



THE NEWSLETTER OF THE  
WESTMORELAND BAR ASSOCIATION  
VOLUME XIII, NUMBER 6  
NOVEMBER–DECEMBER 2001

# Happy Holidays!



SEE MORE 2001 HOLIDAY DINNER  
DANCE PHOTOS ON PAGES 9 & 10



*President's Message*

# A Holiday Wish

*by John M. Campfield*



Peace

# The Hon. James R. Kelley Retires from Commonwealth Court Bench

by Judge Irving L. Bloom

As one of the stalwarts of our legal and political community nears retirement, I thought it might be appropriate to trace the significantly noteworthy career of The Honorable James Reeves Kelley.

A lifelong resident of Greensburg, Jim graduated from Saint Vincent College in Latrobe and received his law degree from Catholic University of America. As far as his legal life is concerned, he has been admitted to the U.S. Supreme Court, courts of the District of Columbia, and all federal and state courts in Pennsylvania.

He is also a member of the American, Pennsylvania and Westmoreland Bar Associations, and was engaged in the general practice of law for over 25 years prior to beginning his judicial career. Jim is married to the former Patricia Phillips and they have six children.

Before his election to the Commonwealth Court, Jim served six years as a Westmoreland County Commissioner and fourteen years in the Pennsylvania Senate. He was elected to his present position as Judge of the Commonwealth Court in 1990.

On the lighter side, Judge Kelley is well known as a, shall we say, sartorial iconoclast. He relishes his

unique style but so far has never been able to offer any explanation as to how he can take oxygen into his lungs while wearing a shirt collar two sizes too small. He is also known throughout the Commonwealth for wearing his trousers about five inches too short. In covering his mostly hairless head, he is known for a straw skimmer in the summer and a moody, petulant derby the rest of the year.

During his years in the state senate, he served on various committees concerning law and constitutional change and became known to his fellow senators as an expert in both federal and state constitutional law. He was a diligent ombudsman in protecting the interests of the voters of Westmoreland County and an excellent lobbyist for the interests of all the governmental bodies in Westmoreland County.

Yet a mere recitation of education and positions held does not do Jim Kelley justice. His service on the Commonwealth Court has been marked by a meticulous adherence

to the law without consideration for his personal beliefs and preferences. He has made good use of his senatorial experience in helping the court to decide questions involving state government. His extremely well written and balanced opinions in the field of Workers' Compensation law have been a material benefit to the interests of working people while at the same time protecting the interests of insurance companies and employers.

One of his colleagues for the past ten years, Judge Rochelle Friedman of the Commonwealth Court, in a recent conversation said of Jim: "I have benefited from serving with him for the past ten years. He is the consummate statesman. He is known for his gentlemanly but probing questioning of advocates, his erudite demeanor, his stylish attire and his unyielding pursuit of justice. I am proud to call him colleague and friend. The Commonwealth is fortunate that Judge Kelley will continue to serve

*continued on page 4*



▲ The Honorable James R. Kelley



◀ The Honorable Bonnie Brigrance Leadbetter, The Honorable James R. Kelley and The Honorable William J. Lederer sat in Westmoreland County for the Commonwealth Court's historic session on June 7, 2000.

# Town Meeting on the Future of Juvenile Justice Attracts 250

A Town Meeting on the Future of Juvenile Justice in Westmoreland County was held Tuesday, October 30, 2001, at the University of Pittsburgh at Greensburg. Sponsored by the Pennsylvania Futures Commission on Justice in the 21st Century, the Westmoreland Court–Community Outreach Committee, the University of Pittsburgh at Greensburg and the Westmoreland Bar Association, the meeting was attended by more than 250 people.

The purpose of the town meeting was to engage the citizens and the stakeholders in proposing community-based programs in partnership with courts that will help all children become responsible, productive members of the community.

The town meeting was the first of its kind in Pennsylvania. It is the first step in attempting to make the courts more accessible and responsible to citizens' needs. The committee intends to look at family law as a topic for a Spring 2002 Town Meeting.

