



## Louis D. Brandeis Law Society

# Brandeis News & Notes

March 2010

## Welcome to the Brandeis Newsletter

*Greetings,*

Welcome to *Brandeis News & Notes*, the newsletter of the Louis D. Brandeis Law Society. This issue features updates of Society activities and a number of interesting articles from our members. We welcome articles — on any topic you feel might be of interest to our members — as well as suggestions how to make the newsletter even better.

Please feel free to contact me with your comments, and suggestions.

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### Philippe Karsenty Meets With the Brandeis Law Society

**By Phyllis Horn Epstein, Esquire**

Philippe Karsenty, the founder and president of Media-Ratings, has led a virtual one-man campaign to bring out the truth about Mohammed al-Dura, a 12-year-old boy who was allegedly shot by the Israelis in the crossfire between Israeli troops and Palestinian rioters at the Netzarim Junction in Gaza in 2000.

Video of the boy's death was first broadcast on French television on September 30, 2000 as a "documentary" purporting to be an actual portrayal of the fighting between the Israeli Army and Palestinians. The video contains a scene of a father and son, huddled against a wall seeking cover from straying bullets. Minutes later, viewers are led to believe that Al-Dura had died from bullet wounds. The image of father and son, huddled against a wall seeking cover from straying bullets. Minutes later, viewers are led to believe that Al-Dura had died from bullet wounds. The image of father and son has been canonized in much of the Arab world and provided the impetus for acts of many terror and worldwide denunciations against Israel.

### Chancellor's Message

*Fellow Members:*

The first quarter of my new term as Chancellor of the Louis D. Brandeis Law Society has been an exciting one, which was kicked off by our wonderful Chanukah party chaired by Judge A. Michael Snyder at City's Hall's Conversation Hall and the Mayor's Reception Room. If you have not had the opportunity, I

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## **A Primer on the Wage Payment and Collection Law**

**By Natalie Klyashtorny, Esquire**

In these perilous economic times, employee layoffs or salary reductions have unfortunately been quite common. As a result, an employer must be aware of its obligations and rights under Pennsylvania's Wage Payment and Collection Law (WPCL), which governs its responsibility to pay wages to employees. Otherwise, a WPCL violation could subject the employer to liability not just for outstanding wages, but also for attorney's fees and liquidated damages.

The WPCL mandates that upon the hiring of an employee, an employer is required to inform the employee of his or her rate of pay, the amount of any fringe benefits or wage supplements to be paid to or for the benefit of the employee, and the time and place of payment of wages. Importantly, an employer cannot modify these terms, including the rate of pay, without previously providing notice of the change to the employee.

The WPCL sets time limitations by which an employer is required to pay wages, fringe benefits and wage supplements. If no employment contract governs the time at which wages are to be paid, an employer is required to pay all wages earned in any pay period within 15 days of the end of that pay period or within the standard time lapse customary in the trade. Fringe benefits and wage supplements must be paid within 10 days after they are required to be made to the employee or, when no required time for payment is specified, within 60 days of the date when the employee files a claim for such benefits or supplements. Union dues that are deducted from an employees' pay must also be paid by the employer within 10 days after the payments are required to be made to the union, trust or fund.

Of particular relevance is that the WPCL broadly defines "wages" as "all earnings of an employe[e], regardless of whether determined on time, task, piece, commission or other method of calculation" and includes fringe benefits or wage supplements "whether payable by the employer from his funds or from amounts withheld" from the employees' salary. Fringe benefits and wage supplements, in turn, are defined to include "all monetary employer payments to provide benefits under any employe[e] benefit plan" under ERISA, as well as severance, vacation, holiday, or guaranteed pay, reimbursement of expenses, union dues withheld from the employees' pay by the employer, and any other amount to be paid pursuant to an agreement with the employee, a third party or fund for the benefit of employees.

When an employee is terminated, quits or resigns, the employer must pay any outstanding wages no later than the next regular payday on which such wages would otherwise be due and payable. Frequently, upon an employee's separation from employment, either voluntarily or involuntary, a dispute will arise as to how much compensation the employee is

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## ***Chancellor's Message***

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urge you to visit our website at [www.brandeislawsociety.org](http://www.brandeislawsociety.org) to view photos from the November 30, 2009 event. At the celebration, we presented the 2009 Benjamin F. Levy Community Service Award to our own Mayer Horwitz, Esquire, the founding President of the Louis D. Brandeis Law Society Foundation.

