



# Remembering Christ. C. Walthour

by Robert W. King, Esq., and Wesley T. Long, Esq.

Christ. C. Walthour, known to most of us as Christy, died Friday, August 15, 2003. We all knew Christy as a gentleman, scholar of the law, fearless advocate, honest lawyer and trusted friend. Rather than this article sound as an obituary, we thought perhaps a few tales involving Christy's personal side would be more intriguing.

A story that Christy told himself was that his home in Manor had a burglar alarm hooked into the North Huntingdon Township Police Department. One evening, after Christy went to bed, the alarm malfunctioned summoning the police. Hearing noises, Christy got out of bed, retrieved his handgun and went to investigate. One of the police officers observed Christy and yelled, "He's got a gun!" The police officers told Christy to put down his revolver. Christy replied, "I'll put my gun down when you put your guns down." After some confusion and production of identification, the matter was peacefully resolved.

Or perhaps you did not know that Christy was once asked to leave a restaurant in Phoenix, Ariz. If you ever had an occasion to dine with the gentleman, it took forever. A three- or four-hour dinner could easily be achieved. The restaurant, having seated Christy around 6:00 had

promised the table to the second seating at 8:30. At around 9:00, as Christy was enjoying his meal, the waitress asked if he could please remove himself from the table as the next group was anxious, to which he complied.

However, the gentleman that we all knew had three great dislikes. For the first, we need some background. Christy was drafted in his third year of law school at the University of Pittsburgh after receiving his undergraduate degree in mathematics, and was assigned as a private specializing in anti-aircraft defense. Because of vision deficiencies, he was reclassified as a non-combatant and ultimately was assigned to the War Crime Trials in the Pacific Theater where he was instrumental in the prosecution of General Homma, the Japanese general who was accused of, convicted for and executed as a result of his participation in the Bataan Death March.

Thereafter, Christy went to Tokyo to prosecute other military commanders during which it was once necessary that he interview and call General Douglas MacArthur as one of his witnesses. Because of his classification and knowledge, to his passing, in spite of his attempts, Christy was never permitted by the United States military to resign his commission. As a result of these experiences, one of his three great dislikes were "Japs." They were not Japanese. He would not buy a motor vehicle, camera, piece of office

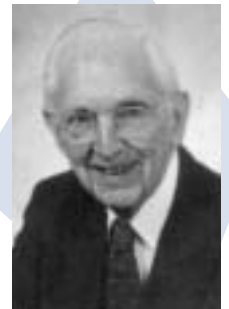
equipment or anything that was made in or had a component thereof made in Japan. If you ever frequented Christy's office, you would note that from a technological standpoint, the same came grinding to a halt in the mid-1970s.

His automobiles had to be of German manufacture and meet the following specifications: diesel engine, standard transmission, no power steering and no power brakes. He drove all of his automobiles until they broke in half—literally; and never in his lifetime did he wash a car.

Christy was the president of the Manor National Bank for 56 years which was the breeding ground for his second great dislike—bank examiners. The Treasury Department threatened to impose substantial financial penalties against the Manor National Bank because the bank had too much money, i.e., the cash on hand was too close to a one-to-one ratio to the customer deposits. Christy could never fathom why it was wrong to have too much money, so although he treated the examiners with respect, as he did everyone, he would argue with every single suggestion and criticism they would make.

Even though Christy never understood what was wrong with having

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Christ. C. Walthour, Jr.

President's Message

# Lamentations of the Parent, Part II

by Aaron M. Kress, Esq.

*Editor's note: This translation comes to us, verbatim, courtesy of Mr. Ian Frazier and The Atlantic Monthly. Illustration by Barry Blitt. Copyright © 1997 by The Atlantic Monthly Company. All rights reserved. The first part of this article appeared in the July–August 2003 issue of the sidebar.*



## LAWS PERTAINING TO DESSERT

For we judge between the plate that is unclean and the plate that is clean, saying first, if the plate is clean, then you shall have dessert. But of the unclean plate, the laws are these: If you have eaten most of your meat, and two bites of your peas with each bite consisting of not less than three peas each, or in total six peas, eaten where I can see, and you have also eaten enough of your potatoes to fill two forks, both forks eaten where I can see, then you shall have dessert. But if you eat a lesser number of peas, and yet you eat the potatoes, still you shall not have dessert; and if you eat the peas, yet leave the potatoes uneaten, you shall not have dessert, no, not even a small portion thereof. And if you try to deceive by moving the potatoes or peas around with a fork, that it may appear you have eaten what you have not, you will fall into iniquity. And I will know, and you shall have no dessert.

## ON SCREAMING

Do not scream; for it is as if you scream all the time. If you are given a plate on which two foods you do not wish to touch each other are touching each other, your voice rises up even to the ceiling, while you point to the offense with the finger of your right

hand; but I say to you, scream not, only remonstrate gently with the server, that the server may correct the fault. Likewise if you receive a portion of fish from which every piece of herbal seasoning has not been scraped off, and the herbal seasoning is loathsome to you, and steeped in vileness, again I say, refrain from screaming. Though the vileness overwhelm you, and cause you a faint unto death, make not that sound from within your throat, neither cover your face, nor press your fingers to your nose. For even now I have made the fish as it should be; behold, I eat of it myself, yet do not die.

## CONCERNING FACE AND HANDS

Cast your countenance upward to the light, and lift your eyes to the hills, that I may more easily wash you off. For the stains are upon you; even to the very back of your head, there is rice thereon. And in the breast pocket of your garment, and upon the tie of your shoe, rice and other fragments are distributed in a manner wonderful to see. Only hold yourself still; hold still, I say. Give each finger in its turn for my examination thereof, and also each thumb. Lo, how iniquitous they appear. What I do is as it must be; and you shall not go hence until I have done.

## VARIOUS OTHER LAWS, STATUTES, AND ORDINANCES

Bite not, lest you be cast into quiet time. Neither drink of your own bath water, nor of bath water of any kind; nor rub your feet on bread, even if it be in the

package; nor rub yourself against cars, nor against any building; nor eat sand.

Leave the cat alone, for what has the cat done, that you should so afflict it with tape? And hum not that humming in your nose as I read, nor stand between the light and the book. Indeed, you will drive me to madness. Nor forget what I said about the tape.

## COMPLAINTS AND LAMENTATIONS

O my children, you are disobedient. For when I tell you what you must do, you argue and dispute hotly even to the littlest detail; and when I do not accede, you cry out, and hit and kick. Yes, and even sometimes do you spit, and shout "stupid-head" and other blasphemies, and hit and kick the wall and the molding thereof when you are sent to the corner. And though the law teaches that no one shall be sent to the corner for more minutes than he has years of age, yet I would leave you there all day, so

mighty am I in anger. But upon being sent to the corner you ask straightaway, "Can I come out?" and I reply, "No, you may not come out." And again you ask, and again I give the same reply. But when you ask again a third time, then you may come out.

Hear me, O my children, for the bills they kill me. I pay and pay again, even to the twelfth time in a year, and yet again they mount higher than before. For our health, that we may be covered, I give six hundred and twenty talents twelve times in a year; but even this covers not the fifteen



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# Remembering Franklin L. Bialon

by *The Hon. Charles H. Loughran*

Frank Bialon, at 60 years of age, died suddenly of a heart attack on September 24, 2003. Frank had been my Law Clerk for 25 years, and after I retired and took Senior status, Judges Mihalich, Marker and I shared Frank as our Clerk. Judge Mihalich and I had a working session with Frank that very Wednesday morning of his death.

