MacMain Leinhauser
Attorneys at Law

FEBRUARY 2025
FIRM NEWSLETTER
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REAL. PRACTICAL. EXCELLENCE.

MacMain Leinhauser Welcomes Brian Conley into the Partnership!

MacMain Leinhauser is honored to welcome attorney Brian C. Conley as the law firm's newest partner.

Brian has been an attorney at MacMain Leinhauser since October 2021. He worked in credit analysis and finance for several years before attending Villanova University School of Law, where he earned his Juris Doctorate in 2011.

Brian counsels and represents municipal entities and public officials in all facets of constitutional civil rights, labor and employment law matters, including civil rights claims brought pursuant to Section 1983, employment discrimination, harassment, wage and labor relations matters, Right–to–Know requests and lawsuits involving the Political Subdivision Tort Claims Act. His litigation practice extends to claims in federal and state courts, before administrative agencies such as the EEOC and PHRC, and in federal and state appellate courts. Brian also represents and advises municipalities, housing agencies, and private entities in employment and labor matters, housing matters, and general litigation. He also represents insurance carriers in matters of coverage analysis and defense. Brian was named to the 2024 Super Lawyers Rising Star list in the field of Civil Rights.

MacMain Leinhauser Attends Chester County Bar Dinner

The firm had a large showing at the Annual Chester County Bar Association's Presidents Dinner held at Loch Aerie Mansion with nine of the lawyers attending along with two guests. The dinner, which was well attended by many Chester County lawyers and firms, members of the Chester County Bench and other dignitaries, was a great event to celebrate the collegiality of our bar and accomplishments of many.

Matthew Polaha Earns Promotion to Captain in United States Naval Reserve

Matt Polaha, who currently serves as a Commander and Judge Advocate in the Navy Reserve, was selected for promotion to the rank of Captain/O-6 this past year. The rank of Captain is a career milestone and is the result of a highly competitive selection board process. As a Captain, Matt will be able to serve as a Commanding Officer for Navy Reserve JAG Units. Matt will be promoted to Captain in August 2025.

Maeve Bain Leads Firm's Involvement in Chesco Bar Mock Trial Program

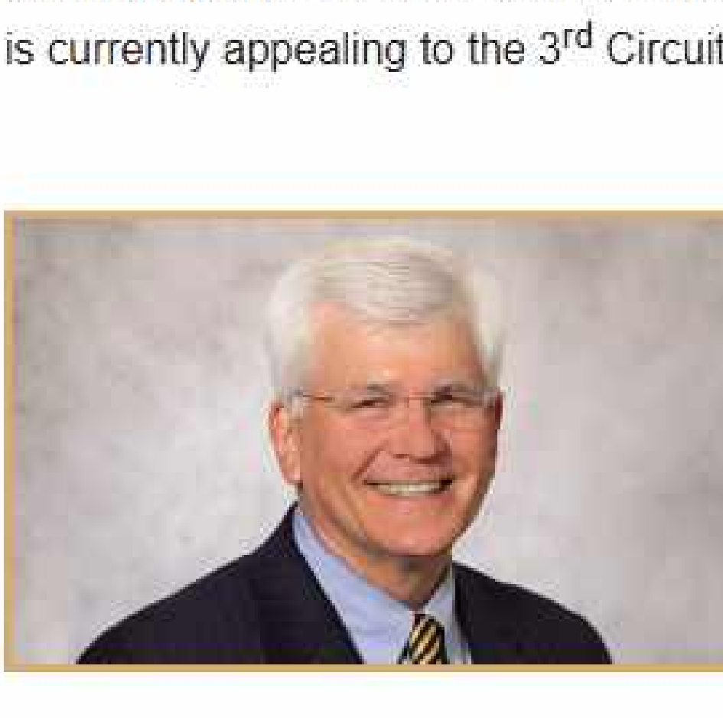
Led by Maive Bain who is the Secretary/Treasurer of the Young Lawyers Division of the Chester County Bar Association, Practice Manager Sarah Leinhauser and Attorneys Matthew Estberg and Maeve Bain volunteered for the annual Chester County Mock Trial Competition. High schools across Chester County competed in a series of mock criminal trials held at the Chester County Justice Center. The MLPC Team volunteered as "jurors" and timekeepers for the competition and wish the students' luck as they compete with other counties to represent Pennsylvania in the national competition.

Firm Scores Two First Amendment Victories For Clients

The firm has always had a large presence in the First Amendment/religious related litigation field given our representation of public entities, religious institutions and educational providers, and the personal background of our founders David MacMain who grew up in the church as the son of a United Methodist pastor and Brian Leinhauser who after graduating from Villanova University, studied as a Seminarian with the Order of Saint Augustine, exploring his possible call to ordained minister, continued his theology studies at Duquesne University and later taught religion and math in the Archdiocese of Philadelphia.

