

# Business/Law

LAWYERS, LAW FIRMS, COURTS AND TORTS • Pittsburgh Post-Gazette • MONDAY, JULY 8, 2013

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Page  
**A-8**

## Horse slaughter opponents sue over permits

By Alan Scher Zagier  
Associated Press

COLUMBIA, Mo. — Animal protection groups are suing the U.S. Department of Agriculture to try to block the revival of domestic horse slaughter at commercial processing plants.

The Humane Society of the United States, Front Range Equine Rescue of Larkspur, Colo., three other groups and five individuals have filed a federal lawsuit seeking an emergency injunction to overturn the USDA's recent permit approval for a horse meat plant in Roswell, N.M. Four of the named plaintiffs are Roswell residents; the fifth lives in Gallatin, Mo., where a Rains Natural Meats equine slaughterhouse could next receive federal approval.

On Tuesday, the federal agency approved a horse slaughter plant in Sigourney, Iowa, and expects to endorse other requests. The Humane Society's lawsuit named prospective processing plants in Gallatin and Rockville, Mo.; Woodbury, Tenn.; and Washington, Okla.

The processors plan to serve overseas markets.

Horse slaughterhouses last operated in the U.S. in 2007 before Congress banned the practice by eliminating funding for plant inspections. Federal lawmakers restored the funding in 2011, but the USDA has been slow in granting permits, citing the need to re-establish an oversight program.

The agency said Tuesday that it was legally required to approve Responsible Transportation's plant in southeast Iowa.

Congress could still cut funding for horse slaughterhouse inspections, effectively reinstating the ban. Both the House and Senate agriculture committees have endorsed such proposals, and the Obama administration's proposed budget for the next fiscal year also eliminates that funding. Another bill would ban U.S. horse slaughter facilities while prohibiting exports.

Even overseas, the practice is sometimes viewed as controversial — earlier this year, furniture and houseware retailer Ikea was embarrassed after Czech authorities announced they had found traces of horse meat in Ikea's famous Swedish meatballs. Also in Europe, Burger King and Taco Bell found traces of horse meat in what were purported to be all-beef products in the last year.

Historically in the U.S., horse meat once came from free-roam-

SEE **HORSES**, PAGE A-9



Katie Brigham/Post-Gazette

Attorney Paul Sullivan of Mt. Lebanon, who has been blind since birth, recently opened his own firm focusing on employment discrimination law.

## Leveling the playing field

Paul Sullivan is a blind lawyer carving a niche in practicing employment discrimination law

By Jessica Contrera  
Pittsburgh Post-Gazette

If you walked into Paul Sullivan's office, you could easily guess what he does, given the big mahogany desk and the law degree hanging on the wall.

Then you look closer. A small silver hook in the wall for attaching a dog leash, a magnification machine nestled against the windows, software on the computer that reads aloud the words displayed on the screen — it confirms what you might guess when you first meet him.

The Mt. Lebanon man would rather have you focus on the attorney part of his identity, rather than his blindness. That's why he opened the Law Office of Paul R. Sullivan Jr. in Downtown in January. After a lifetime of living with a disability and years of unsuccessful job searches, Mr. Sullivan, 30, has taken his future into his own hands.

Following graduation from Temple University's Beasley School of Law in 2008, Mr. Sullivan had fruitless job searches. He continued to search for attor-



Paul Sullivan's seeing eye dog, Bravo, is a regular at the law office.

ney positions for four years while financially supporting himself through his guitar duo, Blind Drunk.

On the surface, Mr. Sullivan said, his difficulties in finding legal work makes sense. The economy was in shambles and law firms were firing, not hiring.

"I'm not certain that I was subject to more than the market

forces that everyone is facing," he said. "Did anyone tell me, 'Oh, I don't think you can handle this job?'" Certainly not."

But it's hard to get around the fact that people with major vision impairment have a tough time finding work, and most drop out of the labor force as a result. Among those in the labor

SEE **BLIND**, PAGE A-9

## the color of money

MICHELLE SINGLETARY

## Know your marriage benefits

WASHINGTON — The Supreme Court decision upending the federal Defense of Marriage Act opens a lot of financial doors for same-sex couples. But if you cross that threshold, it's important that you understand your new rights.

