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# FOCUS



## A Message From the President

**Lisa Fleischer**

Lisa Fleischer  
Chief Legal Officer,  
DeLage Landen Financial  
Services

I hope you had a great summer. Please **Save the Date for the Annual Gala** (November 2) where our entire member base along with our myriad of sponsors will be **celebrating Chris Stewart** – the backbone of ACC for more than 20 years – in her retirement. Chris will be missed next year but she promised to visit us an attendee at future events. This is sure to be quite the party – so please mark your calendars now (more details to follow).

The last quarter, we have been busy (as usual). The Annual Softball game in July was a big hit as well as our Tennis Outing in June. Our Diversity Internship Program was another huge success this year. Big thank you to **Nina Blackshear, Telicia Dambreville, Ricky Abrams** and **Smita Aiyar**. Also, we held our Past Presidents dinner in August, hosting 21

attendees, including our very first female ACCGP (then DELVACCA) President, Bonnie Shuman. Our former presidents were amazed at the quantity and quality of events we hold as well as the size of our chapter. Indeed, **we hit a milestone record for membership – at more than 1800 members in our Chapter!** I am very proud of these growing numbers.

As I progress into the second half of my Presidency, I want to thank my very strong board, our chapter admins, committee volunteers and the ACCGP officers for their tireless efforts on behalf of ACCGP. It really does take a village to organize dozens and dozens of CLEs, institutes, GC events, MYCs and other social events. I am grateful for the help and for the opportunity to serve as your president. Looking forward to seeing you at our events this fall!

Warmest regards,  
Lisa Fleischer  
President

## In-Transition Membership

If you are a member who is in transition, take advantage of the opportunity to continue your membership **AT NO COST**. ACC will waive dues for existing members for up to one year, and offer a reduced membership rate for up to an additional two years if you are displaced but actively seeking a new in-house position. [[In-Transition/Retired Application](https://www.acc.com/membership/become-a-member/in-transition-member)] For more information about In-Transition Membership, please visit: <https://www.acc.com/membership/become-a-member/in-transition-member>.

## Retired Membership

Recently retired ACC members may continue their membership at a **reduced rate of \$95 annually**. You can email [membership@acc.com](mailto:membership@acc.com) to request an invoice for this great rate, or submit the [In-Transition/Retired Application](https://www.acc.com/membership/become-a-member/retired-member), and be sure to select the RETIRED option. For more information about Retired Membership, please visit: <https://www.acc.com/membership/become-a-member/retired-member>.

If you have questions, please contact ACC's membership department at 202.293.4103, ext. 360 or at [membership@acc.com](mailto:membership@acc.com).

# Trying to Curb Phishing? Don't Punish the Fish.

By Trevor McGuinness, Director, Ancillary Business Development

One popular component of conducting cyber vulnerability testing and risk assessments at firms, companies, and organizations, of all shapes and sizes, is a phishing test.

In a phishing test, deceptive emails are sent by a company (or its security vendor) to its own employees in order to gauge their responses. This type of social engineering testing can prove invaluable because it provides a measurement of how well cybersecurity training is working at the company, and because it can identify which employees are most susceptible to malicious phishing emails. Employees who fail a phishing test — by clicking on a suspicious link or responding to the email — often fail such a test more than once, despite receiving feedback after the first failure.

Companies deal with these repeat offenders in different ways. Some will place limitations on the individual's email access for a period of time or mandate additional cybersecurity training beyond that required of other employees. However, I have more often seen that utilizing a more personalized and less punitive approach leads to better results.

When an employee fails multiple phishing tests despite receiving social engineering training, scheduling a one-on-one sit-

down with the person to go over their mistake and the factors that led to it is a great place to start. This discussion can lead to an understanding of the facts that led to that individual's choice to click on a suspicious link, so that you can then personalize a solution to the issue. Oftentimes, an employee is not aware of the factors that led to the mistake until participating in this discussion of their habits and activities.

