



**MacMain  
Leinhauser**  
Attorneys at Law

## Meet Our Practice Managers

MacMain Leinhauser PC is fortunate to have an excellent cadre of Practice Managers who serve as an essential part of our team.

### **Elizabeth Dunn**

**Elizabeth Dunn** is the Practice Manager to Partner **Brian H. Leinhauser** and Attorney **Laurie A. Fiore**. She assists these attorneys and individual clients in the areas of labor and employment matters, school law, civil rights, business practices and appellate cases, and assists in the day-to-day operations of the firm.

Elizabeth graduated from West Chester University with a bachelor's degree in English. Elizabeth began her legal career at MacMain Leinhauser in June 2013. Elizabeth obtained her paralegal certificate from Boston University.



She is a member of the Chester County Paralegal Association and is a certified Pennsylvania Notary Public.

### **Jess Devers**

**Jess Devers** is the Practice Manager to Partner **Tricia M. Ambrose** and Attorneys **Matthew S. Polaha**, and **Christine C. Einerson**. In this capacity, Jess assists in cases in the areas of governmental entity representation, civil rights defense, and labor and employment matters. Jess also assists in the day-to-day operations of the Firm.

Jess joined MacMain Leinhauser in 2018 after several years as Coordinator of the Delaware County District Attorney's Office Appellate Unit. She holds a Bachelor of Science in Human Development and



Family Studies from the Pennsylvania State University and a Paralegal Certificate from Villanova University.

---

## Jessalyn Lemmons

**Jessalyn Lemmons** is a Practice Manager providing support to the Managing Partner **David MacMain** and Attorney **Brian Conley**. She aids insurance and municipal clients in the litigation process and provides paralegal and administrative support for the firm's practice, and in the day-to-day operations of the firm.



Jessalyn obtained her bachelor's degree from Millersville University and worked in the insurance industry for several years as a claims adjuster for both a large national carrier and mid-sized municipal-focused insurance company. She obtained her Independent Adjuster License in 25 states. After working with insurance-hired defense counsel as an adjuster, she decided to pursue the legal field and obtained her Paralegal Certificate via Auburn University.

Jessalyn has been with MacMain Leinhauser since early 2020.

---

## Sara Hendricks

**Sara Hendricks** is the Practice Manager to Partner **Stephen Rhoads** and Attorney **Kelsey Hoffman**. She assists in cases in the areas involving commercial litigation, and municipal and professional liability defense. Sara also assists in the day-to-day operations of the firm.



Sara graduated from Delaware Community College with an associate's degree in Criminal Justice and received her bachelor's degree in Sociology at West Chester University. She obtained her Paralegal Certificate from Lock Haven University. Sara began her legal career working in Family Law.

Sara has been with MacMain Leinhauser since September 2022.

## Matthew Polaha Obtains Masters Degree

On July 29, 2022, attorney **Matthew Polaha** received a Masters Degree in Strategic Studies from the United States Army War College. This degree, conferred through the Army War College's

Department of Distance Education, was the culmination of a two-year course of study that involved courses on strategic leadership, national security, and global and regional issues.

The Army War College educates and develops leaders for service at the strategic level, which is one of the highest levels of leadership and involves complex decision-making that has long-term, large-scale implications. Matthew serves in the U.S. Navy Reserve, Judge Advocate General's Corps, following ten years of active duty prior to attending law school where Matthew achieved the rank of Commander and was deployed in support of Operation Iraqi Freedom in 2003 and in support of tsunami relief in Indonesia in 2005.



## Employment Law Alert: Third Circuit Issues Decision On Post-Termination Justification And Risks

**Article by: Attorney Laurie Fiore**

The Third Circuit has recently made clear that an employer's investigation for the purpose of finding conduct that would justify termination or other adverse employment action could be deemed retaliatory. *Canada v. Samuel Grossi & Sons, Inc.*, 2022 U.S. App. LEXIS 25846 (3d Cir. Sep. 15, 2022) (McKee, Restrepo, and Fuentes). Canada involved a Pennsylvania steelworker who was terminated ostensibly for using a company-issued phone to solicit prostitutes during working hours. While Canada was on vacation, claiming an otherwise legitimate-sounding reason, the employer cut the padlock off Canada's work locker and searched it, finding the cell phone, successfully guessing the password, and discovering the text messages. Because such solicitation violated the employers' Conduct and Disciplinary Action Policy, Canada's employment was terminated. Before he was terminated, Canada, who is Black, initially alleged unlawful discrimination based on his race and his use of FMLA leave and for alleged violations of the ADA. Following his termination, Canada amended his complaint to allege that his termination was retaliatory.