Frank graduated from Monessen High School in 1961 and attended West Virginia Wesleyan University where he obtained his undergraduate degree in 1965. He later obtained his law degree in 1968 from West Virginia University. Over the years Frank worked with the firm of Shire & Bergstein, then shared offices with Gary P. Caruso and Richard Victoria before finally practicing law with his son, Aaron. He was the solicitor for

the Mon Valley Sewage Authority and spent many years traveling to Harrisburg to counsel the Pennsylvania Board of Claims.

I never wanted a young, inexperienced clerk, but rather a mature person who was loyal, intelligent, and diligent—Frank was exactly that person. Over the next 25 years we worked together writing approximately 80 to 90 opinions a year. I'm proud to say that we were rarely reversed by the Appellate Courts of Pennsylvania. I owe this success to the good advice of my hard-working clerk.

After I retired in April of 2002 and took Senior status, Frank agreed to work as a clerk for all the Senior Judges of Westmoreland County. This required him to advise Judge Charles Marker on domestic law matters, Judge Gilfert Mihalich on Orphans' Court matters, and continue to advise me on my work on Civil matters. He

was required to write drafts and recommendations for all of our opinions, no small task.

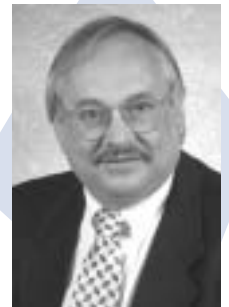
Personally, I do not know how I'm going to replace him. I'm sure going to miss him.

One of Frank's attributes was his marvelous sense of humor and his upbeat personality. The office staff annual Christmas party was usually held at my home (so we could let our hair down). The party would start slowly, until Frank appeared and started telling those wild stories about his pet pot-belly pig (Petunia). The staff would roar with laughter, and the party really began, thanks to him. Just talking about it, I can hear his infectious laugh, and I begin to chuckle just thinking about him.

The staff was a very cohesive staff. It was a pleasure to come to work. It was always a pleasant atmosphere and Frank was the cog in that wheel.

Frank was a devoted father to his three sons: Frank, Jr., who grooms and boards animals with aspirations to be a veterinarian; Jason, the engineer; and Aaron, the attorney, and his father's partner.

Frank loved to take his children on educational trips and particularly trips to Civil War Battlefields such as Gettysburg, Shiloh and Antietam. When the day was done, he would question the boys on what lesson they had learned to make certain they did not waste their time. He may have missed his calling as a teacher of history.



Franklin L. Bialon

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# Christ. C. Walthour *continued from page 1*

too much money, when eligible to receive Social Security, he declined to accept the same. Christy called the Social Security Administration and advised that he did not want their checks. They replied that was acceptable, but they had no form or paperwork prepared for Christy to sign declining his Social Security because no one had ever done this before. So Christy created a form which he signed and mailed to the Social Security Administration and they retained his checks.

Our Victorian-era friend possessed a passion for single-malt Scotch and white lightning. In later years, he reiterated he was cutting back because he felt that it made him "tipsy." Perhaps this would explain why you might have thought he dressed in the exact same clothes every day. However, he did not. For example, Christy's shoe size was a 12AAA. Years ago, he purchased a pair of shoes that fit perfectly.

Upon ascertaining this newfound comfort, Christy contacted the shoe manufacturer and inquired how many additional pairs of shoes were available in that same style, size and color. After learning of eleven, Christy bought them all. He did the same with his suits, shirts, ties and three pens, all evenly spaced in his left lapel.

Christy was an only child, having been born on December 3, 1916, to Christopher C. Walthour. Christy's father was born in 1890 to Samuel Walthour, who was then 76 years of age having been born in 1814. Wayne Whitehead relates that Wayne's cousin, Dale Mathias, upon learning of Christy's death, called wanting to send someone a sympathy card, but to whom. It is true that Christy had no blood family, but he had all of us as his family and we shall never forget him.

By the way, his third great dislike in life were chickens. We don't know why.

# President's Message

*continued from page 2*

hundred deductible for each member of the family within a calendar year. And yet for ordinary visits we still are not covered, nor for many medicines, nor for the teeth within our mouths. Guess not at what rage is in my mind, for surely you cannot know.

For I will come to you at the first of the month and at the fifteenth of the month with the bills and a great whining and moan. And when the month of taxes comes, I will decry the wrong and unfairness of it, and mourn with wine and ashtrays, and rend my receipts. And you shall remember that I am that I am: before, after, and until you are twenty-one. Hear me then, and avoid me in my wrath, O children of me.




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# dicta **Toward a More Sane Approach to Mental Illness in the Criminal Courts**

by Beth Orbison, Esq.

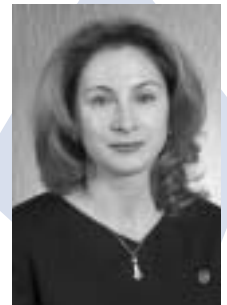
**M**arc Filippino hung himself in his prison cell at the Westmoreland County jail on Monday morning, August 4, 2003. His suicide came days after pleading guilty to charges of burglary, aggravated indecent assault, aggravated assault and terroristic threats in connection with an episode in which he surreptitiously entered the residence of his female victim, grabbed her from behind as she was undressing, and proceeded to engage in a variety of sex acts with her. He attempted to handcuff her and threatened her with a handgun in order to subdue her into compliance. Although the victim did not believe that she had ever seen Mr. Filippino before this night, he already knew her name, her boyfriend's name and the type of vehicle that she drove. He expressed with shame that he knew that she would never go for a guy like him under ordinary circumstances because his annual salary wasn't big enough. But he was proud of the size of his penis.

During the last two years, Mr. Filippino had been a suspect in at least two other cases in which strikingly similar scenarios occurred, each with a different victim. In his guilty plea petition, he acknowledged that he had been hospitalized for some period of time in 2001 at Mayview State Hospital.

Mr. Filippino's acts were not just criminal acts defined as such by our crimes code—they were symptoms. They were symptoms, however, where therapeutic intervention and treatment options are limited as soon as the actor or, from another perspective, the patient enters the legal system. In some respects, the symptoms are virtually unseen by the

legal system, not because they are so subtle that they evade detection, but because an offender's mental health is a legal consideration in only limited circumstances, in large part because "mental illness" continues to be defined archaically by most legal statutes.

For example, one option available to an advocate for the accused who suffers from a mental disorder is to argue that the defendant is "legally insane." The corresponding jury instruction cautions: "Persons whom medical experts would diagnose as mentally disordered or whom laymen would call crazy might or might not be insane when judged by the legal test." That we continue to use the word "insane" with a straight face is crazy. How sensitive, how civilized is this approach to the nuances and complexities of mental disorders that lead to antisocial behavior? Is there room in the criminal justice



▲ Beth Orbison

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## Toward a More Sane Approach *continued from page 5*

system to address the underlying cause of mental illness or are we limited to addressing only the symptoms by imposing long and ineffectual periods of incarceration?