For example, during a discussion with an individual who failed multiple tests, you may ask when they are most likely to answer their emails. That person may realize that they often wait to respond to many of their emails until later in the evening when they are depleted from a full day of work. You can then talk about how this may have impacted their ability to fully pay attention to the email, thereby leading them to miss many of the hallmarks of a suspicious communication. Another example: an individual may tell you that they receive hundreds of emails per day, but when you ask about their utilization of workflow prioritization methods, they may say that they do nothing to bucket their communications and simply deal with them in the order they receive them. With that employee, you may discuss the potential use of Outlook tools such as rules and foldering

to bucket their communications into categories of varying importance, such as firm administration, intrafirm communications, and client requests.

When we understand the underlying causes of a phishing test failure, it is much easier to work with the employee to come up with personalized solutions that will truly fix the problem. This approach takes more time and one-on-one discussion than simply buying a product meant to prevent phishing attacks, but you may find that it leads to greater success than many of the one-size-fits-all solutions out there.

The reason that phishing is the leading cause of security breaches is because hackers know that employees are tired when they read emails, or they may be moving quickly to get through unread emails, often while on autopilot, and many other human susceptibilities. And they only need one employee to click on a link for their phishing attempt to be successful. Technology advantages hackers in this regard. The benefit of working with cybersecurity experts is the level of intelligence and thoughtfulness applied to solving this potential weakness on an individual level, ensuring there are no holes in the dam protecting your company's networks and data.

## ACC News

### ACC365 App Now Available to Download

Your work goes beyond your desktop and now so does the ACC member experience. The brand-new ACC365 app is now available to [download](#). Stay connected and get the ACC experience in the palm of your hand. With one tap, you are plugged into the people, resources, and knowledge that accelerate your career. Download the ACC365 App today!

### Artificial Intelligence Insights for In-House Counsel

AI is changing legal departments and businesses. ACC has curated this selection of tools and insights to support you navigate regulatory trends, find sample corporate policies, and gain insights on risks and opportunities. [Learn more about regulations, policies, IP, HR, cybersecurity, and other AI issues in the ACC Artificial Intelligence Resource Collection.](#)

## New and Returning Members

**Belema Alagun**

TE Connectivity

**Sara Alekseev**

FMC Corporation

**Jenimae Almquist**

Philadelphia Corporation for Aging

**Craig Berry**

American Water Works Company, Inc.

**Jose Bibiloni**

ARAMARK Corporation

**Joan Blatcher Cohen**

Kenvue Inc.

**Stephen Boske**

Coinbase, Inc.

**Christine Cannon**

NetApp, Inc.

**Alysha Clarke**

Healthcare Services Group, Inc.

**Jason Cummings**

Fiserv, Inc.

**Anna DeLizzio**

Nationwide Mutual Insurance Company

**Shanya Dingle**

Kenvue Inc.

**Immaculata Ermocida**

Comcast Business

**Rebecca Fenstermaker**

Gap, Inc.

**Steven Ferraro**

Samantha Fitzpatrick  
Berwind Corporation

**Rachel Gallagher**

Teleflex Incorporated

**Robert Hahm****Brian Hanigan****Patricia Henry**

Incyte Corporation

**Christine Kim**

Comcast Corporation

**Yunhee Kim**

Independence Blue Cross

**Lisa Kline****Thaya Knight**

Coinbase, Inc.

**Gene Kuzinski**

Incyte Corporation

**David Lafkas**

West Pharmaceutical Services

**Julia Lake**

Organon & Co.

**Marie Lasota**

Verizon Corporate Legal

**Janet Lee****Joonmo Lee**

Incyte Corporation

**Sara Manning**

Elemica, Inc.

**Lindsay Matthews**

SAP America, Inc.

**Michael McCarthy**

Independence Blue Cross

**Matthew McGeehan**

C&D Technologies, Inc.

**Melinda Morrison**

Clarivate Plc

**Shana Nelling**

Irex

**Joseph Pangaro**

B. Braun Medical Inc.

**Janice Payne**

Coinbase, Inc.