In the meantime, follow-up work continues with citizen task forces and the Westmoreland Chamber of

Commerce members as they look to implement ideas generated from the Town Meeting on the Future of Juvenile Justice in Westmoreland County.



▲ (From left to right) WBA Director Rebecca Brammell, Steven Gifford of the Central Westmoreland Chamber of Commerce, BARJ Coordinator Lisa Galloway Monzo, Leslie Helon and Andy Stofan of the Latrobe Chamber of Commerce were some of the people who participated in the Town Meeting held at the University of Pittsburgh at Greensburg in October.

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ABSTRACTS

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## The Hon. James R. Kelley Retires

*continued from page 3*

on Commonwealth Court as a senior judge. We could not ask for a more dedicated public servant.”

To me, the capstone of his public career is the Westmoreland County Community College. During his service as a county commissioner he got down in the political trenches and fought old politicians who felt that it is no business of a county to set up a community college. He used every facet of his political knowledge and personality to fight entrenched backward ideas to bring the community college to fruition. The thousands of students who have taken courses and obtained degrees from Westmoreland County Community College owe much to the perseverance, dedication, far-sightedness and grit of the Honorable James R. Kelley.

We all owe Jim a debt of thanks for his lifetime of public service.

# A Young Lawyer's Reality Check: Practicing Law After Law School

by Amy DeMatt, Esq.

I have been in practice for one year now, and I have had a bit of a chance to reflect upon how well law school has prepared me for the practice of law.

Law school teaches a number of useful skills, such as how to research, how to not dread being wrong, and how to answer in an assertive manner, but in a number of other respects it falls short. For example, law school does not teach how to evaluate a case, how to negotiate a case, or how to ask a client the kinds of questions that elicit the important facts. In fact, when I think about the time I spent in law school studying esoteric topics such as the Uniform Contribution Among Tortfeasors

Act, or theories of criminal punishment, or Guido Calabresi's economic analysis of the law, I think the time would have been better spent learning how to interview a client, or how to tell whether damages will be recoverable, or how to tell whether a case is worth \$10,000 or \$100,000.

Law school undeniably teaches some useful skills. Foremost, it teaches you how to teach yourself. That is, not only does law school teach some black-letter law, it teaches how to find case law, how to ensure that the law is good law, and how to construe a statute or a case in a manner that benefits your client.

Law school teaches you how to simplify arguments. It teaches you to write in a clear and concise manner

and to support what you write. Law school also teaches how to not dread being wrong. Professors continually reveal the weaknesses in a student's argument and thus teach would-be lawyers how to make a bad case good, or at least, better.

Finally, law school teaches you to be assertive. I had one law school professor who memorably taught me this lesson by making me repeat the answer I had given, "this time without any 'ums' or 'ahs' and with a



▲ Amy DeMatt

*continued on page 6*



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## Practicing Law After Law School *continued from page 5*

period at the end instead of a question mark, Miss Mears.” (Yes, I did actually have to repeat my answer.)

At the same time, law school did *not* teach me a number of skills that I now use frequently. These are the skills that most practitioners use on a daily basis.

For example, in order to know how to frame a demand or how to respond to a demand, a lawyer ought to know the factors that make one claim worth more than another. Yet damages are rarely, if ever, addressed in law school.

Furthermore, law school treats evaluation of cases as though all damages were collectible. In practice, you quickly learn that some claims are too small to justify expensive litigation. Many times however, practitioners can still help clients with small claims by negotiating or by advising them about how

they might proceed on their own.

Law school also doesn't teach how to deal with your client in various situations. It is fine and good to write a good “bluebook” or exam answer when all of the “facts,” including the infamous law school “red herrings” are set forth in the question. But the practice of law often proves that fact is stranger than fiction, and I have found that clients do not always volunteer the potentially relevant facts of a case.

