

# Barley Snyder 2014 Year In Review

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## Message from the Managing Partner

The past year was a successful and productive one for Barley Snyder and for our clients. Problem solving, litigation victories, complex business transactions, new ventures and service to our clients, our profession and the community made 2014 a memorable year for the firm. We want to thank you - our clients and friends - for your continued confidence in and relationships with our firm. We value our partnership in positioning you for success in the coming year and beyond

In 2014 we crossed the Mason-Dixon Line to open our sixth office in Hunt Valley, Maryland. We made other advances in our multi-state services for many clients whose activities carry them beyond Pennsylvania. Over the summer we rolled out our new website. Check it out at [www.barley.com](http://www.barley.com)! We were also very pleased to add six new lawyers in four of our offices during the course of the year.

In 2015 we expect Barley Snyder to continue to grow our professional staff and enhance the diversity of the services we offer. As we expand to meet changes in the regulatory environment and the evolving needs of our clients, our goal remains to maintain the capacity to provide all the services necessary to those we serve, while staying nimble enough to respond on a timely and cost-effective basis to their requirements. Regardless of the inevitable transformations in our profession and our markets, one aspect of our firm's practice which will never change is our commitment to our clients and friends.

Our ability to provide the high level of service required by our Practice Excellence principles and expected by our

clients depends on our receiving and responding to feedback from our constituencies. Please feel free to contact me at any time throughout the year to share any comments, observations or suggestions relating to your experience with Barley Snyder. We look forward to continued collaboration and shared successes in 2015.

Jeff Lobach

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## **Highlights from 2014 Come see us in Maryland**

### **Come see us in Maryland**

We have opened our sixth office and expanded our footprint into Maryland. The firm's work in Maryland has been increasing significantly in recent years as many of our clients have established operations across the Mason-Dixon line. With the new office location in Hunt Valley, attorneys will be more conveniently accessible for those clients on a regular basis.

The firm officially opened the office, located off of the Hunt Valley interchange of Interstate 83, on May 1. The address is 201 International Circle, Suite 230, Hunt Valley, Maryland 21030 and the phone number is 410-891-5714. Several of the firm's attorneys are licensed to practice in Maryland, and for years Barley's attorneys have been fortunate to be admitted pro hac vice to oversee cases in the area.

### **Check us out at [barley.com](http://barley.com)**

We are pleased to announce that over the summer we have launched a newly redesigned website, [www.barley.com](http://www.barley.com). The new site allows clients and friends to get to know our firm, services and people even better than before. Current industry-specific news, articles and event/seminar information can all be found on the homepage, and it's easier than ever to sign up to receive news alerts right to your inbox.

We invite you to explore the site and discover all it has to offer. The website features include:

- Improved overall site navigation
- Comprehensive attorney and paralegal biographies
- Access to the most recent legal updates, event details and other timely information
- Detailed practice area and industry-specific information
- User-friendly search options
- Sign-up feature to receive regular updates via email
- Responsive design: the website is optimized to work on your desktop, laptop, tablet and smartphone
- Social media links so you can connect with our professionals and easily share content

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## **Barley Snyder Serving Our Communities**

In addition to providing financial support to numerous charitable causes, our attorneys are committed to community leadership and volunteerism. We are proud to report that in 2014, we collectively spent more than 3,300 public service hours in our various communities. Our attorneys contribute financially, serve on boards and volunteer for more than 100 organizations in the areas of education, social services, the arts, youth athletics and professional associations.

At holiday time each year, Barley Snyder contributes to local non-profits in our communities, and 2014 was no different. The firm made donations to the Lancaster County Council of Churches, the York Rescue Mission, the Greater Berks Food Bank, the Hanover Area Council of Churches and the Chester County Food Bank in honor of our clients and friends.

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## **Our Litigation Practice Scores Major Victories for Our Clients**

**Joshua Knapp** recently secured a complete defense verdict on claims exceeding \$700,000 in a complex commercial landlord-tenant case in the United States District Court for the Eastern District of Pennsylvania. Josh's client leased a portion of its Philadelphia-area shopping center to an international coffee and restaurant business, which in turn subleased the premises to a franchisee. Disputes developed between the tenant-franchisor and subtenant-franchisee, resulting in litigation. The subtenant brought a third party complaint against Josh's client as a part of that litigation, asserting various causes of action focused on the calculation and assessment of common area maintenance charges, and seeking damages for the loss of the franchise and unpaid taxes. Josh obtained the dismissal of some counts by preliminary dispositive motion, and the Court awarded judgment on the remaining counts after a two-day trial.