Most criminal justice systems provide alternatives to incarceration and mandate treatment for only the most obvious and severe cases. There are state-run institutions for those who exhibit the extreme manifestations of mental disorders, such as schizophrenia, and there are Band-Aids offered to those whose crimes belie a substance abuse problem. But historically, all of the other criminal defendants, the majority of whom have some diagnosis otherwise they would not be engaged in criminalized behavior, are treated solely as people who have violated provisions of the crimes code who need to be punished for their bad behavior. Little regard is given to the psychological dynamics of the individual.

As western medicine is finally recognizing what eastern medicine has known for a long time—a human being's good health and well-being is dependent upon the integration of physical, emotional, psychological and spiritual elements

working in concert—mental health courts are beginning to crop up around the country to combat the painful truth that our nation's jails and prisons are being used as de facto treatment facilities for mentally ill persons convicted of crimes.

The National Alliance for the Mentally Ill ([www.nami.org](http://www.nami.org)) recently released a survey describing these newly formed mental health courts as follows: "These problem-solving courts have a dedicated mental health docket, meaning that they focus exclusively on defendants with mental illnesses, and link these defendants to appropriate treatment and supportive services instead of incarceration. Mental health courts are characterized by continuing judicial supervision over a defined period of time, voluntary participation on the part of the offender and, in many cases, upon an offender's

successful completion of a mental health program, the dropping of criminal charges against the individual."

In January 2000, New York City's oldest and largest alternative-to-incarceration agency, the Center for

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**Is there room in the criminal justice system to address the underlying cause of mental illness or are we limited to addressing only the symptoms?**

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# Spotlight on Jim Wells

*Introduction by Daniel Joseph, Esq.*

Jim Wells is currently Chair-Elect of the PBA Young Lawyers Division. As Chair-Elect, he is a voting member of the PBA Board of Governors and will sit on the Board for three years. Jim was elected to this position by the executive board of the PBA Young Lawyers on which he very diligently served.

Jim's position with the PBA is very relevant and important since he will represent the issues of concern to young lawyers across Pennsylvania. He will also offer important dialogue at board meetings on issues concerning all lawyers, their clients and the public.

The WBA should be very proud to again have one of their own serve in this capacity. Long ago, Reg Belden also held this position. I am sure that his involvement with Reg was a starting point for Jim at the PBA. Other WBA members who have served on the PBA board include Reg Belden, Sr., Dick Galloway, and myself.

*(I personally feel Jim is a fraud. He is immaterial to the PBA, of no relevance and he got his position by sucking up to people. His title is "hey kid.")*

**Q WHAT JOBS HAVE YOU HELD PRIOR TO BECOMING AN ATTORNEY?**

**A** I worked in my father's hardware store while growing up. I also worked for a bank, mowing lawns of homes that had been foreclosed and were up for resale. While at the University of Pittsburgh I had work-study jobs at the public relations office and the career placement office.



**Q WHAT WAS YOUR FAVORITE AND WHY?**

**A** I liked the job at Pitt's public relations office because I was often interviewed by the local television news channels and I appeared in a couple of the Pitt commercials that would air during half time. That seemed real neat at the time.

**Q WHAT IS THE FUNNIEST THING THAT'S HAPPENED TO YOU AS AN ATTORNEY?**

**A** I'm not sure this really counts as "funny," but one time I traveled all the way to Beaver County to represent a client. I met my opposing counsel, who practiced in Beaver County, and struck up a conversation with him after we had reached a settlement. I was shocked to learn that he was born and raised in the house where I now live in Belle Vernon.

**Q WHAT IS THE QUALITY YOU MOST LIKE IN AN ATTORNEY?**

**A** Understanding that it is possible for counsel to zealously represent their clients' interests without generating personal animosity between each other.

**Q WHAT IS YOUR FAVORITE JOURNEY?**

**A** Driving through the Alps.

**Q WHAT IS YOUR GREATEST REGRET?**

**A** I'm too embarrassed to say exactly what my greatest regret is but it involves Spandex pants and a mullet.

**Q WHO ARE YOUR HEROES IN REAL LIFE?**

**A** The partners at Belden Law.

**Q WHAT ADVICE WOULD YOU GIVE TO ATTORNEYS NEW TO THE PRACTICE OF LAW?**



**A** When asked to name your heroes in real life, name the partners in your firm.

**Q WHAT DO YOU CONSIDER YOUR GREATEST ACHIEVEMENT?**

**A** When I was six years old I once held my breath under water for three and a half minutes.

**Q WHAT IS YOUR IDEA OF PERFECT HAPPINESS?**

**A** Sitting around a campfire with good friends, my guitar, my two golden retrievers, and a well-stocked cooler.

**Q WHAT IS YOUR MOST TREASURED POSSESSION?**

**A** My guitar.

**Q WHAT DO YOU MOST DISLIKE?**

**A** Silly questions.

**Q WHAT IS YOUR GREATEST EXTRAVAGANCE?**

**A** Vacations in Europe.

**Q WHAT TALENT WOULD YOU MOST LIKE TO HAVE?**

**A** If I could play the cymbals with my knees I'd be able to quit my day job.

**Q WHAT DO YOU MOST VALUE IN YOUR FRIENDS?**

**A** Good conversation and a sense of humor.

**Q WHICH LIVING PERSON DO YOU MOST ADMIRE?**

**A** Bruce Springsteen.

**Q WHAT IS YOUR MOTTO?**

**A** "It ain't no sin to be glad you're alive."

## Toward a More Sane Approach *continued from page 6*

Alternative Sentencing and Employment Services (CASES, Inc.), instituted the Nathaniel Project. The Nathaniel Project is exclusively for people with psychiatric disabilities who have been indicted on a felony offense and are facing a lengthy state jail sentence. The program will consider any defendant, including violent offenders, regardless of the offense, if their functioning is seriously impaired due to an Axis I psychiatric disability, and if they exhibit sufficient motivation to engage in treatment. When a defendant is accepted by the Nathaniel Project, members of the program staff act as his advocate with the judge, prosecutor and defense counsel to educate them about the client's psychiatric needs. Further, they work to convince these decision makers that permitting the client to enter the Nathaniel Project would more likely provide a better outcome for the client and the community than sending the client to prison.

The success of their efforts depends upon the political climate, individual attitudes about mental illness, the client's history, and the nature of the offense committed. Staff members refer to their work as "intrusive case management," counseling clients to examine the circumstances and choices that have led them to this point in their lives and then helping them to imagine alternatives. Finally, they guide them toward achieving the goals they have chosen

and stand by the clients even if they have multiple failures during the course of treatment. If the client successfully completes the program suggested by the Project, he will not be sentenced to incarceration, but, if the client fails, he will be sentenced to a significant period of time in state prison. Statistics show that participants in the Nathaniel Project demonstrate a dramatic decrease in arrests, and 80 percent remain in the program over the course of two years.<sup>1</sup>

In Pennsylvania, Erie County has combined its existing Drug Court with a Mental Health Court, calling it a Treatment Court, and Allegheny County has started a Mental Health Court as well. Elsewhere, other courts are beginning to look at certain individuals who find their way into the criminal justice system as integrated beings whose problems, if they are to be corrected, need a more holistic approach and require a solution that is more efficacious than prison. Although many critics scoff at the notion of mental health treatment for criminal offenders, such an approach serves more than the interests of the accused. As an added bonus, it serves to diminish the number of victims in the future—a more sane approach.

<sup>1</sup> National GAINS Center for People with Co-Occurring Disorders in the Justice System (2002). The Nathaniel Project: An Alternative to Incarceration Program for People with Serious Mental Illness Who Have Committed Felony Offenses. Program: Brief Series. Delmar, NY: The National GAINS Center.