The District Court found that Canada failed to rebut the employer's proffered legitimate, non-retaliatory reason for his termination (the text messages during working hours) and granted the employer summary judgment on Plaintiff's retaliation claims.

The Third Circuit reversed, holding that a reasonable jury could find that the employer's reasoning for terminating Plaintiff's employment was pretextual

and find that Canada was the victim of unlawful retaliation. The Court stated, “we reject a rule that incentivizes employers to dig up reasons to fire an employee who has engaged in protected activity, and then immunizes them from suit based upon a subsequent fortuitous discovery of grounds for termination.”

## Brian Leinhauser and David MacMain Speak At Corrections Conference

**Brian Leinhauser** and **David MacMain** presented the Pennsylvania County Corrections Association’s Fall Conference held in Harrisburg on October 3 and was attended by corrections leaders and administrators from all over Pennsylvania. Brian’s presentation “*What Can You Say? Employee Discipline*” focused on the ability of prison administrators to preclude certain statements, profiles and posts on social media of employees and impose discipline without running afoul of the employee’s right to express their First Amendment rights.

David presented on “*Top 10 Liability Risks Facing Correctional Facilities*” in the morning session, and “*The DeTox Dilemma*” in the afternoon session which addressed how prison administrators can try to navigate the increasing wave of incoming inmates who are or should be detoxing from a drug addiction on top of the additional problems that many incoming inmates suffer from including mental health and anti-social behaviors.

## Brian Leinhauser Speaks At County Solicitor’s Conference

On September 30, 2022, **Brian Leinhauser** spoke at **County Commissioners of Pennsylvania Solicitors’ Conference** to county solicitors from across Pennsylvania updating them on current trends in the law related to employment issues. Mr. Leinhauser addressed the impact of recent religious liberty decisions on public employee discipline, good policymaking and strategies related to addressing employee conduct outside the workplace and its impact on the public employer, and how to deal with social media and disciplinary issues surrounding employees in the public sector.

## Brian Leinhauser Presents At PCPCS Charter School Conference



**Brian Leinhauser** attended the **PCPCS Annual Charter School**

**Conference** on September 21-23 celebrating the 25th anniversary of the Pennsylvania Charter School Law. Mr. Leinhauser spoke on public employee disciplinary issues and the rise of scrutiny on employee social media conduct in and out of the workplace. Mr. Leinhauser also addressed potential employee discipline issues that arise from political or other communications and outlined best practices for policies that will allow schools to operate free of any disruption related to employee conduct in or out of the workplace.

## Brian Leinhauser Speaks at 16th Annual ExecuSummit EPLI Conference



**Brian Leinhauser, Laurie Fiore, and Brian Conley** attended the **16th Annual ExecuSummit ESPLI Conference** on September 19-21. Brian Leinhauser spoke on a panel addressing the concurrence by Justice Thomas in *Dobbs v. Jackson Women's Health Org.* on its potential impact on EPLI litigation and the application of substantive due process going forward. The panel addressed the potential impact on various litigation matters and the broad reach of the concurrence if that point of view is adopted by additional justices on the Supreme Court.

## MacMain Wins Police Liability Trial

**David MacMain** scored a defense verdict for a police officer in a 1983 excessive force case tried in the Eastern District of Pennsylvania before the Honorable Mark Kearney. Plaintiff was represented by an attorney from Kline & Specter “one of the country’s leading personal injury firms” according to their website and The Philadelphia Inquirer. The jury deliberated for slightly over 1 hour before returning a defense for a very grateful officer client.

## MacMain Appointed To Leadership Positions in FDCC and ADTA



**David MacMain** was appointed as the ***Vice Chair of the Association of Defense Trial Attorneys' (ADTA) Diversity and Inclusion Committee.*** ADTA is an invitation only organization made up of lawyers who have substantial trial experience and is limited to one lawyer per million in a given geographic area.

David was also named as a ***Vice Chair of The Federation of Defense and Corporate Counsel (FDCC) Governmental Liability Committee.***

FDCC is an invitation only organization limited to 1100 lawyers in the United States and internationally composed of recognized leaders in the legal community who have achieved professional distinction.

## Contact Us for Your Legal Needs

***MacMain Leinhauser PC*** provides representation and counseling to public and private entities in a wide variety of areas including civil rights and tort matters, labor and employment issues, school law, and general operational matters. We serve as counsel to law enforcement agencies and local governments in the review and preparation of policies and provision of training.

Additionally, the firm provides counseling for public authorities, schools, and small businesses in all manner of issues including employment advice, statutory and regulatory compliance, formation and dissolution, and education law issues. MacMain Leinhauser also represents professionals in litigation matters. Call ***484-318-7106*** or ***contact us online*** today to engage our services.



**MacMain  
Leinhauser**  
Attorneys at Law