Therefore, I propose that the “school” part of law school be shortened by one year. That is to say, the current typical curriculum should allow law students to practice supervised for the third year, instead of studying Guido Calabresi's theories. Practice during the third year would teach some of the practical skills that law school currently neglects, and it would teach the skills in an environ-

ment that provided an incentive to the teacher (the tuition), and a chance for the student to obtain feedback. Moreover, the benefits of such a system could be reaped doubly by giving students credit for pro bono work, thereby helping those who probably could not afford to get other legal help, and by helping law students to learn how to handle a real case at various stages, rather than just read about how a case was handled in an excerpted form in the casebook.

In short, I am happy that law school has taught me much about how to find and argue the law, but with the typical law school curriculum remaining as it appears to stand currently, it appears to me other new lawyers and I will have much more to learn about how to practice the law (not just read the law) in the years to come.

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# Jury Trial Verdicts

## SEPTEMBER/OCTOBER 2001 TRIAL TERMS

Out of 101 cases set for trial during the September/October civil trial terms, 32 settled, one was dismissed, one was discontinued, 26 were continued, six moved to arbitration, one will be a summary jury trial, one will be a non-jury trial, five verdicts were reached and 26 were held to the next list.

**HENRY SOBEK**

**V.**

**DUSTIN TOMAN  
NO. 668 OF 1998**

*Cause of Action:  
Assault and Battery—  
Intentional Infliction of Emotional  
Distress—Arbitration Appeal*

Plaintiff alleged that the defendant assaulted and battered him in the alley behind plaintiff's home. Injuries included contusions and lacerations on his face, right arm and abdominal region, as well as severe facial and body scarring. Plaintiff also claimed that defendant's conduct caused him severe emotional distress which resulted in increased hypertension, inability to sleep and general nervous conditions.

In new matter, defendant maintained that plaintiff provoked the altercation, and that any force defendant used was justifiable because it was immediately necessary to protect himself against plaintiff's use of unlawful force.

Defendant brought a counterclaim regarding alleged events which resulted in plaintiff's termination of defendant's employment. Defendant contended that he was assaulted and battered by plaintiff, who punched him in the nose while intervening in an

argument between defendant and plaintiff's nephew while on the job site. Defendant suffered a bloody nose, as well as various bruises, contusions and lacerations.

*Plaintiff's Counsel:* Jack L. Bergstein, Bergstein & Galper, P.C., Monessen.

*Defendant's Counsel:* Jason M. Walsh, Bigi Duronio & Walsh, Charleroi.

*Trial Judge:* The Hon. Daniel J. Ackerman

*Result:* Verdict for defendant on original claim; verdict for plaintiff/counterclaim defendant on counterclaim.

**CARL MAGNETTA**

**T/D/B/A**

**TARENTUM HARDWARE  
AND HYDRAULIC REPAIRS**

**V.**

**KEY BELLEVILLES, INC.  
NO. 1619 OF 1998**

*Cause of Action: Breach of Contract*

This action was for breach of the parties' oral contract regarding

the sale of a hydraulic press. Plaintiff requested the balance due in the amount of \$7,058.06, plus interest and finance charges.

The defendant contended that the agreed upon price was \$1,900. Defendant maintained that the prices charged by plaintiff were not reasonable and did not reflect market prices. Defendant asserted improper workmanship and installation. Furthermore, defendant contended that it never agreed to pay interest or finance charges.

*Plaintiff's Counsel:* Nicholas D. Krawec, Bernstein Law Firm, P.C., Pgh.

*Defendant's Counsel:* John M. O'Connell, Jr., O'Connell & Silvis, Gbg.

*Trial Judge:* The Hon. Daniel J. Ackerman

*Result:* Verdict for plaintiff in the amount of \$7,058.06.