Tax professionals will have new business opportunities thanks to the court's ruling. It upheld a lower court's decision that legalized same-sex marriage in California. And in a separate case, the high court ruled unconstitutional a section of DOMA that denied federal benefits to same-sex couples legally married in states that permit such marriages.

At this point, 13 states and the District of Columbia allow same-sex marriages. In all, the Supreme Court's ruling on DOMA opens the door to more than 1,000 federal provisions in which marital status is a factor in determining or receiving benefits, rights and privileges, according to the Government Accountability Office. Here are three major areas of interest:

■ Being married gives you significant advantages under Social Security. You qualify for benefits as a survivor if you were married to your spouse for at least nine months before the worker died. A spouse can receive one-half of a retired worker's full benefit unless the spouse begins collecting benefits before full retirement age. You should also know that if you remarry, your benefits could be affected.

Generally, you won't be eligible for widow or widower's benefits if the remarriage occurs before age 60, or age 50 if you are disabled. Down the road, you are entitled to benefits even in the event of a divorce. If you split up, but your marriage lasted 10 years or longer, you can still receive benefits based on your ex-spouse's record. Go to Social Security's website ([www.ssa.gov](http://www.ssa.gov)) for more details about spousal benefits.

Something else to consider — while the Supreme Court's DOMA decision may help some couples become eligible for benefits, it could hurt others who choose to get married. Benefits such as Supplemental Security Income, Medicaid and Medicare are "means tested." Once married, both incomes are considered in determining financial eligibility.

■ Veterans who served during wartime may be eligible for financial assistance from the Department of Veterans Affairs to help pay for assistance with everyday needs such as cooking, bathing, feeding or dressing. As it concerns DOMA, this ben-

SEE **MONEY**, PAGE A-9

## on the docket pittsburgh

NATALIE HILL

Dickie McCamey & Chilcote, P.C. announced that **C. William Schildnecht** joined as Of Counsel. Mr. Schildnecht has almost 30 years of experience in the construction and engineering industries, and will focus his practice in the areas of commercial and construction law. He earned his J.D. from the University of Pittsburgh.

Ainsman, Levine & Drexler, LLC said partners **David I. Ainsman** and **Richard C. Levine** were named as "Super Lawyers" for 2013. Mr. Ainsman was also named by Philadelphia Magazine as among the top 100 Attorneys in Pennsylvania and one of the top 50 attorneys in Pittsburgh, and was recognized by Best Lawyers in America. Associates **G. Christopher Apeposso** and **Jephthah Orstein** were named as "Rising Stars" by Super Lawyers.

**Patrick Lutz** has joined Dingess, Foster, Luciana, Davidson & Chleboski, LLP as an associate attorney. Prior to joining DFL Legal, Mr. Lutz was an associate in the construction

practice group of Seyfarth Shaw in Washington, D.C. He earned his J.D. from the University of Pittsburgh.

Jackson Lewis LLP said **A. Patricia Diulus-Myers** and **Lynn C. Outwater** were named to the 2013 Pennsylvania Super Lawyers list. In addition, **Craig W. Snethen** and **Bethany Swanton Wagner** were named to the 2013 Pennsylvania Rising Stars list.

Ms. Diulus-Myers is a partner serving as senior litigator, and is a member of the firm's practice group on restrictive covenants. Ms. Outwater is a senior partner and is the national coordinator of its management education practice group, and was also a founding partner of JL's Pittsburgh, Cleveland and Cincinnati offices.

Mr. Snethen is a partner whose practice involves representing corporate clients before government agencies in both federal and state courts. Ms. Wagner is an associate, who focuses her practice on representing employers in employment-related litigation before administrative agencies and



Schildnecht



Ainsman



Levine



Lutz

courts on the state and federal levels; she is also a member of the firm's collegiate and professional sports industry group.

The following attorneys from Goehring, Rutter & Boehm were named 2013 Pennsylvania Super Lawyer Rising Stars: **Elizabeth Warner Altman**, **Jeffrey R. Hunt**, **Brian T. Lindauer**, **Megan M. Ott**, **John J. Richardson** and **Mandi L. Scott**.

