed to tell the Skytop Lodge story. With three room designs (Water, Garden and Mountain), the color palette and design elements of each room reflect the natural beauty of the Pocono Mountains. Each guest room includes a hand-painted wall covering signed by the artist, Ann McGuire."

In addition to its unparalleled beauty, Skytop also offers something to satisfy a quest for both peace and adventure in everyone. Guests can enjoy the resort's indoor and outdoor pools, as well as a beach and swimming lake right on the grounds; jump into the many activities of The Adventure Center, including a 33-foot rock climbing wall, Old Western Town Paintball course, and 3000-foot Treetop Zipline Challenge Course; relax and indulge at the resort's Skyview Spa; learn new skills in an on-site cooking class; treat themselves to a horseback wilderness ride through the gorgeous grounds; take in 18 holes on the resort's championship golf course, and more. A weekend is simply not enough to take in all that Skytop has to offer.

Of course, the best feature of any Bench Bar weekend is the unique opportunity it provides to connect with friends and colleagues in a truly relaxed, carefree setting. Members of the Bench and the Bar, along with their families, have been wholeheartedly enjoying each other's company at this favorite annual event for decades, and this year promises to be no different. President Carolyn R. Mirabile is excited about what is in store: "I chose Skytop because it was within 2 hours, the main building was a great gathering place for the whole group to be together, the scenery is incredible, and they have something for everyone: golf, hiking, swimming, or just sitting on the back porch and reading a book."

Whether you are a returning vet of the Bench Bar weekend or a member who has yet to take advantage of this unique opportunity, you will not want to miss our escape to the mountains this fall. Be on the lookout for more details coming soon! ■

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charitable activities within the Montgomery County, PA community have been acknowledged by the PA Human Relations Commission, the Montgomery County Black Law Enforcement Officers Association, the Willow Grove NAACP and the Cheltenham, PA NAACP branch, which she co-founded.

Founding Co-chair of the Montgomery Bar Association Diversity Committee, Judge Austin also co-chaired the Pennsylvania Bar Association Military and Veterans' Affairs Committee. Before assuming the Bench, she was an Advisory Board member of Laurel House, a social service agency assisting victims of domestic violence, and a Trustee of the Montgomery County Community College. Judge Austin formerly chaired the Montgomery County Commission on Women and Families.

Upon joining the Bench, Judge Austin initially presided over Family Court. In January 2014, Judge Austin launched the County's first DUI Court, designed to specifically address cases involving Driving Under the Influence criminal charges.

In welcoming Judge Austin, Judge Murphy provided an instructive summary of the new Orphans' Court Rules and the Guardianship Forms that are now available on the Bar and court website. Judge Murphy's remarks follow in full on the state of the Orphans' Court Division of the Montgomery County Court of Common Pleas.

As you all know, last year, we faced a vacancy on this Court as a result of the retirement of a towering intellect, a leader recognized statewide and nationally, an immensely experienced judge who retains today his diligent work ethic and his sincere compassion for the parties who appear before the Honorable Stanley R. Ott.

Fortunately, the Montgomery County Orphans' Court is doubly blessed.

- We will enjoy the best of both worlds: the mature and wise contributions of one of the most experienced and renowned jurists to serve the Orphans' Court, who has graciously agreed to remain part of our team as a Senior Judge;
- Together with the energy, enthusiasm and fresh perspective of a judge – new to the Orphans' Court, but already an experienced judge – with the passion and temperament to continue the tradition of excellence of this Court, and to make her own individual mark in her contributions to the law.

It is my privilege to have the opportunity to work with them both and to continue to strive to contribute to serving justice in Pennsylvania, continuously improving our systems and practices, and maintaining the reputation of the Orphans' Court Division of Montgomery County as the finest Orphans' Court in Pennsylvania.

In addition to the change represented by Judge Ott's change to senior status, and to our hearty welcome to Judge Austin, I have been asked to speak briefly about other changes practitioners may expect in the near future. I know that for some of us – probably most of us – change can feel threatening or worrisome. Judge Ott frequently reminds me that, particularly for the parties that appear before us, "all change is traumatic."