*continued on page 8*

## BANKRUPTCY



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## Jury Trial Verdicts *continued from page 7*

**RAY E. BUNGARD AND  
ARLENE BUNGARD, HIS WIFE  
V.**

**MARK S. WILLIAMS  
NO. 5111 OF 1996**

*Cause of Action:  
Professional Negligence—Medical  
Malpractice—Loss of Consortium*

On July 20, 1994, plaintiff presented himself to the emergency department of Frick Hospital and Community Health Center with complaints of weakness, pain, numbness and limited range of motion in his right upper extremity, right shoulder and neck. Plaintiff alleged that defendant treating physician failed to promptly and properly diagnose and treat the plaintiff for a posterior dislocation of his right shoulder and a Hill-Sachs lesion of the humeral head of his right upper extremity. Plaintiff claimed that the alleged negligence of the defendant caused him to suffer further injury to his right shoulder and right upper extremity. His wife claimed loss of consortium.

The defendant denied that plaintiff's complaints were consistent

with the presence of a posterior dislocation of his right shoulder and a Hill-Sachs lesion of the humeral head of the right upper extremity. Defendant denied negligence and maintained that his conduct did not cause, contribute to or increase the likelihood of plaintiff's alleged injuries.

*Plaintiff's Counsel:* Jason E. Matzus, Evans, Portnoy & Quinn, Pgh.

*Defendant's Counsel:* Bernard R. Rizza, Gaca Matis & Baum, Pgh.

*Trial Judge:* The Hon. Daniel J. Ackerman

*Result:* Verdict for defendant.

**MICHELE L. LEIGHTY  
V.  
VIRGINIA ROWE AND  
PITT OHIO EXPRESS, INC.  
NO. 1314 OF 1998**

*Cause of Action: Negligence—Motor  
Vehicle Accident—Arbitration Appeal*

On July 3, 1996, plaintiff was involved in a motor vehicle accident with defendant, Virginia Rowe, in New Stanton. Plaintiff approached the Mellon Bank parking lot while

traveling east on State Route 3093. A tractor trailer owner and operated by an employee of defendant, Pitt Ohio Express, was parked on the right side of the road, and allegedly obstructed the view for anyone attempting to make a left turn from the Mellon Bank parking lot. Defendant Rowe attempted to enter the roadway from the bank parking lot and collided with plaintiff's vehicle. Plaintiff claimed severe migraines, depression, and injuries to her head, neck, shoulder and back.

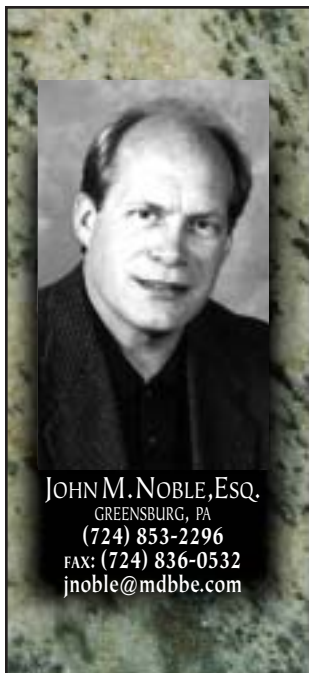
Defendants denied negligence and asserted plaintiff's comparative/contributory negligence, the Pennsylvania Motor Vehicle Financial Responsibility Act, as amended, and plaintiff's preexisting injuries. Defendants submitted cross-claims for contribution and/or indemnification. In amended new matter, defendant Rowe averred that a joint tortfeasor's release was given to her by the plaintiff.

*Plaintiff's Counsel:* Robert W. King, King & Guidy, Gbg.

*Counsel for Defendant Virginia Rowe:* Kim Ross Houser, Mears Smith Houser & Boyle, P.C., Gbg.

*Counsel for Defendant Pitt-Ohio Express:* John T. Pion, Dickie, McCamey & Chilcote, P.C., Pgh.

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Candid Camera:

# 2001 Holiday Dinner Dance



▶ *"Hot damn! A dance partner at last!"*



▶ *"Laugh now, John, but I'm reversing you in the morning."*



▶ *"When last seen, Janie and Jo were counting donations to the Bar Foundation ..."*



▶ *"Len—I said 'later!'"*

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# The Great WBA First Annual “Caption the Photo” Contest

So, you think this business of being *the sidebar* editor is such a snap, huh? Betcha you think you could do a better job than me, don't you? Well, here's your chance to test your mettle.