Ms. Altman practices family law. She represents clients in divorce, custody and support litigation, drafts settlement and premarital agreements and represents parents in adoption proceedings.

**Jeffrey R. Hunt**, in business and corporate law, counsels clients regarding general corporate matters, including formation and operational issues, shareholder matters, employment issues, mergers and acquisitions, and creditors rights.

**Brian T. Lindauer** is mem-

ber of the firm's real estate and business law groups, advising clients in a broad range of transactional matters, including real estate acquisitions and sales, lease negotiations, landlord and tenant matters and loan documentation.

**Megan M. Ott**, a Rising Star in school and municipal law and litigation groups, represents schools and municipalities in finance, legal compliance, and labor and employment litigation. She has recently been appointed as solicitor of Conway, Avalon and Leetsdale boroughs, as well as the Kennedy Township Uniform Construction Code Appellate Board.

**John J. Richardson**, in personal injury defense (products), represents clients in a variety of industries including pharmaceutical and medical devices, consumer products, sports equipment, infant and juvenile products and industrial equipment and machinery.

**Mandi L. Scott**, appellate

practice, assists clients in a variety of practice areas on appeal in both state and federal court, with an emphasis on delinquent tax collection on behalf of the City and School District of Philadelphia.

Burleson LLP said four of its attorneys in Pennsylvania have earned recognition as Thomson Reuters Super Lawyers: **Kevin Colosimo**, managing partner, Pittsburgh office, was named to the 2013 list of Pennsylvania Super Lawyers, while partner **Andrew Jenkins**, senior associate **Jeanette Oliver** and associate **Michael Brewster** were named to the 2013 list of Pennsylvania Rising Stars.

Mr. Colosimo manages Burleson's Pittsburgh office, and is a trial lawyer who practices in the areas of oil and gas litigation, energy law, and contract law, and provides counsel to clients on a range of matters, including risk management alternatives, claims assessment, and litigation strategy. Mr. Jenkins, who has earned the Rising Star recognition for four consecutive years, focuses his practice in oil and gas litigation and dispute resolution, construction law, and business and contract law.

Ms. Oliver works in commercial litigation, land use, and oil and gas title law, on issue such

as eminent domain, commercial law and construction law. Mr. Brewster primarily handles issues related to oil and gas title, business and contracts, and corporate and securities law, representing clients in regulatory preparation. He is also experienced in negotiating and drafting documentation for commercial transactions.

Robb Leonard Mulvihill LLP hired **Nicholas L. Fiske** and **Craig W. Beil** as associates. Mr. Fiske graduated from the University of Pittsburgh, where he served as an editor of Jurist, the school's online legal news and research magazine. Mr. Beil graduated from Duquesne University School of Law, where he served as an intern for the Butler County District Attorney's office.

*On the Docket Pittsburgh appears every Monday. To propose an item, send information to Natalie Hill, On the Docket Pittsburgh, Pittsburgh Post-Gazette, 34 Blvd. of the Allies, Pittsburgh 15222; or email to [nhill@post-gazette.com](mailto:nhill@post-gazette.com). Photos submitted for the print edition version of this column may be sent via email in JPEG format, 170 DPI, to [photos@post-gazette.com](mailto:photos@post-gazette.com). Photo size should be an 8- by 10-inch or 4- by 5-inch head shot at 170 dpi.*

# Ex-scientist pleads guilty in solar trade-secrets case

## Tung Pham faces up to 140 years in prison on wire fraud charge

By Saranac Hale Spencer  
The Legal Intelligencer

A former scientist at a solar cell manufacturing company has pleaded guilty to several counts of wire fraud after he was charged under the Economic Espionage Act with stealing trade secrets with the intent of using them in China.

Tung Pham, who worked on developing improved chemical components in the competitive field of photovoltaic cell technology, was arrested shortly after quitting his job at Heraeus Materials Technology in Conshohocken, Pa.

The FBI had searched his home and found thousands of company documents on his personal computer, including a valuable formula for a new kind of lead-free silver paste, according to the plea agreement filed last week in the Eastern District of Pennsylvania. Mr. Pham had altered the formula that was left on his company computer, according to the plea agreement.