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# To-Wit: Chinatown

by S. Sponte, Esq.

Forget it, Jake, it's Chinatown." And with those words, that great movie, probably the best that Jack Nicholson ever made, came to an end, leaving its protagonist brushed aside like a small child, weak and ineffectual in the face of a system far more powerful in its corruption than he, with his naive sense of fair play and rectitude, could possibly bring to justice.

For those who haven't seen it, "Chinatown" is a gritty, suspenseful, mystery of wealth, power, politics and incest, an odd mix of human conditions unfamiliar to all save perhaps family lawyers. The setting is Los Angeles' Chinatown in the mid 1930s, a culture inscrutable to the America that surrounds it, and which serves as an icon for the movie's message that evil and ambitious men

of wealth and power play by a set of rules quite incomprehensible to decent, common folk.

I know what you're thinking, and yes, this does have something to do with the practice of law. Not long ago, a client's cause led me to try a case in a county south of here, a place well known for its political treachery, for its pervasive and cancerous atmosphere of small-minded power struggles that has infected the courthouse, the courtrooms and the lawyers there for eons. It is also a court system patently hostile to outside counsel, as evidenced by the local Rules of Court, an irrational, illogical, and inefficient conglomeration of words, mostly spelled correctly, that has as its main objective the need for outside attorneys to retain local counsel.

My client, a well known political gadfly, had been arrested for suggesting during the open comment period of a county commissioners' meeting that

an Asian butcher's effort to deal with bureaucratic meat inspectors by hacking them to death with an ax sounded to him like a good plan for local government. For that little exercise in free speech, he was charged with the commission of several crimes, not the least of which was the singularly local offense of Displeasing Elected Officials.

The magistrate knew something of the First Amendment and threw out all the charges, causing the District Attorney to refile and seek a different magistrate. "Any magistrate so obviously committed to the First Amendment," she argued in her petition for reassignment, "cannot possibly be considered impartial."

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## To-Wit: Chinatown *continued from page 9*

The motion was set for eight a.m. one day the following week.

“Do I have to be there in person to oppose this motion,” I asked the judge’s clerk over the phone, as it was a two-hour drive for me.

“No, of course not, just petition for leave to submit this on briefs only.”

“And I can do that by mail, right,” I queried.

“No,” he said, “you have to present the petition in person at eight a.m., Local Rule 73. But I can recommend good local counsel if you don’t want to make the drive.”

The second magistrate did as he was told and held most of the charges over for trial. Shortly thereafter I received notice of the eight a.m. call of the criminal trial list, along with a warning that my attendance was mandatory. Since my presence there was required for all of fifteen seconds to announce I was ready for trial, I

was loathe to make the drive solely for that purpose.

“Oh, you don’t have to appear personally,” advised the Clerk of Court, “you can get a court order excusing you.”

“And I can do that by mail or over the phone,” I inquired?

“Uh, no,” he replied, “you have to present it in person at eight a.m., Local Rule 69. Do you need local counsel?”

At the commencement of the trial, His Honor asked my partner and I if we wanted local counsel to assist us. “I must caution you,” he advised, “we do things a bit differently than where you come from.”

“Yes, I know,” I thought to myself, “it’s called inbreeding.” And I replied out loud that I thought we could handle it alone.

“Suit yourself,” he responded, “and now let us pray.”

His Honor refused to charge anything about the First Amendment, apparently believing that it had no application in his courtroom. Nonetheless the jury acquitted my client of all charges in ten minutes. My client let out a yelp of celebratory joy but the commissioners had him rearrested on the spot for Rampant Whooping, apparently another obscure local offense.

As he was led off in mouth cuffs, I sat there seething with rage and turning that particular shade of apoplectic purple unique to irate First Amendment buffs. As I gasped for breath, my partner reached over and tugged sympathetically at my sleeve.

“Forget it,” she said, “it’s Chinatown.”

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July 2003 Trial Term

# Jury Trial Verdicts

by Rachel Yantos, Esq.

Of 110 cases listed for the July 2003 Civil Trial Term, 22 settled, 28 were continued, one was discontinued, 5 moved to arbitration, 1 will be binding arbitration, 2 will be summary jury trials (1 of which will be binding), 1 was stricken, judgment was entered in 1, 2 were held non-jury, 5 verdicts were entered and 41 were held to the next term. Juries deliberated as to premises liability, products liability and medical malpractice.

**DONALD C. SMILLIE**

**V.**

**GENERAL MOTORS CORPORATION, A CORPORATION, A/K/A GENERAL MOTORS CORPORATION CHEVROLET DIVISION AND RIEHLE CHEVROLET, INC., D/B/A STAR CHEVROLET, ORIGINAL DEFENDANTS**

**V.**

**LUELLA R. BOSTON AND MARION A. JAREK, ADDITIONAL DEFENDANTS NO. 8684 OF 1987**

*Causes of Action: Product Liability (Negligence, Strict Liability and Breach of Warranty)—Bifurcated Trial Limited to Causation and Damages*

On December 11, 1985, at approximately 5:05 p.m., Plaintiff was operating his 1984 Chevrolet Cavalier in a westerly direction on East Pittsburgh Street in the City of Greensburg, Westmoreland County, at its intersection with North Urania Avenue, when he was involved in a three-car motor vehicle accident. Plaintiff stopped his vehicle in response to a traffic signal at the intersection. Additional Defendant Marion A. Jarek brought her vehicle to a complete stop behind plaintiff's vehicle. Additional Defendant Luella R. Boston, however, failed to stop her vehicle and struck Ms. Jarek's vehicle

from behind, forcing the Jarek vehicle into the rear of the plaintiff's vehicle.

Plaintiff alleged that he was thrown backward upon collision because the driver's seat of his vehicle tipped rearward unexpectedly. As a result, plaintiff was thrown into the back seat, hitting his head against various parts of the automobile. Plaintiff brought suit against GM for designing, manufacturing and assembling the 1984 Chevrolet Cavalier so as to cause the driver's seat to tip rearward upon collision. Plaintiff argued that the seat collapsed, when it should have remained upright. Plaintiff alleged injuries, including, but not limited to, a herniated disc of the C5-6 region, which required surgery and fusion, and exacerbation of pre-existing medical conditions. Plaintiff claimed that prior accidents resulted in only short periods of treatment, and that he worked five years prior to the collision without neck, shoulder and leg pain. Plaintiff sought lost wages for the period of approximately ten months that he was unable to

work because of said injuries. Plaintiff claimed that he was reduced to light-duty work after the 1985 accident until he suffered a stroke in 1997.

GM denied that the seat in the 1984 Chevrolet Cavalier vehicle failed to perform, and maintained that it was reasonably safe for its intended purposes and uses, including, but not limited to, the driver's seat area. GM denied that a failure of the seat to perform caused any injury or exacerbation of the same to the plaintiff. Defendant's position at trial was that the seat yielded and deformed as designed to absorb energy that would otherwise be borne by the occupant. Defendant did not dispute that plaintiff suffered a neck injury, which required surgery six months following the accident, but asserted that the same was caused by the rear impact and not the seat. Defendant brought out prior and subsequent injuries sustained by the plaintiff. Among those incidents and prior to the 1985 accident, plaintiff had two falls at

*continued on page 12*



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## Jury Trial Verdicts *continued from page 11*

work where he fell twelve feet, sustaining fractures to his neck and spine. Following the 1985 collision, plaintiff was involved in a vehicle accident where his truck rolled over while he was unrestrained. Defendant also maintained that the release entered into by plaintiff with the additional defendants operated as a complete bar to recovery against defendant.