**Ron Pollock** and **Matthew Hennesy** co-tried a construction arbitration and obtained an award for the developer/owner in excess of \$250,000. The dispute between the owner and project contractor arose from unsubstantiated change order requests and resulted in the owner terminating the contractor from the project. The contractor brought a claim against the owner alleging improper termination from the project and seeking in excess of \$800,000 from the owner for alleged unpaid contract balances, additional work, liquidated damages, interest on unpaid amounts, as well as penalties, statutory interest, and attorneys' fees pursuant to the Contractor and Subcontractor Payment Act. The owner brought counterclaims against the contractor alleging that the contractor improperly abandoned the job and failed to perform services as required by the construction contract. During the multi-day arbitration, the contractor's case and the credibility of its owner were seriously impacted by a thorough cross-examination that resulted in the contractor inexplicably changing its story several times. In the end, the arbitrator determined that the owner was justified in terminating the contractor and awarded our client approximately \$262,000 in damages.

**Jeremy Frey** and **Paul Minnich** successfully represented a major York-based manufacturer in connection with a tax assessment appeal for its headquarters and manufacturing facility. Jeremy filed a tax assessment

appeal on behalf of the client and obtained a significant reduction in the client's tax liability. The city and school district filed an appeal to the York County Court of Common Pleas. Following a bench trial before York County President Judge Stephen Linebaugh, Paul and Jeremy fully prevailed and had the property assessment lowered even further. The court ruling resulted in substantial annual tax savings for the client.

**Justin Tomevi** recently successfully tried a case in Talbot County, Maryland to verdict in a commercial landlord-tenant dispute. Justin's client, a commercial landlord, had leased a property to a retail establishment which became delinquent on several years of lease and utility payments. Although the entity owning the retail establishment became insolvent, Justin, who was specially admitted to the court, successfully pursued the owner of that entity under a guaranty agreement. After a bench trial where various defenses were asserted by the tenant's counsel, the judge returned a verdict in favor of Justin's client. The tenant declined to appeal the decision and made immediate payment of the entire judgment amount.

**Kathy Kravitz** secured a defense verdict on behalf of a regional hospital client in a medical malpractice case involving an alleged failure to timely diagnose and treat neurosarcoidosis and transverse myelitis, which the 30 year old plaintiff asserted caused his paraplegia. The two emergency department physicians who saw the patient during the three emergency room visits at issue were also sued. Plaintiff alleged that the physicians, who were not hospital employees, were acting as agents of the hospital at the time of their care. Plaintiff initially sought approximately \$14 million in damages for lost earnings and future medical care, although Kathy and the co-Defendants' attorney were successful in substantially reducing the total number ultimately presented for the jury's consideration at trial. After a hard-fought seven-day trial during which Kathy and the doctors' lawyer presented a unified, strategic defense, the jury returned a unanimous verdict completely in favor of both Kathy's hospital client and the physicians.

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## **We're Honored to Be at Your Service**

Nine of our attorneys were named to the lists of 2014 **Pennsylvania Super Lawyers** and **Pennsylvania Rising Stars**. Super Lawyers recognizes attorneys who have distinguished themselves in their legal practices. List members for Pennsylvania Super Lawyers include: **Salvatore Anastasi, Jennifer Craighead, Michael Davis, Christopher Mattson, Jill Welch** and **George Werner**. List members for Pennsylvania Rising Stars include: **Joseph Falcon, Jeremy Frey** and **Alex Snyder**.

Eight of our attorneys were named to the **Best Lawyers 2015** list. The Best Lawyers In America is the oldest and most respected peer-review publication in the legal profession. List members for Best Lawyers in America include: **Lauralee Baker, Kathleen Gray, Steve Lazun, Jeff Lobach, Christopher Mattson, Mike Mixell, John Reed** and **George Werner**.

U.S. News & World Report and Best Lawyers named **Barley Snyder** as a Tier 1 Firm on its **2015 "Best Law Firms" list**. The "Best Law Firms" list includes firms recognized for professional excellence with impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise.

**Alex Snyder** was named General Counsel to the York County Community Foundation when the former

General Counsel, [Jeff Lobach](#), was asked to return to the Board and was elected as Vice-Chairman of the group. In his new role, Alex assists the Foundation in its efforts to proactively use philanthropy to create a vibrant York County. Alex has also been named one of *Central Penn Business Journal's* Forty Under 40 award recipients for his commitment to business growth, professional excellence and community service.

In 2015, [Jeff Lobach](#) will mark 25 years as General Counsel to York College of Pennsylvania. In that time, the College has tripled the size of its campus and nearly doubled the size of its student body, transforming itself into a highly respected four year residential institution. Jeff is pleased to be working with the third College President he has served in his role as the College's lawyer, Dr. Pamela Gunter-Smith, who is leading the College to a new level of success through her dynamic presidency.

