



Grant Puts Pro Bono On The Road

The Westmoreland Bar Foundation has recently been awarded \$32,000 in IOLTA grant money to strengthen and expand the current Pro Bono Program of Westmoreland County. This grant reflects an increase of \$12,000 over the grant money received last year.

With this additional funding, the Pro Bono staff will take a monthly road trip to New Kensington to provide services to citizens in the northern end of Westmoreland County. The mobile program will set up offices in New Kensington's City Hall and citizens with pre-scheduled appointments can meet first with the Pro Bono staff for screening and intake purposes before meeting with a volunteer attorney. Information will be sent via dial-up back to the Pro Bono home office to update the Pro Bono database.

WBF Treasurer Milt Munk authored the grant proposal and cited the following as the need for a remote office: "Westmoreland County is one of the largest counties in area in the Commonwealth of Pennsylvania. The cities of New Kensington, Arnold and Monessen are all located more than 35 miles from the Greensburg Pro Bono office and there is no convenient public transportation available to enable potential clients to come to Greensburg." By taking the program to the northern part of the county we expect to be able to service those clients who find it difficult to travel to

Greensburg. More importantly, it is for those who do not have the means to make the trips for the initial consultation and follow-up attorney meetings.

The success of the program, though, will be determined by attorney involvement. "Pro Bono works in Westmoreland County because of the volunteer efforts of our attorneys," states WBF Executive Director Diane Krivoniak. "The New Kensington attorneys are a close-knit group, who are active in and supportive of their community. This program can benefit the attorneys by making it convenient and more efficient for bar members to satisfy their Pro Bono hours."

CLIENT ELIGIBILITY

Pro Bono provides service to those who are income-eligible and fall within the "125% above poverty" guideline. As an example a family of four would need to earn less than \$2,000 per month or \$23,000 per year to qualify for pro bono services. "The mission of the Pro Bono Program has been to provide services for those eligible, in addition to recognizing the limited resources of those individuals," says Pro Bono



▲ Pro Bono Coordinator Iva Munk (front) and paralegals Amanda Stein (left) and Kate Wiatrowski (right) will take the Pro Bono Program on the road to New Kensington every month, thanks to an IOLTA grant.

Coordinator Iva Munk. "This undertaking will bring the needed help to those clients within our service area."

HISTORY

The Pro Bono Program began in Westmoreland County in 1991 with funding provided by both Laurel Legal Services and IOLTA. Now in its thirteenth year, Pro Bono expects to serve over 500 indigent clients in 2004. What started with a single-room office and one employee has

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President's Message

Life Is Good—Or Is It?

by Robert I. Johnston, Esq.

When I came on the WBA Board six years ago, I knew as much about Bar Association matters as your average member, which is to say, not much. But I did know about one thing, our finances; we were doing pretty well there. And why shouldn't we? Lord knows we pay enough dues each year. And at every annual meeting I ever attended, our Treasurer-for-Life, Milt Munk, has spoken exactly the same words, "Well, turns out we took in a bit more than we spent last year. Made a few bucks on our investments, too. Looks like we're in pretty good shape."

Heck, I thought we were rich. And that didn't change after, in the infinite wisdom of our membership, I was elected. Every budgetary decision I've been a part of in six years has been prefaced with the question: "Milt, do we have enough to do this?" And like the goose that laid golden eggs, Milt's reply was always some variation of "Yeah. I might have to move some things around but we got it." And we were happy. To tell you the truth, the feeling was a little bit like what I imagine it must be like to be well enough off not to have to carry money or ask how much anything costs.

If you took a snapshot of our situation, we are well off, especially when compared to most other Bar Associations. We now own our own building and we have significant investments (thanks to good fortune

and Milt). I doubt any Bar Association provides more or better services to its membership. And it's no coincidence that being a lawyer in Westmoreland County is about as good as it gets. It's a rosy picture: life is good—or is it?

Last month more than 20 of us, including our entire Board, met for a Planning Retreat. The principal topic was our financial future. Frankly, to a person, we arrived with the sense that the Association is, if not rich, certainly well off. I am both sad and happy to tell you that's not how we returned.

Let me tell you why. Remember our annual dues? It's not what you think. After we deduct what we pass on to the PBA as a unit county, what remains barely covers the cost of your dinner at the Annual Meeting. If dues were our only source of revenue, we'd be out of business tomorrow. The fact is that 80% of our income, the money that pays for just about everything we do, is derived from the law journal, in the form of fees for estate notices, sheriff's sales, and the like. We have benefitted from the fact that use of the law journal is required by the Supreme Court for most public notices.