**Eifion Phillips**

Incyte Corporation

**Lauren Rasmus**

Coinbase, Inc.

**Kristofer Readling**

Coinbase, Inc.

**Kevin Rose**

Yoh, a Day & Zimmermann Company

**Adam Saltzman**

Saint-Gobain Corporation

**Eric Santoro**

Reckitt Benckiser Group plc

**Paul Schmidt**

Kenvue Inc.

**Elizabeth Scott**

Kenvue Inc.

**Joseph Sena**

Kenvue Inc.

**Chelsea Sizemore**

Fiserv, Inc.

**Scarlett Spence****Jill Stadelman**

CIGNA

**Joseph Stathius**

Parx Casino

**Jing Sun**

FMC Corporation

**Alessandro Tajana**

Kenvue Inc.

**Lisa Tarr**

West Pharmaceutical Services, Inc.

**Anthony Valach**

Zoom

**David Weisberg**

Arkema Inc.

**Ciana Williams**

American Water Works Company, Inc.

**Ron Woodman**

Brand IQ Group

**Joseph Wright**

Fiserv, Inc.

# Impacts of the Recent Changes to Pennsylvania Business Corporation Law

By Eric Geringswald, Deputy Compliance Officer, CSC

Are you up to date with the most recent changes to the Pennsylvania Business Corporation Law? In November 2022, the Pennsylvania legislature expanded Title 15 of the Pennsylvania Code, which is the Pennsylvania Business Corporation Law (PaBCL). Most of these amendments went into effect on January 2, 2023.

Corporate counsel for Pennsylvania entities and foreign entities must understand these changes, since their domestic and foreign entities are affected. Also, this is the first comprehensive update made to the PaBCL since 2015. These changes generally follow the Model Business Corporations Act and incorporate similar amendments to those seen recently in the Delaware General Corporation Law.

In this piece, we touch on some of the more significant provisions to be aware of but note that numerous other changes were made as well.

## Pennsylvania now requires annual reports

Up until the recent Title 15 amendments went into effect, Pennsylvania was the only state that didn't compel an entity to file annual reports. Instead, reports were only required every 10 years.

As of January 2, 2024, the Pennsylvania Department of State mandates annual filing under Section 146. The required deadline for such a report is dependent on the type of entity involved. For example, domestic or foreign for-profit and not-for-profit corporations must file before July 1 annually. Domestic or foreign limited liability companies must file before October 1 every year. Any other form of domestic or foreign association must file on or before December 31.

Once per year and at least two months before the deadline, the Department of State will deliver a notice to the registered office or registered agent on record for

the entity as a reminder that the annual report must be filed. Failure by the Department to deliver such notice or failure by the entity to receive the notice will not excuse the entity from failing to make an annual filing.

The Pennsylvania Department of State will eventually impose penalties on entities that fail to file their annual reports. Note, however, that there is some time before penalties begin to kick in. The Department of State will not terminate the registration of foreign entities for such failures until 2026; the Department will not dissolve or cancel a domestic entity or partnership for failure to file until 2027.

## Directors and officers

### Definition of "recklessness"

In Section 102 of Title 15, the Pennsylvania legislature added a definition of recklessness to match the definition of the term in Pennsylvania's Crimes Code. The reason for this revision is an interpretation of the PaBCL by New York court *In re: Nine West LBO Sec. Litig.*, 505 F. Supp. 3d 292 (S.D.N.Y. Dec. 4, 2020). The court held that if directors and officers ignore facts they should know about, they may be found to have acted recklessly. The court determined that if an officer or director acts in this manner, they're not protected by Sections 1713 or 1735 of the PaBCL. The new definition states that recklessness means "Conduct that involves a conscious disregard of a substantial and unjustifiable risk. The risk must be of such a nature and degree that, considering the nature and intent of the actor's conduct and the circumstances known to the actor, its conscious disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation." We can see that new definition makes it much harder to provide that a director or officer has been reckless and is therefore a direct rejection of the New York court's ruling in *In re: Nine West*.