What we have here is a photograph taken at the recent WBA Holiday Dinner Dance. And not just any photo, mind you, but a photo full of latent possibilities. Why, I myself have already written seven absolutely hysterical captions of my own and was just about to go to press with my favorite.

Then I began to think ... why not let someone else have a shot? Why not let someone else experience the thrill, the ecstasy, of mocking colleagues? Why should I have all the fun?

So here's the story. If you are a member in good standing of the WBA (that is to say, if you are current in your dues and have no disbarment proceedings pending before the Disciplinary Committee) and if you think you have the wit, the fortitude, the cojones, to take a shot at the big time, here's your chance. Send in your favorite caption for this photograph. You may enter as many times as you wish. The only limitations are your imagination and our hesitation, but not necessarily refusal, to publish anything patently obscene. You can mail, fax or e-mail your entry or

entries to the bar office. Try to remember to include your name. We are clever but not prescient.

I, the editor, will pick the one caption that I, the editor, think is the funniest, and it will be published in the next issue of *the sidebar*. And of course there will be a prize. My

decision as editor is final and absolute. And don't fret. In order to let all of you have a reasonable chance, I, the editor, won't enter.

Come on now, show me what you're made of, as if I didn't already know.

—DJM

## THE GREAT WBA FIRST ANNUAL “CAPTION THE PHOTO” CONTEST



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# To-Wit: Attila the Judge

by S. Sponte, Esq.

Like most of you, I am a busy, successful private practitioner. Accordingly I do not usually watch afternoon television. I mean, what with the pursuit of my lifelong ambition to be a world class golfer, I just don't have a lot of free afternoons.

Recently, however, following up on the advice of my golf pro that I could significantly improve my game by laying off for two weeks and then quitting altogether, I decided to utilize the free time I would have otherwise spent on the golf course by staying home and excavating the great American novel I know is hidden somewhere deep within my creative psyche.

Alas, my efforts in that endeavor yet again yielded no fruit, and in the

midst of my creative despair I turned on the television. I have to tell you I was truly astonished to discover how many "judge" shows there are on television now.

Of course I remember Judge Wapner and "People's Court," the progenitor of this particular genre. I only usually caught his act when I was home sick with the flu, but as I recall, he had a knowledge of the law and some understanding of the innate chicanery of some people. It was the legal system as soap opera, and I even enjoyed his dramatic tirades at some of the litigants, you know, the recalcitrant landlord or the obsequious car salesman or the gaudy hair dresser who ignored her client in the dryer while she gossiped with other patrons, thus causing the client's hair to turn that disquieting shade of orange. Taken as a whole,

it's probably as close to a good flogging as our society will permit. No wonder it was so popular.

But now there's Judge Judy and Judge Hatchett and Judge Mills Lane and Judge Brown and Judge Ed Koch, (yes, the former mayor of New York) and God knows who else, and now it all seems like the legal system as theater of the absurd. Each seems to strive to outdo the other in the capacity to fling invectives, hurl barbs, and deliver tirades of outrage and insults at the litigants who, presumably for their fifteen minutes of notoriety and a concomitant fee, consent to be humiliated in public.

*continued on page 12*



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## To-Wit: Attila the Judge *continued from page 11*

I am not certain who here is the bigger prostitute, but I find the whole thing tasteless, unamusing, tedious and predictable, and I am not the least bit startled by their success.

These are, after all, nothing but lawyer jokes taken to the extreme. What else can you expect from a society that, after decades adapting to a fast food mentality, evidences more and more frustrations at the exceedingly deliberate machinations of a system that has failed to follow suit? I mean, come on now, what kind of gratification is it for someone victimized by egregious conduct to hire a lawyer and wait years for a successful resolution that, if it comes at all, arrives genteelly by written opinion? Where's the blood, where's the gore, where's that wonderful double bacon cheeseburger thunk of baseball bat against skull that so many of our citizens yearn so incessantly for?