The trial was bifurcated. In this initial trial limited to causation and damages, the jury was asked to determine if Ms. Boston's negligence was a substantial factor in bringing about plaintiff's injuries, whether the seat broke upon impact, whether the breaking of the seat was a substantial factor in causing plaintiff's injuries, apportionment of liability, and the amount of money damages awarded to plaintiff for all injuries sustained in the accident.

*Plaintiff's Counsel:* David L. Robinson, Gbg.

### *Counsel for General Motors*

*Defendants:* Evan A. Burkholder, McGuireWoods, LLP, Richmond, Va.; and Brian K. Parker, McGuireWoods, LLP, Pgh.

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

*Result:* Molded verdict in favor of GM. Jury found that the seat did not break. Jury awarded \$300,000.00 to Plaintiff as against Luella R. Boston, who had previously entered into a release with the Plaintiff. That verdict was reduced by \$15,000 for first-party benefits previously paid to Plaintiff based upon stipulation of the parties.

### **HELEN W. WISE AND WILLIAM WISE, HUSBAND AND WIFE**

**V.**

**JOEL M. KICHLER, M.D.**

**NO. 6707 OF 2000**

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

This medical malpractice action stems from an operative procedure performed by Defendant Joel M. Kichler, M.D. at Citizens General Hospital on October 30, 1998. At that time, Plaintiff Helen W. Wise underwent esophagogastroduodenoscopy (EGD) in an attempt to dilate an esophageal stricture. During the course of that procedure, Dr. Kichler perforated plaintiff's cervical esophagus. Plaintiff sustained various injuries, including esophageal perforation and excessive bleeding, all of which required her to undergo additional surgeries to repair the perforation and to treat various complications resulting therefrom. Plaintiffs alleged Dr. Kichler failed to perform the procedure in accordance with the appropriate standards of care in, among other things, failing to discontinue the procedure when he knew or should have known that to continue would cause harm to the plaintiff, and in allowing the procedure to be performed by a nurse anesthetist. Plaintiff also alleged battery based upon lack of informed consent, while

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her husband claimed loss of consortium.

Dr. Kichler argued that he properly provided medical treatment, and that the procedure was medically necessary and appropriate based upon the patient's symptoms. In his pre-trial statement, Dr. Kichler asserted that he had been consulted two days after plaintiff had been admitted for other symptoms as a result of severe esophageal stricture that caused her difficulty in swallowing. The procedure presented difficulties due to the medical condition of the patient at that time. Despite multiple attempts to pass the endoscope through the esophagus, defendant was unable to pass the scope beyond the posterior pharynx. A nurse anesthetist attempted to directly look at the larynx and she and defendant made further attempts to pass the endoscope. After numerous attempts, the nurse advised that she believed she had inserted the scope into the esophagus. Upon visualization, however, Dr. Kichler noted that the area was hemorrhagic. A perforation of the cervical esophagus was confirmed by CT scan and was surgically repaired by an otolaryngologist.

*Plaintiff's Counsel:* George M. Kontos, Swensen Perer & Kontos, Pgh.  
*Counsel for Defendant Joel M. Kichler, M.D.:* Ronald M. Puntil, Jr.,

Israel, Wood & Puntil, P.C., Pgh.  
*Trial Judge:* The Hon. Gary P. Caruso

*Result:* Molded verdict for Defendant. Jury found no negligence and that there was informed consent.

**BILLIE SALSER, JR. AND  
 PATRICIA SALSER, HIS WIFE  
 V.  
 DAYS INN  
 NO. 2344 OF 2001**

*Cause of Action: Negligence—Premises Liability—Loss of Consortium*

Plaintiff Billie Salser, Jr. was a business invitee at Defendant Days Inn's establishment in Donegal, Westmoreland County. At approximately 9:00 a.m. on January 31, 2000, plaintiff exited his motel room to walk to his automobile. While cleaning off fresh snow from his vehicle, plaintiff slipped and fell on snow and ice that had accumulated overnight on defendant's parking lot. Plaintiff alleged that this overnight accumulation fell upon previously existing snow and ice, which created hills and ridges and an uneven, slippery, dangerous and hazardous walking surface. Plaintiff averred that defendant failed to exhaust reasonable efforts and measures to remove snow and ice from the lot, particularly when defendant knew or should have

known that patrons would attempt to access their vehicles in the morning. Plaintiff also claimed that defendant failed to salt and/or chemically treat the lot to prevent accumulation or to increase traction, and failed to warn patrons of an inherently dangerous condition that existed on the parking lot. Injuries included a right ankle fracture, which failed to completely heal, a closed head injury with resulting cognitive defects, visual disturbances (blurred vision, vertigo), severe headaches, nausea, vomiting, right ulnar neuropathy, seizure disorder, and post-traumatic osteo-arthritis of the right ankle and subtalar joint. His wife claimed loss of consortium.

Defendant denied that hills and ridges existed on its parking lot or that an uneven, slippery, dangerous or hazardous walking surface existed. Defendant denied that it allowed any dangerous accumulation of ice or snow and that such action contributed to or was the proximate cause of plaintiff's alleged injuries. In new matter, defendant averred that all injuries and damages alleged in plaintiff's complaint were due to the negligence of other entities. In its pre-trial statement, defendant denied plaintiff's claimed permanency as to the ankle fracture and closed head injury, which plaintiff contended rendered him totally, permanently disabled.

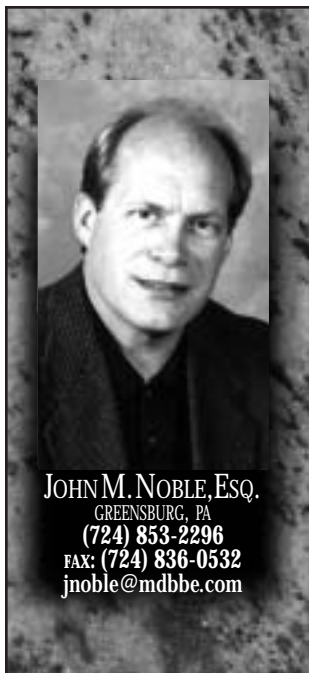
Defendant attempted to prove that plaintiff did not have a closed head injury, that his ankle fracture had totally healed, that the only residual effect of the fracture is mild post-traumatic arthritis and that he is capable of returning to medium-duty work on a full-time basis without restrictions.

*Plaintiff's Counsel:* Todd Berkey, Edgar Snyder & Associates, LLC.

*Defendant's Counsel:* John L. Kwasneski, Eiseman, Myers and Liero, Pgh.

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

*Result:* Molded verdict for Plaintiff in the amount of \$321,922.11. Jury awarded \$643,844.22, but attributed 50% contributory negligence to Plaintiff. No award for loss of consortium.