Although a number of our lawyers are interested in politics, some have held public office and several of our "alumni" are currently serving as judges, **Barley Snyder** is not known as a political firm. We do not devote our time to pursuing governmental contracts and making big contributions to political candidates. Our lawyers would classify themselves all across the political spectrum. Nevertheless, we were happy for our good friend and longtime client Tom Wolf, who was elected Governor of the Commonwealth of Pennsylvania in November. It has been 60 years since a client of our firm has been elected to the state's highest office and we wish Tom every success in addressing the many challenges he will face in his new role.

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## Practice Excellence

Barley Snyder's [Practice Excellence](#) initiative is an ongoing effort by everyone in our firm to constantly increase our capacity to provide excellent service, professional quality and outstanding value to our clients. Practice Excellence includes topics such as checklists, templates, workspaces, uniform practices and procedures, quality control (and second person review where appropriate), service excellence, succession planning, education and risk assessment. This initiative is being led by [Paul Mattaini](#) and a group of attorneys who are our "Practice Excellence Champions."

As part of Practice Excellence, we continue to embrace Lean Six Sigma principles in our practice. The application of Lean principles is relatively unique in the legal profession and we have engaged Gimbal, a firm of lean practice managers specializing in the legal profession, to provide us with training in this area. In 2014, our commitment to Lean principles and continuous improvement was mentioned in an American Bar Association article noting that our firm began "targeting efficiency in the mid-2000s and eventually embracing Lean Six Sigma."

Through Practice Excellence, we are responding to demands in the profession for increased value and efficiency through practice and process improvements, either completed or underway, including;

- The design and implementation of a "ticket" system allowing a client to outsource certain work directly to our firm through a secure Internet portal. We were able to provide the client with fee certainty for this work through an alternative fee arrangement.
- We are using a post-closing checklist/process to assure all matters are addressed after the closing of a transaction;
- We require a second person review in certain matters involving opinions, securities, mergers and acquisitions,

estate planning and estate administration;

- We have created checklists and template documents for some recurring business matters that require very prompt responses;
- We are developing mapping of processes for matters in the litigation, estate administration and employment practices, with links to our template documents, research and checklists;
- Our IP lawyers and staff recently worked with Gimbal to map some of our IP processes. In particular, the IP group has focused on efficiency and process improvement to reduce client costs. The IP group has reached a stage where most of our processes are fully electronic-based (paperless). Through process mapping, the IP group has focused on identifying improvement opportunities to reduce work turnaround times at critical junctures in our patent prosecution process; and
- We have developed a comprehensive task list for our estate administration process whereby each responsible party is assigned tasks to be completed within a designated timeframe. Use of the list enabled us to eliminate waste and enhance overall efficiency to the benefit of our estate administration clients.

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## **Trends in the Transactional Practice**

As noted in our past year-end reviews, the M&A market has been "choppy" in recent years. During 2014, however, the volume of M&A transactions has picked up and it appears that, at least in the short run, this trend will continue. A number of factors have contributed to this trend: a pent-up demand by sellers to achieve a successful exit; a plentiful supply of private equity; and lenders willing to provide the leverage required to supplement purchasers' equity investments. However, transactions are still more difficult to close than they were prior to the economic downturn.

As we have done over the last several years, we periodically publish a set of tombstone announcements reflecting a representative sample of transactions in which we have participated; these announcements can be found on our website at [www.barley.com](http://www.barley.com). In these transactions, we have represented existing clients on transactions and companies referred to us by investment bankers, accounting firms, commercial lenders and other law firms.

In last year's year-end update, we noted a trend in the banking M&A market: mergers of equals or "MOEs". We co-authored an article on the topic titled "Is it Time to Consider a Merger of Equals?" with an investment banking firm which was published in 2014. In addition, our annual business seminars included a session addressing the buy-side of M&A titled "Is the Strategy of Growing by Acquisition Appropriate for your Company?"

Our approach to these transactions is described in our "M&A Resume" which can be found at

[www.barley.com/Mergers-Acquisitions](http://www.barley.com/Mergers-Acquisitions).

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## **Keeping In Tune with our Clients**

It is important that our attorneys have a working knowledge of our clients' businesses and industries. Several of our attorneys go above and beyond to gain specialized education in a particular industry:



In April, [Jill Welch](#) completed the Graduate School of Banking Human Resource Management School at the University of Wisconsin-Madison. Barley Snyder attorneys strive to understand the business dynamics of their clients, and GSB provided Welch with an excellent opportunity to gain an inside perspective on decision making - "combining the business of banking with strategic human resources thinking to gain a clear understanding of the human resource contribution to bottom-line profitability of banks and financial institutions."

During 2014, Barley Snyder remained a member of the Association of the Independent Colleges and Universities of Pennsylvania (AICUP). This provided the firm with opportunities to network with college presidents and other high level officials of colleges, and present education programs at AICUP events. The firm's Higher Education Group has presented a number of programs relating to Title IX and the recent amendments to the Violence Against Women Act. The membership keeps the Higher Education Group current on developments at Pennsylvania's private institutions of higher education, and on their concerns. Key attorney involved: [David Keller](#).