That chasm, that missing "thunk," is the void that popular culture has leaped into to fill, and thus we have

this surfeit of "judge" shows in which the jurist is gauged not by his or her intellect and temperament, God forbid, but rather by his or her willingness to cater to the lust for blood eo instante.

**Taken as a whole, it's probably as close to a good flogging as our society will permit. No wonder it's so popular.**

In doing my research for this piece, I have watched several hours of these broadcasts, and I have come to the conclusion that, as barbarous as some of these faux judges are, they are still burdened by the cloak of civility. I think if they really want to sell the product, they need a judge who makes no pretense at courtesy, a judge who cares not a whit for the civilities of civil practice. It's what the public wants, its what they crave, its what

they need to satisfy the lust that remains unfulfilled by the niceties of the law.

Now I am known as a lawyer from whom invectives flow like poo poo from a baby's bottom. I am known that way as a golfer too. Accordingly, I propose the following custom designed judicial insults as a guaranteed, sure fire way to catch the attention of a public obviously already enamored of the approach.

- "Just who the hell do you think you are, padre?"
- "Listen, toots, discriminating against the ugly is no violation of the law."
- "Tell you what, Garcon ... you eat a cockroach and see how you like it."
- "Bailiff, bailiff, hit this guy upside his head."
- "One more crack out of you and it's going to be jail time for both you and your baby."

Find me a judge with the wherewithal to deliver these lines and I will make him a star. Or better yet, let me do it. I've always wanted to be a judge and God knows I have a lot of free afternoons on my hands.

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### LAW SPEAK

History teaches us that there have been but few infringements of personal liberty by the state which have not been justified, ... in the name of righteousness and the public good, and few which have not been directed, as they are now, at politically helpless minorities.

— Stone, Harlan F. in *Minersville School District v. Gobitis*, 310 U.S. 586 at 604.

# foundation focus

## YWCA Working Women's Closet Needs Donations



The Westmoreland Bar Foundation is once again asking you to clean out your closets for the YWCA of Westmoreland County's Working Women's Closet.



Contemporary interview outfits in all sizes and gently used interview-appropriate purses and shoes are needed to restock the Working Women's Closet, a charity that provides appropriate interview clothing to women who are changing careers or

are actively trying to enter or reenter the job market after graduating from school or participating in job training or welfare programs.

Outfits should be cleaned, ironed, and ready to wear. Please pin the size of the outfit on the shoulder. All donations should be hung on a hanger. If a tax receipt is desired, include your name and address on the outside of the garment.

Contributions can be dropped off at the Bar office Monday through Thursday from 8:30 a.m. to 5 p.m. and Friday from 8:30 a.m. to 4:30 p.m.

## Thank You for Your Support

This year has been a year of growth for the Pro Bono Program. Many improvements were made possible through additional funding from Laurel Legal Services, the Westmoreland Bar Association and IOLTA. This has enabled us to serve more clients, improve our technology and hire a full-time paralegal.

Thanks to each of our Attorney-of-the-Day volunteers, our custody attorneys Kathleen Kemp, Maureen Kroll and Becky Fenoglietto, and the Foundation Trustees. Many blessings to you and your families this holiday season.

## Pro Bono Program Seeking Office Space

The Pro Bono Program of the Westmoreland Bar Foundation is looking for new office space with the following amenities:

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# Actions of the Board

## NOVEMBER 20, 2001

- Voted to accept Robert Fry as associate member.
- Accepted Treasurer's report including update on Bill Few investments which are \$4,300 ahead of initial investment and in line with annual goal of \$10,000 income to association.
- Authorized President and Executive Director to invite special guests to the board dinner in recognition of volunteer activities.
- Heard report on House of Representatives Resolution 110 which challenges legal advertising requirements and could impact law journals. No action taken.
- Heard report on interest in electronic filing in Westmoreland County courts and agreed to form a subcommittee to study this matter along with representatives from the Prothonotary, the Info Tech and Civil Lit Committees and Court Administrator Kuntz.
- Approved committee name change from Legislative to Governmental Affairs.
- Adopted 2002 operating budget for bar association.
- Committed to make program changes to the Lawyer Referral Service program, as recommended by the American Bar Association, beginning with the February 2002 renewals.
- Reviewed report from Activities Committee including plans for family picnic at Hempfield Park in late August 2002.
- Reviewed expected costs for 2002 Bench/Bar Conference and voted to raise registration fee from \$175 to \$200 for the two-day conference.
- Agreed to hold Legislative Gathering in 2002 but directed Governmental Affairs Committee with considering whether to start a local PAC.
- Reported that the Inns of Court will partner with the WBA to organize retirement dinners for Judges Kelley and Loughran. Date will be Friday in May at Seton Hill.
- Directed WBA Director Bob Johnston to meet with Fee Dispute Chair to discuss obligations of committee to report matters to disciplinary board.
- Heard report from WBA Director Becky Brammell on a planned CLE seminar on "Lawyer Assistance for Military Personnel."
- Seminar postponed from November.
- Heard year-to-date report on CLE: 69 credit hours were offered to WBA members with 13 of those credit hours offered as "free." A total of 719 attorneys attended seminars. Board agreed to review staffing for CLE matters.

## Do You Want to Serve?

# Opening on WBA Board

Any member interested in running for a position on the Board of Directors of the Westmoreland Bar Association should send a letter to the Chair of the Nominating Committee, c/o the WBA by January 18, 2002. There is one four-year position to be filled at the Annual Meeting of the association to be held on April 1, 2002.

The responsibilities are as follows:

- Attend all board and appropriate committee meetings and special events.
- Be informed about the WBA's mission, services, policies and programs.
- Review agenda and supporting materials prior to board and committee meetings.
- Serve on committees and offer to take on special assignments.
- Inform others about the organization and its activities and functions.
- Assist the board in carrying out its fiduciary responsibilities,

such as reviewing the organization's annual financial statements. Qualified candidates should:

- Possess experience in bar association activities such as chairing a committee, attending bar functions and being active in the bar community.
- Have the ability to think clearly and creatively, and work well with people, individually and in a group.
- Be willing to be prepared for and attend board and committee meetings, take responsibility and follow through on given assignments, contribute personal and financial resources in a generous way according to circumstances, and open doors in the community.

Additional openings exist on the following standing committees. Interested members are encouraged to contact the Chair of the Nominating Committee:

- Membership Committee—five-year term
- Building Committee—five-year term

wba news

# Jury Trial Verdicts

continued from page 8

*Trial Judge:* The Hon. Gary P. Caruso

*Result:* Molded verdict for defendants. Jury found that plaintiff was 60% contributorily negligent.

**NELDA DAVID AND WILLIAM DAVID**

**V.**

**MARIA A. BRUNO**

**NO. 9712 OF 1995**

*Cause of Action: Professional Negligence—  
Medical Malpractice—Loss of Consortium*

On December 16, 1993, the defendant performed a vaginal hysterectomy on the wife-plaintiff. In this medical malpractice action, plaintiff alleged that defendant performed an unnecessary surgery, caused urethral and bladder injuries during surgery and failed to properly diagnose and treat post-operative complications of leakage of urine and infection, which required additional hospital treatment and resulted in a cystoscopy. Plaintiff's husband claimed loss of consortium.

Defendant asserted that there was a complete medical necessity for the hysterectomy and that she provided proper and reasonable surgical care. Defendant denied that the ureter was cut during the surgery, and maintained that she provided proper and adequate post-operative instructions and care. As affirmative defenses, defendant pled comparative/contributory negligence and assumption of the risk.

*Plaintiffs' Counsel:* Kenneth W. Behrend, Behrend & Ernsberger, Pgh.