Following a brief break to celebrate Chanukah and to ring in 2010, on January 27, 2010, we hosted our annual professional networking event for young lawyers and Jewish law students from area law schools. The event was co-sponsored by Brandeis and the Jewish Graduate Student Network of Hillel of Greater Philadelphia, and was probably our most well-attended and highly successful networking event to date. Thank you to Executive Committee Member Matthew Laver, Esquire for chairing the event and to Fox Rothschild for hosting us. Thank you, also, to the many Brandeis members – judges and lawyers – who took the time to lead break-out sessions, which afforded law students the opportunity to hear firsthand from practitioners and judges in diverse areas of practice. Special thanks to our guest speakers – the Honorable Pamela Pryor Dembe, President Judge Court of Common Pleas, and Sayde Ladov, Esquire, immediate past Chancellor of the Philadelphia Bar Association. Photos from the event can be viewed on our website.

Despite the near record snowfall of early February, Brandeis events continued. On February 8, 2010, Brandeis members and friends gathered at the Vesper Club to hear Tom Klein, Esquire and Shanin Specter, Esquire discuss, “Two Boys Divided by Fortune, United by Tragedy.” Brandeis members were provided one hour of complimentary, substantive CLE at the event, which was enjoyed by all.

I am gratified by the willingness of Brandeis members to volunteer their time and talents to better our Society. Thank you to our Executive Committee and its many new members for all their hard work to date.

Please mark your calendars and plan to join us at upcoming events, including our annual Stuart Agins, z”l Day of Service on March 25, 2010; our Yom HaShoah Commemoration on April 14, 2010; our annual Scholarship Award Luncheon on April 20, 2010; our Evening at the Theatre to see Fiddler on the Roof on June 3, 2010; and our exciting trip to Israel scheduled for June 13 through June 23, 2010. Information regarding all of these upcoming events can be accessed on our website, but please always feel free to contact me directly for further information. Thank you for your continued support.

All best wishes.

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## A Primer on the Wage Payment and Collection Law

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still owed. This will typically be the case if the employee's compensation was at least, in part, commission-based. In the case of such a dispute, the employer must give written notice to the employee or his attorney of the amount of wages which the employer concedes are due the employee and pay that amount without conditions within the time limitations prescribed by the WPCL. An employee's acceptance of this payment will not constitute a waiver, however, of any additional claims for outstanding wages.

Violation of the WPCL could potentially subject the employer to severe penalties. The Pennsylvania Supreme Court has held that an award of attorneys' fees to a prevailing employee in action brought under the WPCL is mandatory. Furthermore, an employee will be entitled to liquidated damages in an amount equal to 25% of the total amount of wages due if the employer withholds wages without a good faith contest.

Employers must understand and comply with the WPCL. To do otherwise can expose employers to litigation and additional fees and costs that may themselves prove overwhelming, particularly in a precarious economy such as this.

***Natalie Klyashtorny, Esquire concentrates her practice in employment and labor law and commercial and general business litigation, including commercial disparagement, libel and slander, First Amendment and media law. She may be reached (215) 399-1346 or natalie.klyashtorny@nochumson.com.***

## Philippe Karsenty Meets With the Brandeis Law Society

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Many have questioned the accuracy of the documentary, including Karsenty. In fact, Karsenty was sued for libel and acquitted of those charges in a French Court of law.

On November 21, 2008, Karsenty met with the Louis D. Brandeis Law Society in the offices of the Israel Consulate, and carefully and methodically unraveled the false accusations of the French broadcast video. Relying upon PowerPoint images of the film, Karsenty made it abundantly clear that:

- If indeed the young boy had been shot, the bullets could not have emanated from Israeli forces;
- The young boy had not been killed on location;
- No blood was later found on the father's clothing;

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## Philippe Karsenty Meets With the Brandeis Law Society

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- The reporter, Charles Enderlin, lied about being present during the incident and had substantially edited the footage taken by a Palestinian photographer who worked for the French broadcast network France 2; and,
- Much of the footage not shown to the public but presented by Mr. Karsenty revealed a staged battle with staged injuries.