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# Lawyer Referral Service to Undergo Major Overhaul

by James E. Whelton, Jr., Esq.,  
Chair of LRS Committee

The WBA Board of Directors is considering implementing sweeping changes to the Lawyer Referral Service (LRS). These changes are designed to improve the program as a whole and increase the “quality” of the cases. The LRS committee has studied the changes recommended by the American Bar Association (ABA)



▲ James E. Whelton, Jr.

after the ABA completed two separate reviews of the current program. The committee was charged by the Board in early 2002 to consider the feasibility

of implementing the ABA’s recommended changes. After extensive review, the committee proposes the Board adopt a number of the ABA’s recommendations as well as several additional innovative changes to the program.

The proposed changes are the result of many lengthy discussions by the committee and input from the substantive law committees. The changes will result in a new and exciting LRS which better serves the participating members and the public who use the service.

Recognizing that the program provides both a benefit to participating WBA members and a service to members of the public, the Board initiated the ABA reviews to address a number of concerns regarding the current program. The complaint heard most often

from attorneys dealt with the “quality” of the referral. Also of significant concern was the cost of the program to the WBA. While participating attorneys pay a modest registration fee, the WBA underwrites the large majority of the costs for the program, nearly \$10,000 per year. Despite the financial support of the program by the Association, the program was floundering. Members were not, for the most part, satisfied and financial constraints prevented any meaningful growth or expansion as well as limiting market efforts.

The recommendations offered by the ABA were based on the national model which has proven most successful over the course of the past ten years. This article will provide an overview of the more significant

*continued on page 18*

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# bookmark What Have You Been Reading?

by Diane Krivoniak, Executive Director

This Bookmark column began a couple of years ago at my suggestion. I thought that this column would be a fun way for bar members to share their “favorite reads.” By default this time I have the



▲  
Diane Krivoniak

chance to share my booklist. (You guessed it, no one else submitted their list.) I have marked many a summer with theme reading. There have been summers when I have read nothing but classics. Other summers, I found myself marching through the streets of Boston and Philadelphia along with the soldiers of the Revolutionary War. And still others where I wanted nothing more than pure sophomoric fun. For several years now I have kept a listing of my summer reads, noting, too, a description of why I liked the book. I do this for no other reason than I can't remember what the heck I read after I have finished it! Here, then, are a few of my favorite books.

**KAFFIR BOY** ♦ by Mark Mathabane

♦ I first learned about this book, when the author appeared several years ago on “Oprah.” Mark Mathabane grew up in South Africa during the 1960s and 1970s, where he and his family lived in a two-room shack with no running water, heat, or electricity. Under South Africa’s system of apartheid, their lives were all about survival. In a twist of fate, he meets American tennis player Stan Smith at a tournament. With Stan’s help, the author escapes from South Africa by gaining a tennis scholarship to an American university. In this powerful memoir, Mathabane depicts the terrible toll of apartheid on the lives of individuals, while at the same time

portraying the incredible strength of the human spirit.

**LOVING RACHEL: A FAMILY’S JOURNEY FROM GRIEF** ♦ by Jane Bernstein

♦ I stumbled on this book when I too was wallowing in grief. I had just suffered the death of a newborn son. This book gave me a look at what might have been had my son lived. A true story, *Loving Rachel* is Jane Bernstein’s daily accounting of what it is like to give birth to a disabled child, inclusive of the nuances and responses of family, neighbors and friends, the effects on a marriage, the acceptance of what life gives you and ultimately the simplicity of loving your child. Nothing is easy in this book. This is a story not only about endurance, but also about the powerful workings of maternal love.

**GREAT EXPECTATIONS** ♦ by Charles Dickens

♦ OK, so it took me a year to read this book. I still loved it and savored each of the characters, equally loving and hating them for their humanness. Pip, orphaned, unloved and abused, is given a chance for

“great expectations” through a gift of money. He blows it by being frivolous, self-obsessed and lazy. Yet at the end, through his own endeavors and work efforts, he succeeds. You cheer for him but it is Joe that you love. Joe, the one whose loyalty, honesty and character never waivers.

**RISE TO REBELLION** ♦ by Jeff Shaara

♦ I like my history to be descriptive and easily pictured and this historical fiction did just that. Read this interpretation of the American Revolution and find yourself traveling the streets of Old Philadelphia alongside George Washington, Ben Franklin, John Adams and Thomas Jefferson. What moral, God-loving men shaped our country. The “Miracle in Philadelphia” paved our future government with hope, honor, freedom and faith. Out of all the Shaara books, this one is my favorite.

**ANNA KARENINA** ♦ by Leo Tolstoy

♦ Set in Russia in the 1870s, this novel about love and adultery is filled with timeless wisdom. It offers in painful

*continued on page 17*

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## Candidates Forum Draws 100+ to UPG Campus

The two candidates who vied for the judge's seat in the Westmoreland County race on November 4, 2003, faced each other in a forum at the University of Pittsburgh at Greensburg on Thursday, October 23. The forum, hosted by the League of Women Voters, the Westmoreland Bar Association, the YWCA and UPG, was attended by over 100 people and was the only debate between the two judicial candidates.

Michele G. Bononi, the Republican nominee, and Christopher Feliciani, the Democratic nominee, debated a series of questions that included the role of the judiciary with emphasis on family court matters.

Questions were asked by panelists Anne Aungier, President of the YWCA of Westmoreland County; Jason Gault, UPG student; Arline G. Robinson, Political Action Chair of the NAACP; Peggy Watson, Vice President of the League of Women Voters; and Dr. Frank Wilson, Director of the Behavioral Sciences Academic Village at UPG. Members of the audience were able to submit questions for the panel to ask.



John Longo, General Manager of 1480 WCNS, served as moderator. Each candidate was given equal time to respond to questions from the panel, followed by two minutes each for closing statements.

The forum was broadcast live on 1480 WCNS radio and was videotaped for future broadcast on several local cable stations.

## Red Mass Celebrated

The 36th Annual Red Mass, sponsored by the Diocese of Greensburg and Saint Vincent Archabbey, College and Seminary, was celebrated Friday, September 26, 2003, at Saint Vincent Archabbey Basilica in Latrobe.

The speaker at this year's Mass was The Hon. Maureen E. Lally-Green, judge of the Superior Court of Pennsylvania. Appointed by Governor Tom Ridge and confirmed by the Senate in 1998, she was elected to a ten-year term in January of 2000.

In her remarks, Judge Lally-Green said lawyers face two challenges today: first, to stand up for what is right and second, to help restore trust in society. The difficult issues the Catholic church has been facing in recent months have affected people's faith, she said, causing disappointment, disheartenment and alienation.

She used examples from her life growing up with seven siblings to show how important trust is. "When people believe in others, it gives them courage to do the right thing," she

said. "When you are trustworthy, the rest of us will believe in you—even if we don't agree with you—and we'll trust you'll do the right thing." She concluded her remarks by asking her peers to "trust not in power, but in the supreme ideal of courage."

The Red Mass has a long history within the Catholic Church dating back to the 13th century when it marked the official opening of the new term for courts in most European countries. The participants would process into the church clothed in red vestments, signifying their plea for the Holy Spirit's guidance in pursuing justice in their daily lives.



▲  
The Hon. Maureen E. Lally-Green

## Explorer Post Seeking New Leadership

Explorer Post is a co-ed community outreach program run through the Boy Scouts of America. The program, open to high schoolers who are interested in a law-related profession, enables students to interact with attorneys and judges and get a taste of the legal profession. The students meet once a month. Activities include touring the courthouse, sitting in on a criminal trial, and attending a Supreme Court session in Pittsburgh.