But that may change. Every other year of late, there has been pressure from the public sector to end that requirement; so that newspapers can get the business, and eventually the notices will probably be provided on-line anyway. Last year it was touch-and-go to the end. It is the considered opinion of the Planning Committee that we cannot assume our principle source of revenue will be available indefinitely. And it is the

unanimous opinion of the Committee that, if it occurred today, the loss of the law journal income would be the end of the Bar Association as we know it. Increasing our dues by 500% wouldn't cover the shortfall.

If you accept that, and I do—we all do—the notion that we're rich is just an illusion. It's a lot like someone with a pretty good income, a spouse and a couple of kids to support, and college to plan for, with a decent amount in savings, who learns that the plant might close next year. All of a sudden, doing pretty well doesn't seem nearly well enough.

If you were that person, would you take your chances with circumstances you really can't control, or would you make some changes to protect your family's future? Kind of a no-brainer, isn't it? The point is, if we begin to act now, we believe we can protect our future. We plan to set aside some amount each year in our budget to add to our investments, we intend to be more frugal where we can in our expenditures, and we plan to explore ways to involve the Bar Foundation and Lawyers Abstract in collaborative efforts of mutual benefit that may help our bottom line. Perhaps we can develop other sources of income, such as the new plan for the Lawyer Referral Service. And just the recognition that every dollar matters will make a difference in how we handle our resources. We appreciate your support and patience.

Just thought you should know.



Spreading Good News at the Westmoreland County Prison

by Ana Cottone, Esq.

With very little prompting, former public accountant Stanley Albright will candidly tell you about his upbringing. “My dad left when I was five. I had very little family support or direction.”

“I used to be a drunk,” Stanley admits, until his addiction to alcohol almost ruined his marriage and his life. After almost ten years of sobriety, the now-Chaplain Stanley Albright ministers to inmates suffering from similar problems,

from the advantaged perspective of being able to honestly say that he has been in their shoes.

Since March 2002, Chaplain Albright has provided

spiritual guidance to inmates and correctional staff at the Westmoreland County Prison. He is one of over 200 pastors who are employed through the non-profit evangelical ministry Good News Jail & Prison Ministry, an organization that provides chaplains to jails and prisons across the United States and in many foreign countries. The services provided by Good News include, among other things, one-on-one counseling and crisis intervention, Bible studies and worship services, a liaison between the inmate and his house of worship, the “Angel Tree” Program, which provides prisoners’ children with gifts, and a bridge between the inmate and community agencies. Although the ministry describes itself as fundamentally based

upon Christian principles, the Chaplain respects all faiths and he provides a Bible, a Koran, a prayer rug or any other religious material that an inmate may request.

The Chaplain is sensitive to the fact that many of the inmates at the prison lack family support and suffer from various addictions. Because he himself faced some of the same problems, his experience has informed his work in encouraging the inmates to change their lives. He explains that the lack of strong family ties leaves an inmate feeling alone, helpless, and without hope that a better life is possible. He sincerely believes that rehabilitation begins with “hope” and strives to encourage hope in his ministry. “The big word is HOPE. They go from lacking it to having it.” As a result, he reports individual

success stories and statistics that reflect the ministry’s effect on lowering recidivism.

When asked how Good News Jail & Prison Ministry might appeal to a non-believer, he smiles gently. “Dollars and cents,” he said. “Even a non-believer can see the value in lowered recidivist rates, fewer people in prison. Our goal is to help someone who is in a bad position, incarcerated and addicted, to rejoin society. They go from being a tax spender [incarceration costs almost \$25,000 per person per year] to a taxpayer.”



▲ Ana Cottone

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Since 1991, the Westmoreland Bar Foundation has raised thousands of dollars to assist the poor, disabled, elderly and children in our community. Through the **Memorial Program**, you can honor a colleague or loved one with a contribution to the Foundation. Your gift will help serve the needs of our own who have nowhere else to turn for legal services.

If you would like to make a gift to the Foundation as a meaningful expression of respect, please make check payable to the Westmoreland Bar Foundation and mail to WBA Headquarters, 129 N. Pennsylvania Ave., Greensburg, PA 15601.



Spreading Good News *continued from page 3*

I serve on the Chaplain's Advisory Board and have witnessed the worship services and prayer sessions. It is amazing to see the smiling faces of the women as they sing hymns, laugh, cry and talk about their families, their regrets, the challenges they need to overcome—and their hope that when they are released, they could make things different.