*Defendant's Counsel:* William D. Phillips, Phillips, Faldowski & McCloskey, P.C.

*Trial Judge:* The Hon. Charles H. Loughran, President Judge

*Result:* Verdict for plaintiff in the amount of \$35,000; verdict for husband-plaintiff in the amount of \$3,200.

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## On The Move ...

**SANDRA E. DAVIS** is in her third term as a member of the Counsel of the Family Law Section of the Pennsylvania Bar Association.

**LEE DEMOSKY** has made partner at Meyer Darragh Buckler Bebenek & Eck.

**JAMES M. FOX** has joined the firm of Nakles and Nakles at 1714 Lincoln Avenue, Latrobe, PA 15650. He can be reached at 724-539-1291.

**DANIEL C. HUDOCK** has joined Meyer, Unkovic & Scott as an associate practicing in the firm's Employment Law & Employee Benefits and Litigation Groups.

**TIM KINNEY** has joined Tremba & Jelley at 229 South Maple Avenue, Greensburg, PA 15601. His phone number is 724-838-7600.

**WAYNE P. MCGREW** has joined the staff of Laurel Legal Services at 126 S. Pennsylvania Avenue, Greensburg, PA 15601; 724-836-2211.

**DAVID A. REGOLI** has moved to 10 Feldarelli Square, 2300 Freeport Road, New Kensington, PA 15068. His phone number is 724-334-7711.

**HARRY F. SMAIL, JR.** has moved to 126 West Pittsburgh Street, 2nd Floor, Greensburg, PA 15601, effective December 20, 2001.

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# CALENDAR of Events

## JANUARY

- 1 New Year's Day, Courthouse and WBA offices closed
- 4 Women in Law, Noon
- 9 Membership, Noon
- 15 Family Law, Noon  
Board Meeting, 4 p.m.
- 16 Inns, 5 p.m.
- 17 Elder Law and Orphans' Court, Noon
- 21 Martin Luther King Jr. Day, Courthouse closed

## FEBRUARY

- 12 Municipal Law, Noon
- 13 Membership, Noon
- 18 Presidents' Day, Courthouse closed
- 19 Family Law, Noon  
Board Meeting, 4 p.m.
- 21 Elder Law and Orphans' Court, Noon  
Inns, 5 p.m.

# TOP TEN

## Top Ten Stocking Stuffers for Lawyers

1. **Malpractice Barbie**—with removable body parts that do not ever fit back in place exactly right.
2. **Fender Bender**—the new board game from Whammo, includes calculator with user selectable 30/35/40% functions.
3. **A Kinder Gentler Society**—the best selling account of Justice Antonin Scalia's bad dreams.
4. **You and Title VII**—a primer on how to safely handle your staff.
5. **Assorted Bumper Stickers**—from Creative Cacophony, including "Please Don't Stop, I Need The Work" "Honk If You Love Whiplash," and "If You Can Read This, You Aren't Close Enough."
6. **Suits-a-poppin'**—a great CD collection of lawyers' favorite music, including "Singin' in the Pain," "Can't Help Leavin' That Man O' Mine," and "Old Man Driver."
7. **All-Day Suckers**—grape, cherry and lemon lollipops in the shapes of various family law practitioners.
8. **So You Wanna Be a Magistrate**—the collected wit and wisdom of Magistrate Alphonse DeWhoopy, detailing each and every case he heard in Calumny Township from the year of his election in 1847 until his death from bleeding eardrums in 1847. 1st ed.
9. **Lawmuffs**—the perfect winter accessory for any practitioner, bury your hands into these stylish accessories to keep them warm and happy.
10. **Xmas Greetings from Collegial Cards**—perfect to send to your favorite colleague. Includes such perennial favorites as "Happy Holidays, You Son Of A Bitch," "Best Wishes To The Bastard Who Took A Default Judgment Against Me," and "Deck The Halls With All Your Entrails, Fa La La La La, La La La La."



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