Jim Wells has run this program for a number of years, but the time has come for someone else to take over. We are looking for three or four attorneys, or even a judge, to work together on this important community program. Contact the Bar office if you are interested.

### On The Move ...

**ROBERT LOUIS FREY, JR.**, is an associate with Ronald L. Russell & Associates at 101 North Main Street, Suites 201 A & B, Greensburg, PA 15601. He can be reached at 724-830-8844; fax 724-830-8892.

**SUSAN WILLIAMS** has joined Strassburger McKenna Gutnick & Potter in their Greensburg office at 206 North Main Street. She can be reached at 724-836-5423; fax 724-836-4750.

wba



# Actions of the Board

## AUGUST 19, 2003

- Decided to check advertising costs for law journals from surrounding counties to consider possible rate increases for Westmoreland County.
- Asst. Treasurer DeDiana agreed to contact the state corporation bureau to investigate those businesses who have not published fictitious names in the law journal.
- Heard report from President Kress that he had checked on the possibility of allowing bar members to bypass security at the courthouse and that request was denied.
- Learned that President Judge Ackerman will write letters to those attorneys who are “no-shows” for arbitration panels.
- President Kress reported that he had contacted the PBA Unauthorized Practice of Law Committee and the Attorney General’s office regarding a possible UPL by a company selling living trusts in Westmoreland County.
- Approved bid to remove the ivy from bar building.
- Learned that the grant from Laurel Legal Services to the Westmoreland Bar Foundation for 2004 will remain at the current funding level of \$30,000.
- Approved expenditure to send two bar members to the national Lawyer Referral Service conference.
- Approved expenditure for Judge Bloom to attend the national Lawyers Concerned for Lawyers conference.
- Discussed the purchase of a defibrillator for use in bar headquarters and agreed to table until after the “heart talk” quarterly meeting on October 31.
- Voted to charge \$37.50 per person to attend the fall gathering to be held at Fox Chapel Racquet Club.

## SEPTEMBER 16, 2003

- Accepted Membership Committee report: Robert Frey, for participating and Debra Miskovich as associate.
- Discussed rental opportunities for the first floor space of bar headquarters. Agreed to run an ad in the 4 Pgh-Gbg with availability for January 15, 2004.
- Agreed to offer the use of the bar building for the community education seminar on Planned Giving being given by the Westmoreland Collaborative.
- Voted to run a full page ad in the Redstone Highlands’ annual Spirit of Giving event program in recognition of the contributions that John Noel made to the profession and to his community.
- Agreed to place “YL Committee Chair Report” on the board agenda as a standing report under the committee report portion of the agenda.
- Heard report from Lawyer Referral Service Committee Chair Jim Whelton that he would most likely remain Chair of the LRS committee for the next year to follow through changes of the program.
- Also heard report that Colburn met with LRS representatives to discuss appropriate and adequate insurance for LRS.
- Voted to implement increase in advertising rates for the Law Journal, effective January 1, 2004.
- Voted to double the cost of subscription rates for the WLJ, effective January 1, 2004.
- Charged the finance committee with reviewing the current investment policy of the WBA and making a recommendation to the board.
- Agreed to notify PAC members about the PBA Day on the Hill event on October 21, which allows bar members to meet with local legislators in Harrisburg.
- Voted to move the October board meeting to Wednesday, October 29 at 4 pm with invitations sent to judges.
- Voted to invite the ACBA director to the November board meeting to discuss the rental space of the first floor of bar building.

## bookmark

*continued from page 15*

detail fair warning to think twice before throwing away what you have for what you think you want. I cheered for Anna in the beginning when she defies local tradition. I continued to cheer for her through about page 400 but despised her at the end. She never should have left her son, so she realized too late.

### CHASING THE HAWK: LOOKING FOR MY FATHER, FINDING MYSELF

◆ *by Andrew Sheehan* ◆ For anyone who got caught up in the running craze in the late 70s, you will find this book fascinating. Andrew Sheehan, local newscaster for Pittsburgh and son of Dr. George Sheehan, running guru, writes a painful, yet honest, account of growing up with the nationally adored fitness hero. Dr. Sheehan attracted a cult-like following while leaving out and leaving behind his wife and their 12 children. The tragedy that befalls this dysfunctional family is heart wrenching. Andrew, estranged from his father, unemployable, and alcoholic, slowly finds reasons to mend the father-son relationship. Yes, this is another love story, but this one has a happy ending.

### IN HER SHOES ◆ *by Jennifer Weiner*

◆ I had to include a “chick” book and the fact that it is also a lawyer book is a bonus. Rose Feller is Ally McBeal but with an extra 80 pounds on her frame. A lawyer in a big-time Philadelphia law firm, Rose is looking for love and in all the wrong places. Her sister, Maggie, on the other hand is a loser with a capital “L.” She can’t keep a job, can’t manage money, can’t act her age. She is however drop dead gorgeous. Throw in a wicked step-mother, a spineless father, a long lost grandmother and a whole lot of oh-my-God-she-didn’t-do-that antics and you have a funny, yet sometimes exasperating read. This one’s definitely banned from “The Man Show.”

# Lawyer Referral Service *continued from page 14*

changes being proposed. Future articles will educate our members about the changes in greater detail.

## ONLY ONE NAME PROVIDED TO CALLERS

Presently, callers seeking a referral to an attorney are provided the names of three attorneys. All three attorneys are treated as having been provided a referral and their names then go to the bottom of the list. This is seen as unfair because two of the attorneys do not benefit from the referral. As a result, it is recommended that future callers receive only one name of a participating attorney when they call for a referral.

## FEES

A number of changes are proposed in this area. The LRS is currently a free program to the callers. It is proposed that callers will be required to pay a modest fee of \$30 prior to receiving the name of the attorney. In exchange, they will be provided a free half-hour consultation by the attorney to whom they are referred. The Committee was of the opinion that most attorneys charge \$150 per hour. The consultation charge represents less than one-half of the cost for the half-hour consultation. The attorney will be free to charge their customary fees for any time spent beyond the initial half-hour consultation. The consultation fee will be waived for personal injury, workers' compensation, social security disability, and similar cases. It is expected that this change will dramatically improve the "quality" of the referrals.

The other major change called for in the area of fees is that participating attorneys will agree to pay to the LRS 15% percent of all fees in excess of \$500 generated on any referred case. This will provide a funding stream for LRS which will permit increased marketing and support the increased costs of administering the program and also help alleviate the direct costs to the WBA.

Prior to adopting this recommendation of the ABA, the committee carefully reviewed a number of ethics opinions from across the country all of which confirm this is a permissible practice.



Lawyer Referral Service of the Westmoreland Bar Association

## SUBJECT MATTER PANELS

Presently, participating attorneys are able to accept referrals in fifteen subject areas. The Committee has endorsed the recommendation of a two-tier system. There will be a general panel which will be open to all participating members. However, for more complex cases (and in some cases all matters in certain areas), participating members will need to satisfy certain objective criteria before being eligible to receive referrals in that area of the law. Input from the substantive law committees was sought on the criteria which should be implemented and the committee is in the process of finalizing its recommendations to the Board.

The primary incentive for developing subject matter panels is the caller receiving a "known quantity" when they call the LRS. This is designed to give the caller a significantly increased level of comfort in knowing that the attorney to whom they are referred has demonstrated a certain level of experience which has been verified. This will allow our members an "edge" in competing against the big advertisers.