## Business Judgment Rule

*In re: Nine West* also provoked changes in the Pennsylvania Business Corporation Law regarding the Business Judgment Rule as it pertains to officers and directors. The legislature changed Section 1712(a) of Title 15 to clarify that a director's obligation to make reasonable inquiry applies only to issues that the PaBCL states are a director's duty. This discards the interpretation of Section 1712 by the New York court, where it was found that the board of directors of *Nine West* had breached their fiduciary duty by failing to investigate the transactions they knew would follow an initial merger.

Furthermore, Pennsylvania legislature added Section 1712(d) to clearly provide a Business Judgment Rule for directors. It states, "A director who makes a business judgment in good faith fulfills the duties under this section if: (2) the director is informed with respect to the subject of the business judgment to the extent the director reasonably believes to be appropriate under the circumstances; and (3) the director rationally believes that the business judgment is in the best interests of the corporation."

Section 1712(e) states that for a successful claim that a director violated a duty of care, the claimant must show the following: "A person challenging the conduct of a director as violating the duty of care under this section has the burden of proving: (1) a breach of the duty of care, including that a requirement for fulfillment of that duty under subsection (d) has not been met; and (2) in a damage action, that the breach was the legal cause of damage suffered by the corporation."

Regarding the Business Judgment Rule and officers of a corporation, the previous 1712(c) stated that, "Except as otherwise provided in the bylaws, an officer shall perform his duties as an officer in good faith, in a manner he reasonably believes to be in the best interests of the

*continued on page 5*



continued from page 4

corporation and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an officer of the corporation.”

New Section 1734 instead adds a clear Business Judgment Rule for officers very similar to what was added to Section 1712 for directors. The only difference is that Section 1734 makes an exception in the case that the corporation’s bylaws provide a different standard than the Business Judgment Rule; in that case, the Business Judgment Rule will not apply as stated in 1734.

Likewise, the same burden of proof that was added in Section 1712(e) as applicable to claims against directors has been added to 1734(e) to apply to

claims of a violation of the duty of care by officers.

### **Board of directors can provide consent to apply at a later date**

Under Section 1727(C) of the PaBCL, a board of directors can now sign a consent that will be delayed in effect until a later time. It does not matter if one or more of the directors who signed the consent are not directors at the time the consent goes into effect. Notwithstanding, if one of the directors changes their mind before the consent goes into effect, they can renege consent and it will no longer go into effect on that future date.

### **Form selection can be dictated in bylaws**

Section 1513 of the PaBCL now allows a corporation to establish an exclusive forum for the adjudication of “internal corporate claims” (see 1513(c) for

definition) by adding a forum selection clause into the bylaws or into the articles of incorporation. If a corporation adds a forum selection clause, at least one of the courts specified in it must be a Pennsylvania court. Courts in other jurisdictions may also be named but only if the corporation has a reasonable relationship with those courts. The corporation may also include it in its bylaws or articles that a claim arising under the Securities Act of 1933 must be brought exclusively in federal court.

### **Additional resources from CSC**

For more information regarding the updates to the Pennsylvania Business Corporation Law amendments, CSC partnered with Faegre Drinker Biddle & Reath LLP to provide a high-level overview [in a recent webinar](#), available for viewing on demand.