The German public TV station, ARD, broadcast a documentary on March 4, 2009 that purported to have confirmed the following facts:

- Thanks to a biometric analysis of the faces, it has been proven that the boy who was filmed by France 2 is not the boy presented at the Gaza morgue and buried later. The eyebrows and the lips are very different;
- German TV used lip-reading techniques to read the father's lips. They discovered that Jamal al Dura gave instructions to the people who were behind France 2's cameraman during the filming of the scene.
- The boy filmed by France 2 moves a red piece of cloth down his body for no specific reason;
- In France 2's news report, there is no blood – neither on Mohammed nor on Jamal al Dura's body – whereas the two were supposed to have been struck by 15 bullets altogether;
- The boy shown at the funeral as Mohammed al Dura arrived at the hospital before 10 a.m., whereas France 2's news report was filmed after 2:30 p.m.

Philippe Karsenty is continuing his worldwide efforts to bring forth the truth of this incident. A recent e-mail from him gave notice that upon the invitation extended by Baroness Cox, the Henry Jackson Society invited him to present evidence of the al Dura hoax on Wednesday 27th, January 2010 at the House of Lords. Karsenty cautions that his efforts should not let up noting that nearly a year ago Charles Enderlin, the French-Israeli journalist responsible for the al Dura hoax, received the French Legion of Honor from the French Ministry of Foreign Affairs. There is a relevant article in the Haaretz online newspaper from February 3, 2010 that can be accessed at the following cite which discusses the failures on the part of Israeli institutions to combat the false public accusations. That article can be found at: <http://www.haaretz.com:80/hasen/spages/1144665.html>

Karsenty's company, Media-Ratings, is the first media-ratings agency in the world that closely monitors French media outlets and, among other things, their anti-American and anti-Israeli bias. His recent message to me included an appeal for your involvement:

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*Dear friends,*

*However, YOU can contribute to the redemption of Israel's reputation by contacting the Israeli embassies and consulates by going to <http://www.mfa.gov.il/MFA/Sherut/IsraeliAbroad/Continents>.*

*Also, please contact the French embassies abroad to express your disappointment and your reprobation by going to <http://www.embassiesabroad.com/embassies-of/France>.*

*This is the first time I have called you to action.*

*If we are able to overwhelm these French and Israeli offices with phone calls and emails, things might change soon.*

***Phyllis Horn Epstein, Esquire is a member of the Brandeis Law Society Executive Committee and concentrates her practice in tax planning and litigation. She may be reached at (215) 563-1200 or [Phyllis@eselaw.com](mailto:Phyllis@eselaw.com).***

## Brandeis Law Society is Going to Israel

Brandeis Law Society is sponsoring a tour of Israel from June 13 to 24, 2010. Our group will leave Newark Airport via EL AL mid afternoon, Sunday, June 13 and arrive at Ben Gurion Airport at 7 a.m., giving us a full day on Monday. We will spend two nights at the Carlton Tel Aviv, two nights at the Rimonim Galei Kinnereth in Tiberias (Sea of Galilee) and six nights at the Inbal in Jerusalem. An upgrade to the Dan Tel Aviv and King David in Jerusalem is available. Nine breakfasts, one lunch and five dinners are included.

Jam-packed day tours are planned for each day with an optional trip available to the Red Sea resort of Eilat at the southernmost tip of Israel which includes a tour of Petra (ancient ruins) in Jordan. Six to 12 hours of CLE will be available, which will not encroach on the touring for non-lawyers in the group.

The cash/check cost per person (double occupancy) is \$3,429.00 or \$4,562.00 for single occupancy. A higher cost will be applied if a credit card is used. We have 26 persons who have reserved places and paid deposits and are aiming for 30 to 45 as the optimal number. More details are available at [www.gate1travel.com/groups/brandeis](http://www.gate1travel.com/groups/brandeis) or through the link on the Brandeis web site. Or. call Gate 1 Travel at 1-800-682-3333, Ext. 1249 for Stephanie Howlett, or Ext. 1146 for Roberta Yesowitch.