## PROFESSIONAL LIABILITY

The development and implementation of subject matter panels for more complicated and complex matters raises the issue of the required minimum professional liability coverage. The committee has proposed

a two-tier system to mirror that of the subject matter panels. The current minimum coverage of \$100,000 required of all participating attorneys will continue to be required for attorneys participating in the general panels. However, attorneys participating in the subject matter panels will be required to demonstrate additional coverage. The committee is finalizing its recommendations to the Board on this issue.

## STAFFING

The changes discussed in this article represent sweeping changes to the LRS program. They also represent a significant administrative challenge. Because of the administrative burden these changes represent and also to provide better screening of callers which will assist in a better referral, the committee has recommended that the Board authorize hiring a dedicated staff person who will be responsible for the day-to-day operation of the LRS.

The committee's goal is to implement the changes recommended by the ABA which are based upon the business model that has proven successful across the country over the past ten years. By doing so, we will be able to use the logo confirming the program meets ABA standards which is very important from the public's perspective. This article was intended to provide an overview of the more substantive changes which have been recommended thus far. There will be further information on the redesigned LRS distributed in the next couple of months. In the meantime, your comments are appreciated.

*Serving on the LRS committee are: Eric Bononi, Becky Brammell, John Campfield, Gary Falatovich, Richard Flickinger, Deborah Jackson, Maureen Kroll, Irene Lubin, Joe Massaro, Bill McCabe, John O'Connell, Gino Peluso, Jim Whelton (chair), and Denis Zuzik. The committee would like to thank Diane Krivoniak for all of her help over the course of the past many months.*

# Franklin L. Bialon *continued from page 3*

Frank loved his boys and was excited about their success. He worked hard to give his children the best education possible, with grooming schools, law schools, VMI, MIT, Carnegie Mellon—that is a lot of tuition and sacrifice. This extraordinarily proud father has left a wonderful legacy in these young men. The boys gave him four grandchildren, Natalie Ann Bialon, Jason Bialon, Jr., Ava Bialon and Alta Bialon.

In today's crazy world of marriage and divorce, his marriage of 35 years to his surviving wife, Alice Sepesky Bialon, was meant to be! Alice and Frank were high school sweethearts and we should take heart in their happiness.

Alice related a tender story that when they were first married and had little money, she would scrimp and save, working with her weekly grocery money to the last penny until one day,

Frank came home to announce that he was hired in his first steady paying job as the Solicitor for the Mon Valley Sewage Authority and now she could buy whatever groceries she needed. How poignant, how memorable.

This union provided the nuttiest, happiest relationship. They bubbled to tell you stories of their trips to the Witches Ball in Salem, Mass., or the ghost trips to Gettysburg and the haunted Inn, or going to Antarctica where they had their picture taken in a dog sled or going to Punxsutawney where they could dance all night and see the groundhog *maybe* see his shadow the next morning. These two never let any grass grow under their feet as they traveled extensively by visiting such places as Turkey, Greece, Italy and Alaska.

I have lost a good friend and counselor and we have all lost a very knowledgeable and skilled practitioner of the law.

## Coming Attractions

Not many of you may have realized that *the sidebar* turned 15 this year. I didn't even realize it until it was pointed out to me, but I didn't hesitate to take advantage of our milestone. What this means for you is a little gift come December (or more likely January considering the way our deadlines have been working out).

The next issue of *the sidebar* will be a "Best Of" issue. We'll take the best articles, the best photo captions, the best Sponte piece (I know, they're all brilliant—how can I choose?), the best of everything boiled down into a 20-page walk down Memory Lane.

Is there a favorite story or photo you'd like to see again? E-mail me at [sponte@aol.com](mailto:sponte@aol.com) and let me know. I may not pay attention, but then again, I may be in a good mood that day.



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# CALENDAR of Events

## NOVEMBER

19 Criminal Law, Noon  
Northern Lawyers Luncheon,  
Noon, *King's, New Kensington*  
Inns, 5 p.m.

27-28 Courthouse closed

## DECEMBER

2 CLE Lunch 'n Learn:  
"New Tax and Estate Planning  
Opportunities," Noon

4 Notary Education Seminar,  
Noon to 3:15 p.m.

8 Bankruptcy, Noon

10 Membership, Noon  
Inns, 5 p.m.

11 CLE Lunch 'n Learn:  
"InCite Update," Noon

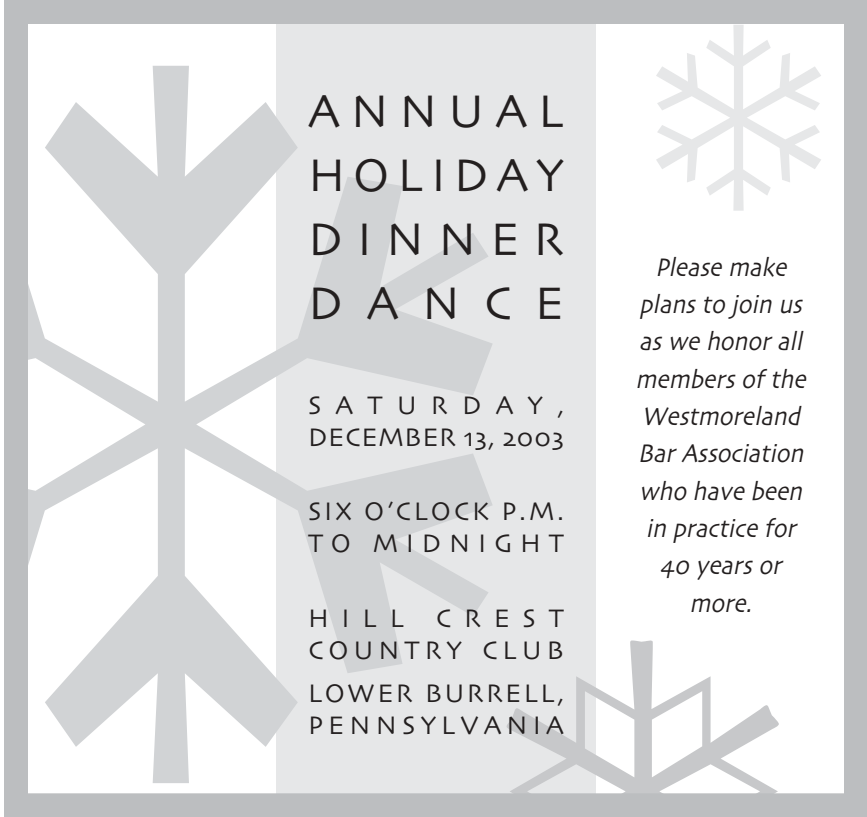
13 Holiday Dinner Dance,  
Hill Crest Country Club

17 Northern Lawyers Luncheon,  
Noon, *King's, New Kensington*

18 Elder Law and Orphans'  
Court, Noon

22 CLE Video Compliance Seminar

25 Courthouse closed



**ANNUAL  
HOLIDAY  
DINNER  
DANCE**

SATURDAY,  
DECEMBER 13, 2003

SIX O'CLOCK P.M.  
TO MIDNIGHT

HILL CREST  
COUNTRY CLUB  
LOWER BURRELL,  
PENNSYLVANIA

*Please make plans to join us as we honor all members of the Westmoreland Bar Association who have been in practice for 40 years or more.*



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