But in the words of Winston Churchill, "To improve is to change; to be perfect is to change often."

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Therefore, in our continued effort to achieve – if not perfection – at least excellence – I will review the areas in which we continue to improve and change:

1. New Supreme Court Orphans' Court Rules — effective 9/1/2016 — note — Petitions for Adjudication must be filed at the same time as the Account; when filing a petition for guardian of more than one minor child, a case must be opened for each minor.

2. New Local Rules of the Orphans' Court — A meeting is scheduled for February 26, 2016 and Coleen Kryst will plan to represent the Court concerning issues we feel may require a local rule to provide more specific guidance to the bar about our practices and procedures. For instance, we may need to create rules concerning redaction of sensitive information in documents, and filing an unredacted as well as a redacted copy, where the information is required but should not appear in the public version of a document.

I am still trying to figure out how to preserve my personal favorite local rule, Local Rule 1.1B – which provides: "The Court will be in session every Monday, Wednesday and Friday, except during July and August, when the Court will be in session only on every Friday for the presentation of ex parte miscellaneous business."

3. Work of the Pennsylvania Supreme Court's Elder Justice Task Force and the Supreme Court's Elder Justice Advisory Council which has a focus on preventing Elder Abuse as well as a focus on Guardianship practice.

4. Creation of an Elder Abuse Bench Book and a Guardianship Bench Book by the Advisory Council for use by judges across the Commonwealth — to provide guidance about best practices in Guardianship proceedings.

5. Continued work of the Elder Justice Roundtable of Montgomery County, which is holding its 4th annual public conference on June 17, 2016 at Montgomery County Community College.

6. Legislation now being considered in the Pennsylvania House, which passed the Senate, to amend the Guardianship Statute.

7. New Guardianship Forms, to be posted on the Montgomery County Orphans' Court Website, and to be made available to be filled in by e-filers. — An emphasis on making requests for payment and other applications a simple form that may be completed and made part of the record.

8. Encouragement of increased e-filing and receipt of notices from the Court electronically.

9. Creation of a new Statewide Orphans' Court Case Management System, which is expected to be released in 2017 or 2018. This will be a fairly big change for us and for practitioners in terms of our e-filing system, which will be through the state's PACFile interface, and the system used by the Clerk of the Orphans' Court. However, it will improve dramatically the ability to collect data about how Orphans' Court cases are handled statewide, by making uniform the system for reporting how many accounts are adjudicated, how many guardianship petitions heard, and more specific information relevant to the administration of justice, such as whether and in how many cases Counsel is appointed to represent an incapacitated person

While we make these changes and improvements, we will strive to be mindful of our best traditions and our commitment to the prompt and just resolution of disputes and our responsibility to treat parties with respect, patience and compassion.

Both personally and professionally I am deeply grateful that Judge Ott will continue to make many contributions and continue to offer his guidance as my colleague.

I am equally excited as I begin to work with Judge Austin, who I know will challenge us continually to improve and will contribute to the development of the law with her combination of compassion, intelligence, firmness and a welcome no-nonsense style.

In the department of things not changing, we are continued to be supported by the extraordinarily able legal team of Eileen Grant, Coleen Kryst and Shelley Goldner.

I thank all of you who have contributed and will continue to contribute to:

1. the development of the Rules of the Orphans' Court, or the Local Rules of the Orphans' Court,
2. who have offered assistance with the development of the Bench Books,
3. who have participated with the Elder Justice Roundtable,
4. who participate in leadership of the Bar Association's committee on Elder Law, Probate Section or Orphans' Court Rules Committee.

We are triply blessed and indebted to Judge Murphy for her contributions to updating the Orphans' Court Rules, the new local Rules of the Orphans' Court and the Pennsylvania Supreme Court's Elder Justice Task Force, Elder Abuse Bench Book and Guardianship Bench Book and work of the Elder Justice Roundtable of Montgomery County and other legislation and the new guardianship forms and case management systems. We are fortunate to be able to work with and appear before all the Montgomery County Orphans' Court Bench. ■