Federal prosecutors agreed to drop the charges related to the theft of trade secrets, but those allegations will be considered when calculating the

sentencing guidelines, according to the plea deal.

Mr. Pham pleaded guilty to seven counts of wire fraud for the emails that he sent to the Chinese company that he was planning to begin working for, in violation of the one-year non-compete clause in the employment contract he had with Heraeus.

Heraeus, which isn't named in the suit, alerted the government to the case and filed its own civil suit in the Eastern District of Pennsylvania against Mr. Pham. That case has been on hold while the criminal case proceeded.

The two suits are being handled by different judges — U.S. District Judge Anita Brody is presiding over the criminal case and U.S. District Judge Juan Sanchez is presiding over the civil suit.

Burton Rose, who represented Mr. Pham, stressed that the government was satisfied that Mr. Pham hadn't actually distributed any of the trade secrets and that those charges would be dropped. That circumstance makes the case unique, he said.

Michael Levy, the assistant U.S. attorney who handled the

case, agreed that it's likely the trade secrets didn't get out and attributed the plugged leak to the fast action of the government, which has at its disposal the ability to execute search warrants, an avenue not available in civil litigation, he noted.

The FBI searched Mr. Pham's house and seized his electronics within a week of Heraeus' disclosure.

It was clearly a serious case that involved a trade secret, Mr. Levy said.

"Once we make a decision to go, we go full bore," he said.

Mr. Levy estimated that his office gets roughly two or three calls a year from companies reporting situations similar to this one, but they don't all proceed. Some don't qualify and sometimes the company will reconsider. He attributed the small number of cases to a reluctance on the part of companies to get involved and the fact that the statute is relatively new — it was passed in 1996.

Prosecutors offered to the court two loss estimates, one based on the cost of developing the trade secrets and another based on actual expenditures for legal fees and investigation. The first is \$22.7 million and

the second is \$1.26 million.

Both figures include costs incurred by two companies, since the FBI found on Mr. Pham's personal computer thousands of documents from his previous employer, referred to only as Company B. Company B made up the lion's share of the first estimate, \$17.9 million, while Company A, Heraeus, had the larger share of the second estimate, \$875,000.

Mr. Pham is currently living in California with his family and he is scheduled to be sentenced Nov. 6. He faces a maximum of 140 years in prison and a \$1.75 million fine, according to the plea agreement.

The emails tied to the wire fraud charges detail Mr. Pham's agreement with a Chinese startup company called Jiangsu Yuxing Photovoltaic Technology Materials Co. to work in the same field of silver-paste development that he worked in at Heraeus, in violation of his noncompete agreement with the company, which he realized after taking the job.

*Saranac Hale Spencer: sspencer@alm.com or 215-557-2449. To read more articles like this, visit www.thelegalintelligencer.com.*

# Blind attorney practices job discrimination law

BLIND, FROM PAGE A-8

force, people who are blind or have "serious difficulty seeing" encounter an unemployment rate of around 13 percent.

"Did I get put at the bottom of the pile because people didn't want to think about what I would need to do the job? Or didn't want to undertake the so-called hassle of hiring someone who might need accommodations? It's plausible," he said.

Mr. Sullivan and his guide dog, Bravo, moved to Pittsburgh in August 2012 to follow his fiancée, Kathleen Miller. It was the ideal opportunity to get back into law. This time, on his own terms.

He plans to take on workplace cases — employment discrimination, unpaid wage claims, contract disputes and unemployment-compensation appeals.

Choosing employment rights as his area of service was a natural fit, his fiancée said. "Paul really feels strongly about trying to level the playing field for employees, disabled or not," Ms. Miller said. "He wants people to be aware of their rights in the workplace."

After Mr. Sullivan found an office, bought computer equipment and set up a website (paulsullivanlegal.com), his main remaining challenge is finding clients. So far, he has worked on personal consultations and case evaluations, but has not formally taken on a case.

"I started with no family, friends or connections here," he said. "I'm trying to meet as many professionals, lawyers and non-lawyers, as possible. That's key."