The firm recently had the opportunity to showcase our abilities in two very different First Amendment matters – both of which ended favorably for our clients.

In one matter, our team of Brian C. Conley and Maeve Bain successfully defended the City of Reading and one of its police officers who removed a self-proclaimed street preacher when he was causing a disturbance at a local high school, which included calling the students vile names, and engaging in un-Christ-like behavior. The preacher, who likes to get attention and has been litigious in the past, claimed that his removal was in violation of his First Amendment rights, with our countering that he crossed the line and engaged in 'fighting words' which justified his removal (especially since he was about to get his butt kicked by a crowd of angry students and parents). In what was a "zealously" litigated case, Brian and Maeve obtained summary judgment on all claims. Plaintiff is currently appealing to the 3rd Circuit.



In a second matter, Steve Rhoads and David MacMain successfully defeated an injunction request against a northeast Pennsylvania Borough and its code and zoning officers, brought by a Rabbi and his organization in which they claimed that the Borough's actions in disallowing their operation of s school and dormitory for students out of properties that were both single family homes and for which the Plaintiff never sought approval, violated their First Amendment and religious freedom rights. The Borough countered that they had been working with the Rabbi and both his prior counsel (a prominent land use lawyer) and his present attorney to follow the applicable zoning and code provisions that apply to all property owners.

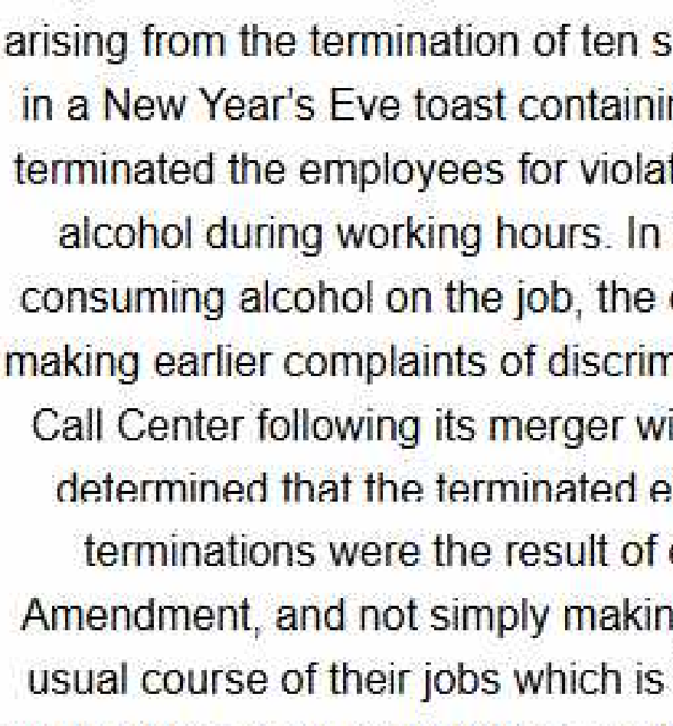
Rather than follow the rules, Plaintiff instead filed a Federal Civil Rights Claim which included a request for injunctive relief to allow the properties to continue to operate as a school and dormitory claiming that the Borough's failure to do so was for discriminatory purposes. The Borough, which has a diverse religious population and has long had a large Jewish population, several synagogues and the largest Jewish Community Centers in the region, was understandably upset with such a strong and false accusatory claim and wanted to provide a zealous defense to these claims. Steve and David quickly prepared our client's defense and walked the fine line between zealous advocacy and not sounding insensitive to Plaintiff's religious rights. In their opening brief (Steve) and opening statement at the injunction hearing (David), they framed their themes and defenses as follows:

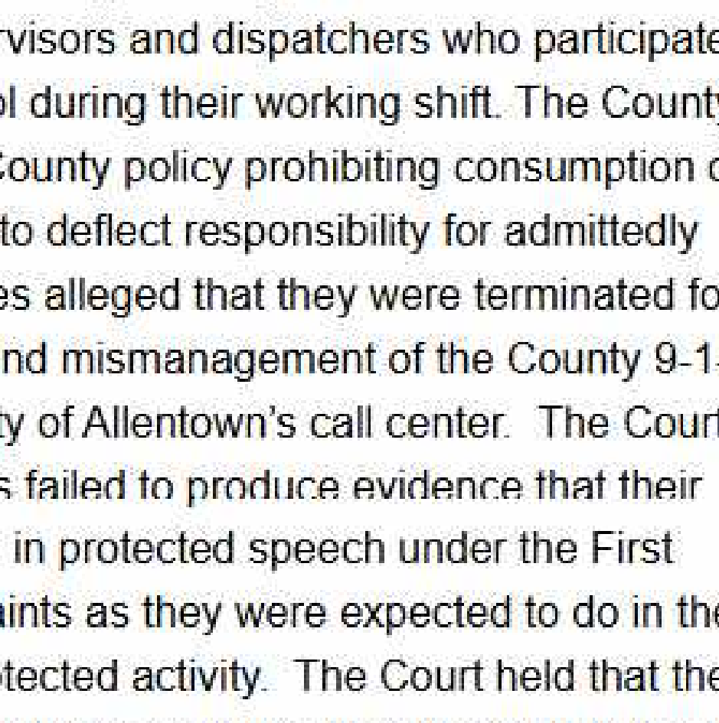
> As more fully set forth herein, while Plaintiff attempts to characterize the Defendants' action as being motivated by antisemitic bias, such an accusation is blatantly untrue and reckless, especially in a time and era where inflammatory accusations and name-calling seems to be made with increasing frequency and recklessness. In point of fact, the Defendants have simply asked that Plaintiff follow the same zoning and code requirements that apply to all persons and entities in the Borough and which Borough officials apply fairly and evenly without regard to race, creed, religion or point of view. Plaintiff purchased two properties in the Borough, neither of which is zoned for his intended purposes of a school and a dormitory, but he is unabashedly using them in violation of what he knew to be the approved zoning uses when he purchased them in 2019 and 2020, office space and a single-family home. A recent court-authorized inspection of the dormitory property confirmed that the property was being used to house boys who attend the Yeshiva/school blocks away and revealed various hazardous and deplorable conditions and a lack of adult supervision. An inspection of the property being used as a school confirmed that it is being used by teachers and students as a school on a daily basis. The inspection also revealed significant renovation work done without required building permits or code inspections. Incredibly, Plaintiff has made differing representations to the Borough as to his actual use of these properties, denying that they are used as a school and a dormitory. However, he represents in his advertisements on the internet that the properties are used as a "Yeshiva/school" and "a dormitory for the students."

The injunction was denied with the Court's opinion largely following the arguments made by Steve and David. Plaintiffs have appealed to the 3rd Circuit.

Notably, Brian Leinhauser will be presenting at the upcoming DRI Government Liability Seminar on the First Amendment with a discussion regarding recent Supreme Court cases addressing employee speech, religious accommodation requests, and discrimination claims as well as guidance in providing public entity employers a new standard to consider when addressing employee compliance, and other matters.

Firm Secures Dismissal of Civil Rights Claims Arising from Termination of Lehigh County 9-1-1 Call Center Dispatchers





Following a contentious and extended period of depositions and briefing, Stephen Rhoads and Brian Marchese obtained dismissal on summary judgment of various civil rights claims filed against the Firm's client, Lehigh County, and its administrators arising from the termination of ten shift supervisors and dispatchers who participated in a New Year's Eve toast containing alcohol during their working shift. The County terminated the employees for violating the County policy prohibiting consumption of alcohol during working hours. In an effort to deflect responsibility for admittedly consuming alcohol on the job, the employees alleged that they were terminated for making earlier complaints of discrimination and mismanagement of the County 9-1-1 Call Center following its merger with the City of Allentown's call center. The Court determined that the terminated employees failed to produce evidence that their terminations were the result of engaging in protected speech under the First Amendment, and not simply making complaints as they were expected to do in the usual course of their jobs which is not a protected activity. The Court held that the administrators were not made aware of the plaintiff's complaints of discrimination and mismanagement, and therefore, could not have elected to terminate the employees for that alleged reason.

Firm Continues As Solicitors For Two Local Public Entities

CHESTER COUNTY SHERIFF OFFICE OF THE SHERIFF

BOROUGH OF WEST CHESTER CHESTER COUNTY PENNSYLVANIA EST. 1799

MacMain Leinhauser continues its public service as Solicitors to two local entities. David MacMain, assisted by Brian Leinhauser for employment and policy issues and Matthew Polaha for sheriffs sale and firearms issues, enters its 5th year as Solicitor for the Chester County Sheriff's Office under the leadership of Sheriff Kevin Dykes and Chief Deputy Jason Suydam.

David, assisted by Laurie Fiore, oversees the hiring and some related issues for the Borough's Police Department. He is entering his 3rd year as Solicitor for the West Chester Borough Civil Service Commission.

Super Bowl Champion Philadelphia Eagles!

On the Friday before the Birds' Super Bowl victory, the firm held a lunch and spirit day to wish the Eagles good luck! It clearly worked! GO BIRDS!