## **Board Member Spotlights**



**Frank Borchert**  
**CAO & CLO**  
**Marlette Holdings**

**Current Role with ACCGP:**  
*1<sup>st</sup> Vice President*

**What is your favorite part about ACC Greater Philadelphia?**  
*All the great people.*

**Favorite Philly restaurant?**  
*Talula’s Garden*

**Favorite place to vacation?**  
*Okinawa or Bali*

**Any fun fact about yourself?**  
*My wife and I have lived in Japan*



**Shahrzad “Shaz” Kojouri**  
**Legal Counsel**  
**Lawtrades**

**Current Role with ACCGP:**  
*2<sup>nd</sup> Vice President*

**What is your favorite part about ACC Greater Philadelphia?**  
*The wide variety of members and the invaluable network it’s helped me create.*

**Favorite Philly restaurant?**  
*Suraya*

**Favorite place to vacation?**  
*Vienna*

**Any fun fact about yourself?**  
*I do stand-up comedy in my free time*

## In Case You Missed It

### Philadelphia Bar Association 5K Run/Walk May 21, 2023

ACCGP submitted its own legal running team for the 44<sup>th</sup> Annual Philadelphia Bar Association's 5K Run/Walk for charity. The race raised funds in support of Child Advocates' mission to advocate for victims of child abuse and severe neglect.



### Tennis Outing & Meet Your Counterparts with Obermayer Rebmann Maxwell & Hippel LLP June 14, 2023

Even though rain ended up canceling the tennis outing portion of the event, ACCGP members had a great time at the Germantown Cricket Club with Obermayer Rebmann Maxwell & Hippel LLP for a Meet Your Counterparts reception.





## Meet Your Counterparts with Morris Nichols

June 20, 2023

Thank you to Morris Nichols for hosting a Meet Your Counterparts at The Chancery Market in Wilmington, DE. Attendees enjoyed delicious food from this dream destination for foodies!



## Diversity Intern Day

June 29, 2023

We are so grateful to everyone who participated and sponsored our Diversity Intern Day on June 29! Thank you to Dechert LLP for hosting the event, Laura Creque for organizing the event, The Philadelphia Pardons Project and The Philadelphia Lawyers for Social Equity for the Pro Bono activity and Beacon Hill Staffing Group team for joining and educating the students. The interns finished off the day with a team building activity at an escape room.





## 7<sup>th</sup> Annual Family Fun Night/ Softball Game

July 12, 2023

Hundreds of ACCGP members and guests attended our Annual Charity Softball Game at Frawley Stadium in Wilmington, DE where in-house counsel and sponsor representatives are teamed up in a friendly game of softball. Kids got to run the bases, meet the Wilmington Bluerocks mascot, and enjoy balloon art and face painting.



## Meet Your Counterparts with Anderson Kill

July 25, 2023

Thank you to Anderson Kill for hosting a Meet Your Counterparts at Alimentari - Upstairs at Di Bruno Bros. A cheese specialist was on hand to answer our "cheesy" questions and attendees enjoyed fantastic food catered by Di Brunos.





## Employment & Labor CLE Program in the Lehigh Valley with Fisher Phillips

July 26, 2023

An Employment & Labor CLE Program was held at the ArtsQuest Center at SteelStacks in Bethlehem, PA in July. Following an informative CLE program, attendees networked with representatives from Fisher Phillips.



## ACCGP's Talent Pipeline Speed Networking

July 27, 2023

Our DEIB Committee hosted a very successful speed networking event with our Diversity Internship Program participants and representatives from ACCGP's annual sponsors at the Racquet Club of Philadelphia.





## Past President's Dinner

August 9, 2023

ACCGP's past presidents gathered at Estia on August 9<sup>th</sup> to reconnect and retell stories of the past. ACCGP's first female president, Bonnie Shuman joined too!



## 2023 Upcoming ACCGP Events

Visit [ACC Greater Philadelphia](#) for the most current event details or to register for chapter events.

**October 5**

### Meet Your Counterparts with Latitude

Scarpetta in Philadelphia, PA

**October 11**

### Meet Your Counterparts with Dailey LLP

Bounce PB in Malvern PA

**October 13**

### 17<sup>th</sup> Annual Paralegal/Legal Assistant Forum

Marriott Philadelphia West in  
Conshohocken, PA

**October 18**

### Health, Biotech & Pharma CLE Institute

Hotel West & Main in  
Conshohocken, PA

**November 2**

### Annual Fall Gala

Penn Museum in Philadelphia PA

**November 7**

### Roundtable Dinner Discussion with Fisher Phillips

Davio's in King of Prussia, PA

Be on the lookout for  
calendar updates!