Mr. Sullivan and Bravo are a constant presence at networking events through the Pennsylvania Bar Association, Pittsburgh Young Professionals and social networking portal Meetup.com. When the pair are in a room, it's difficult not to notice them.

"I knew right off the bat he was a smart guy," said attorney Andrew Flenner, who also runs his own practice. "It's so challenging to start your own business. To do it with a visual impairment, that just compounds it."

Mr. Flenner now refers anyone with employment law questions to Mr. Sullivan. He sees the attorney as a resource for clients in need, as well as for his own 16-year-old son, who is also

"I'm not certain that I was subject to more than the market forces that everyone is facing. Did anyone tell me, 'Oh, I don't think you can handle this job?' Certainly not."

— Paul Sullivan

visually impaired.

"Knowing Paul has given me the ammunition to talk to my son about what's ahead for him," Mr. Flenner said. "If he ever thinks he won't be able to achieve something, Paul is who I will point to."

Asked about his own challenges growing up with a disability, Mr. Sullivan shied away from the question.

"It wasn't difficult, or even different," he said about his childhood in South Florida. "I have a genetic condition, so being visually impaired since birth, it's all I've ever known."

From elementary school to law school, his attitude has remained the same: He can do everything that anyone else does, but he does it with different tools.

As Mr. Sullivan aged, those tools progressed with him. By the time he was in high school, Braille was mostly phased out of his life. His college textbooks came on cassette; by law school, all of his work was digitized and accessed easily by his computer's screen-reading software. With the tools now available, there's not one task as an attorney that Mr. Sullivan believes he would be incapable of performing.

And after six months in business, he's happy with his progress and hungry for more.

"I'm not going to put dollars and cents on it," Mr. Sullivan said. "I want every day, every month, to be a step forward."

*Jessica Contrera: jcontrera@post-gazette.com, 412-263-1458 or Twitter @mjcontrera.*

## business workshop Reimbursement from a settlement

and your health insurance company. After learning of Mr. McCutchen's settlement, US Airways demanded he reimburse the plan \$66,866. When Mr. McCutchen refused to pay the full amount, the airline sued.

After conflicting decisions in trial and appellate courts, the Supreme Court accepted the case.

The question before the Supreme Court was whether the plan's claim for reimbursement should be reduced because Mr. McCutchen had only recovered a portion of his total damages, or because US Airways had not contributed towards Mr. McCutchen's legal costs in obtaining the settlement recovery.

The Supreme Court held that because US Airways' summary plan description

did not address attorney's fees, the reimbursement provision should be construed in accordance with the "common fund" doctrine, which requires all parties benefiting from a common fund to share recovery expenses.

The Supreme Court directed that US Airways' claim of \$66,866 be reduced to account for Mr. McCutchen's attorney's fees.

Sponsors of self-insured benefit plans should review and clarify the reimbursement provisions of plan documents. Sponsors might consider counting attorneys fees in reimbursement calculations to give participants an incentive to pursue lawsuits when injured, as these recoveries ultimately lead to plan reimbursements.

— Jason Mettley, Meyer, Unkovic & Scott, jm@muslaw.com

*Business workshop is a weekly feature from local experts offering tidbits on matters affecting business. To contribute, contact Business Editor Brian Hyslop at bhyslop@post-gazette.com.*

Is a self-insured medical plan entitled to full reimbursement from plan participants who recover only a portion of their damages in a legal settlement? This issue was recently decided by the U.S. Supreme Court in *US Airways, Inc. v. McCutchen*.

The case started when James McCutchen, an employee covered by the U.S. Airways self-insured health plan, was injured in an automobile accident. The plan paid \$66,866 to cover Mr. McCutchen's medical bills.

Mr. McCutchen also sued the negligent driver, but had to settle for \$110,000 despite having incurred much greater damages. After the attorneys deducted 40 percent for the contingency fee and legal expenses, Mr. McCutchen came away with \$66,000.