In addition to the ministry's current offering of services, new programs are planned to stretch beyond the walls of the prison and lend support on the outside. One project in the works is a Chaplain's Package, a parting gift that will be given to inmates as they leave the institution and which will contain telephone numbers of available support services, job opportunities, mentors, and assistance in getting appropriate clothing for job

interviews. Eventually the Chaplain hopes to purchase a home to provide housing for the recently released individuals who have nowhere to live.

Because Good News Jail & Prison Ministry is a non-profit foundation—it receives no federal, state or local tax

worship services always appreciate any other offers of help.


Donations can be made by check payable to Good News Jail & Prison Ministry and addressed to Chaplain Stanley Albright, Westmoreland County Prison, 3000 S. Grande Blvd., Greensburg, PA 15601. (The memo line of your check should note "Westmoreland County," if you wish the funds to be used locally.) Additional types of donations may include interview/business casual clothing, job opportunities for the recently released, and mentors. The Chaplain is also looking for members of the business and

Our goal is to help someone who is in a bad position, incarcerated and addicted, to rejoin society. They go from being a tax spender to a taxpayer.

dollars and survives only through private donations—they periodically hold fund-raisers to allow them to continue their work.

In addition, the Chaplain and volunteer ministers who assist with

legal community to serve on the Good News Jail & Prison Ministry Advisory Council and to assist in organizing fund-raising events. He can be contacted by telephone at 724-830-6107 (office) or 412-877-6296 (cell).

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bookmark What Have You Been Reading?

by L. Christian DeDiana, Esq.

My approach for this column will be different from how others have approached it. Rather than discussing numerous works by various authors, I will discuss works of two of my favorite authors, Patrick O’Brian and Bernard Cornwell. I will risk charges of sexism by stating up front that these two authors and their works will generally be of greater appeal to men. *(Editor’s note: I thought about editing out that comment, but then I figured, “Hey, Chris is a big boy and a fine lawyer. If he wants to incur wrath or Title 7 litigation, who am I to deny him that pleasure?”)* The reasons are simple—all the heroes are men; the context is war; and I cannot



▲ Chris DeDiana

persuade my wife to read them.

Both authors have written a series of books. Patrick O’Brian has written the 20-volume Aubrey/Maturin series. Bernard Cornwell is best known for his Richard Sharpe series, but has written several excellent shorter series. An advantage of reading a series that I appreciate is that I do not have to think very hard about which book I will read next.

PATRICK O’BRIAN

Patrick O’Brian’s Aubrey/Maturin series has vaulted into the public’s awareness with the recent release of the movie, “Master and Commander: The Far Side of the World.” While the movie was exciting, it pales in comparison to the books upon which it was based. O’Brian’s painstaking research and attention to detail, along with the rich language he employs, will give the avid reader great pleasure. His dry wit will also give the reader many laughs.

The historical context of the series is the period of the Napoleonic Wars between England and France. The novels begin in the late 1790s and end in approximately 1820. Most of the sea battles described in the books actually took place in the fashion described.

One of the two main characters is Jack Aubrey, a ship captain in the British Royal Navy. Physically, he is a large man. At sea, he is a brilliant tactician. On land, he has a tendency to exercise a broad range of bad judgment.

The other main character is Stephen Maturin, who, in my opinion, is the more interesting of the two. He is a brilliant physician and ship’s surgeon, as well as a scientist or “natural” philosopher. He also evolves into an important spy for British Naval Intelligence. Physically, he is small and scrawny looking. Contrary to his appearance, however, he is a deadly shot and swordsman.

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What Have You Been Reading? *continued from page 5*

The two characters are the closest of friends, and share many adventures across the globe.

There are twenty books in the series; O'Brian died several years ago, so there will be no more. The first book in the series is "Master and Commander." Because there are recurring characters introduced throughout the series, I recommend that the books be read in order.

BERNARD CORNWELL

Bernard Cornwell's most well-known series is the Richard Sharpe series. The historical timeline for most of the series, like O'Brian's Aubrey/Maturin series, is the Napoleonic Wars. That, however, is where the similarity ends. Richard Sharpe is a British soldier and most of his adventures are on land, though he does get involved in several sea battles. While both Captain Aubrey and Dr. Maturin are well educated, Richard Sharpe is not educated at all.

Like O'Brian, Bernard Cornwell has thoroughly researched his subject. Many of the battles described in his books actually took place, and his descriptions of them are excellent. His details are exacting and brutal.