The **ACC Greater Philadelphia Chapter** invites you to join colleagues and friends on and off the dance floor at its annual reception during the ACC Annual Meeting.

Registration is required to attend:  
or use link: [cvent.me/3wd2QP](https://cvent.me/3wd2QP)

**REGISTER HERE**

**WHEN**

Tuesday,  
October 24, 2023

**TIME**

9:00 pm to  
12:00 am

**WHERE**

**1902 Venue**  
1174 East Commerce St.  
San Antonio, Texas

*1902 Venue is an 8-minute walk from the  
Henry B. Gonzalez Convention Center.*

If you have questions, please contact Denise Downing, ACCGP Chapter Administrator, at 267-597-3820 or [ddowning@accglobal.com](mailto:ddowning@accglobal.com).



**SAUL EWING**

LLP

## Sponsors for 2023

We thank our 2023 Sponsors for their support of our chapter. Without them, we could not achieve the levels of success that the chapter consistently reaches.

### DIAMOND



### EMERALD



### PLATINUM



### GOLD



### SILVER







Follow Us on LinkedIn at  
<https://www.linkedin.com/company/acc-greater-philadelphia/>



## Chapter Leadership

### **President and Legal Operations Liaison** **Lisa Fleischer**

Chief Legal Officer  
De Lage Landen Financial Services

### **President-Elect** **Joseph Nullmeyer** VP, General Counsel Mitchell Martin Inc.

### **First Vice President** **Frank R. Borchert, III** General Counsel & Corporate Secretary Marlette Funding, LLC

### **Second Vice President** **Shaz Kojouri** Legal Counsel Lawtrades

### **Treasurer** **Jonathan Margolis** Vice President & Counsel Toll Brothers, Inc.

### **Secretary** **Sri Atluri** Chief IP Counsel Walmart Inc.

### **Immediate Past President** **Daniel R. Slawe** Senior Corporate Assistant General Counsel, SAP America, Inc.

### **Board of Directors**

**Louis Abrams**  
Vice President & Counsel  
Brown Brothers Harriman

**Shreya Amin**  
VP, Sr. Counsel & Asst.  
Board Secretary  
Rabobank

**Nina Blackshear**  
Director, Corporate Counsel  
Incyte Corporation

**Jan Fink Call**  
Senior Legal Director, North America  
Firmenich

**Teleicia Dambreville**  
Director, Senior Counsel  
Burlington Stores, Inc.

**Michael Donnini**  
Counsel  
Comcast Corporation

**Tara Gibbons**  
Senior Legal Counsel  
Wawa, Inc.

**Tonya Harris**  
Senior Counsel  
PPL Services Corporation

**Gabriel Holdsman**  
Senior Vice President and General Counsel  
PTC Therapeutics, Inc.

**Elizabeth Kim**  
Associate General Counsel  
Marlette Holdings, Inc.

**Marko Kipa**  
Deputy General Counsel  
Comcast Corporation

**Matthew Maisel**  
General Counsel  
Pro Capital Management II, LLC

**Rosaleen Morris Oskanian**  
VP, General Counsel, and  
Corporate Counsel, Vitara  
Biomedical, Inc.

**Christopher E. Pushaw**  
Ricoh USA

**Edward Rockwell**  
Senior Vice President and General Counsel  
EPAM Systems, Inc.

**Joshua Romirowsky**  
Senior Counsel  
Audacy

**Yan Ling (Winnie) Wang**  
Senior Legal Counsel  
De Lage Landen Financial Services, Inc.

**Michelle Warner**  
Counsel and Chief Ethics Officer  
Delaware River and Bay Authority

**Chapter Administrator**  
**Christine Stewart ("Chris")**  
ACC Greater Philadelphia

**Assistant Chapter Administrator**  
**Denise Downing**  
ACC Greater Philadelphia