The US Airways plan — as with many health plans — requires employees to reimburse the plan for claims it had paid on their behalf from funds recovered from third parties. In other words, you aren't allowed to double-dip and have your medical bills paid by both a third party settlement

## Know your new benefits

MONEY, FROM PAGE A-8

efit is also available to veteran spouses or surviving spouses, who could be eligible for up to about \$1,000 a month. This is a benefit that isn't well known but is of great help to many senior veterans and their spouses. The veteran has to have been honorably discharged and served at least 90 days, with at least one day during officially declared wartime.

Take the time to learn all your new federal tax benefits, especially as it relates to retirement planning. If you get married and have a nonworking spouse, you may now be able to open an individual retirement account if you file a joint tax return. You have to have earned income to contribute to an IRA. But a spousal IRA provides an exception to the rule, allowing the working spouse to contribute to an IRA for his or her spouse.

Much is being said about same-sex couples who may now face a marriage penalty, which happens when spouses who earned similar salaries are pushed into a higher tax bracket. Nick Kasprak, an analyst for the Tax Foundation, discusses the Supreme Court's DOMA decision in a podcast you can listen to or download at [www.taxfoundation.org](http://www.taxfoundation.org).

"Despite the possibility of a penalty, joint tax returns generally provide tax relief, and they're probably one of the biggest benefits that gay couples can now take advantage of (along with the estate tax exemption, which was at the center of the Supreme Court case)," Mr. Kasprak wrote in a blog post.

One thing not clear is whether same-sex couples will continue to enjoy federal benefits if they move from a state that recognizes their relationship to one that does not, he said.

Often people balk at paying a financial planner to help with their finances. But in this new financial territory for same-sex couples, it's worth the money to get good advice. Additionally, there are many rules and potentially complicated financial issues to contend with if you divorce. If you split and your spouse has a retirement plan such as a 401(k) or pension plan, you're entitled to a share of the balance.

Here's the thing. There's more you now need to know. So become informed so you can take full advantage of your new financial rights.

*Readers can write to Michelle Singletary c/o The Washington Post, 1150 15th St., N.W., Washington, D.C. 20071 or singletarym@washpost.com.*

## Agency sued over horses

HORSES, FROM PAGE A-8

ing mustangs, who are viewed as pests by ranchers but as icons of American West by animal rights groups. Today, the slaughter of mustangs for food is illegal, and horses destined for U.S. slaughterhouses would come mainly from auctions, sold by private sellers and breeders.

The suit against the USDA, filed in U.S. District Court in San Francisco, charges the agency did not prepare environmental reviews for Valley Meat Co.'s horse meat plant in New Mexico or for the pending requests. It cites negative environmental consequences

caused by horse slaughter, including air and water pollution, and charges that the animals can be fed drugs and medication not fit for human consumption because horses in the U.S. "are not raised in regulated industries conscious of public health and safety concerns, but rather in private homes, on racetracks and as working animals."

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## Spelling Bee CHALLENGE

Using the pronunciations and definitions as your guide, spell these words that were used in the 2012 Western Pa. Spelling Bee at Children's Hospital.

1. \_\_\_\_\_ \jə-'traʃə a mammal with very a long neck that is the tallest of living quadrupeds
2. \_\_\_\_\_ \ʌs-'pɒnʌ any of several poplars with leaves that flutter in the lightest wind
3. \_\_\_\_\_ \ɪn'jɛnɪəs marked by originality, resourcefulness, & cleverness in execution
4. \_\_\_\_\_ \ə'næləsəs a detailed examination of anything complex
5. \_\_\_\_\_ \en'thüz.əzəm strong excitement of feeling on behalf of a cause or subject
6. \_\_\_\_\_ \mɪ'sən(t)'θræpə hatred or distrust for humankind
7. \_\_\_\_\_ \sə'närē.ə an account or synopsis of a possible course of action or events
8. \_\_\_\_\_ \æŋ(k)'st a feeling of anxiety, dread or anguish

For more information about the Western Pa. Spelling Bee, visit [post-gazette.com/spellingbee](http://post-gazette.com/spellingbee) or call 412-263-3534.

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Answers: 1. giraffe, 2. poplar, 3. originality, 4. analysis, 5. enthusiasm, 6. misanthropy, 7. synopsis, 8. angst

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