The firm also belongs to the Higher Education Resource Group (HERG), a group of AICUP affiliate members that serve colleges. HERG meets approximately eight times per year to discuss personnel changes at colleges, trends colleges are dealing with and ways members can assist each other to offer more relevant services to college and university clients. The affiliations with AICUP and HERG help keep us up to date with not only legal trends, but also problems and pressures facing colleges and universities today. Key attorney involved: [David Keller](#).

In order to stay current with issues, opportunities and challenges facing the construction industry and all of its participants (owners, lenders, contractors, subcontractors and design professionals) we believe it's very helpful to be involved in the industry itself. Our membership in organizations such as the Building Industry Association and Associated Builders and Contractors enable us to participate in the issues that matter to clients, to present and participate in educational opportunities and to interact formally and informally with key players. Key attorneys involved: [Ron Pollock](#) and [Maria Elliott](#).

The firm is a member of the Pennsylvania Bankers Association and through its participation, our attorneys can go beyond mere tracking of the unprecedented number of new laws and regulations affecting the banking industry to actually understanding the impact of new and evolving regulations on the community banking industry and its resulting needs. Regular interaction with industry executives allows attorneys to spot trends, keep clients proactively informed of emerging challenges and hurdles and firmly grasp the industry's evolution. Key attorney involved: [Kimberly Decker](#).

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## Events and Seminars

While Barley attorneys are dedicated to building and maintaining their own professional education and experience, we also strive to keep our clients informed of relevant industry information by providing them with regular updates in the form of alerts, newsletters, innovative guidance, counseling, training and seminars.

Our annual seminars include:

[LendiCon 2015 Lending Conference](#)

Location: Lancaster Country Club

Save the date: March 19, 2015

## **32nd Annual Employment Law Seminar**

Location: DoubleTree Resort by Hilton Hotel Lancaster

Save the date: April 10, 2015

## **ACC Seminar**

This event is co-hosted with the Association of Corporate Counsel (ACC) and offers a variety of legal updates for corporate counsel. Details for this event will be available on our website ([www.barley.com](http://www.barley.com)) later this year.

## **Business Seminar Series**

This is a series of seminars covering a variety of business topics offered on three dates and in three locations. Details for these events will be available on our website ([www.barley.com](http://www.barley.com)) later this year.

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## **New Faces and Transitions**

**Tim Malloy** has joined the firm as an associate in its Finance & Creditors' Rights and Business groups. Tim received his Masters of Laws (LL.M.) in Taxation from Georgetown University Law Center and his Juris Doctor (J.D.) from Duquesne University School of Law.

**Chris Naylor** has joined the firm as an associate in its Real Estate and Business groups. Chris received his Juris Doctor (J.D.) from Widener University School of Law. Before attending law school, he was Director of Government Affairs at the York County Builders Association and then went on to serve as Executive Director of the late state Senator Mike Vaughn's Capitol office.

**Alexander Puskar** has joined the firm as an associate in its Personal Planning group where he will focus on estate and trust planning and administration. Alex earned his Juris Doctor (J.D.) from the University of Pittsburgh School of Law.

**Christopher Dodson** has transitioned from a registered patent agent to a U.S. Patent and Trademark Office registered Patent Attorney. Christopher joined the firm in 2013 with previous experience working in GlaxoSmithKline's Global Patents Department. He enhances the firm's ability to handle chemical and bio tech inventions.

**Josh Schwartz** has been named partner with the firm. He practices in the areas of employment law and workers' compensation and now leads the workers' compensation practice.

**Don Geiter** has transitioned into the practice group leader position for the Finance & Creditors' Rights group. In this role, Don will lead and oversee the group in the areas of training, communication, business development, staffing and recruiting and quality assurance.

**Paul Minnich** has been appointed to lead the Litigation practice group. A seasoned litigator with more than two decades of courtroom experience, Paul will continue to manage his active practice and will oversee training, recruiting, communication and client service for the group.



**Jim Adams** is retiring from the firm in early 2015. For more than 30 years he concentrated his practice in civil litigation and family law. His practice included contracts, product liability and construction litigation, as well as domestic relations. Jim notes that he was privileged to practice law in such a healthy, diversified community. We will miss him and wish him well in his retirement!

**Paul Browning** has retired from the firm. For more than 35 years he has focused his practice in real estate and business law representing national, regional and local clients. Paul will be missed, and we truly hope he enjoys his retirement!

**Kathleen Gray** has transitioned to an Of Counsel attorney role and, in this role, continues to support our municipal and authority clients with her wealth of institutional and municipal knowledge.

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