Cornwell initially wrote eleven Sharpe novels. Following their success, he wrote eight more. Three of them form a trilogy about three major battles in India, and are a prequel to the original eleven novels. They are an excellent starting point for the entire series. The other newer novels fit

historically between the original eleven. It is not essential to read them in order, but it is preferable.

In addition to the Sharpe series, Cornwell has written several series in other historical contexts. A favorite of mine is the Grail Quest series of three novels, which includes "The Archer's Tale," "Vagabond" and "Heretic." These follow the adventures of Thomas of Hookton, an archer fighting for the English during the Hundred Years War. The first book begins in 1342. After the murder of his father and the annihilation of his village, Thomas discovers that he has a mysterious family history, interweaved with its possession of the Holy Grail. The battles described in the novels are quite brutal. The books must be read in order.

Another excellent Cornwell three-book series is the Warlord Chronicles, a new take on the legend of King Arthur. The historical context is Fifth Century Britain. This series consists of "The Winter King," "Enemy of God" and "Excalibur." Again, it is important to read them in order.

Unfortunately, I gave up after reading the first book of Cornwell's The Nathaniel Starbuck Chronicles, a series of four novels covering four of the main battles of the Civil War. While the historical context is fascinating, and the battle descriptions are superb, I did not like the main character, Nathaniel Starbuck, or any other character in the novel.

When you are looking for a new piece of fiction to enjoy, keep in mind Patrick O'Brian and Bernard Cornwell.

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Spotlight on Elizabeth Bailey

Q WHAT JOBS HAVE YOU HAD PRIOR TO BECOMING AN ATTORNEY?

A After I graduated from the University of Pittsburgh in 1941, I taught English and History to the eighth grade at West View Junior-Senior High School, while I attended Duquesne University Law School five evenings a week.

Q WHEN DID YOU BEGIN TO PRACTICE LAW?

A I was admitted to practice before the Supreme Court of Pennsylvania on October 9, 1948. Thereafter, I practiced law with James C. Tallant for 46 years, until his death on April 8, 1994.



Our principal office was in Pittsburgh until 1978, when we moved to Murrysville, although Mr. Tallant always maintained an evening office in his garage building in Murrysville. I have continued to practice law in our Murrysville offices as one of the older members of the Bar in both Westmoreland and Allegheny County. I was the 76th woman to be admitted to the Bar in Allegheny County.

Q WHAT IS THE MOST NOTORIOUS CASE YOU HAVE HANDLED?

A My most publicized case, *Buckner v. Barr*, occurred when I was young. I represented a mother from California who came here to regain custody of her son, which the lower Court and the Supreme Court of Pennsylvania awarded to her. She then took her son home to California and the Barrs followed her, regained custody of her

son in the California courts, and brought him back to Pennsylvania. There must be a lesson here somewhere. Since that time, I have handled many adoption cases with Family & Children's Service and Allegheny County Children & Youth Services.

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

A The qualities I most admire in any attorney are clear thinking and courtesy. In my practice, my objective is to help people. In the field of estate administration, the opportunities are numerous, and because I enjoy what I do, I continue to come to my office at age 84 every day, still believing I am helping.

Q WHAT IS YOUR FAVORITE JOURNEY?

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Spotlight on Elizabeth Bailey *continued from page 7*



A My favorite journey is to Naples, Fla., and the Wilderness golf practice range with golf lessons. Sharon, the pro, is wonderful. She has to be very patient to continue to teach me.

Q **WHAT ADVICE WOULD YOU GIVE SOMEONE WHO IS CONTEMPLATING ATTENDING LAW SCHOOL?**

A Once in a while people ask me for advice about attending law school, and I always say no matter what you do, you will never be sorry you attended law school, because there you will learn a new way to read, think and approach problems.

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

A In my practice, I have not done great things, only numerous little things, which most people appreciate, and I appreciate their appreciation.

Q **HOW DO YOU LIKE TO SPEND YOUR TIME WHEN YOU ARE NOT IN THE OFFICE?**

A In my later 70s, I began attending tai chi classes, which I am still attending three nights a week. I like tai chi because it makes me aware of my posture and balance. Along

with tai chi, I began to attend yoga classes, which I presently attend three times a week. Yoga helps me with body flexibility, relaxation and concentration. When I am doing yoga poses, I am aware only of the alignment of my body and I do not worry or think about anything else.

From yoga, I have continued on to Pilates and attend Pilates class two days a week. I have no trouble with the twist to the right, but much trouble with the twist to the left. From this, my Pilates teacher has deduced that I do not follow through well in my golf swing. I continue to work on this.

What I would most like to do better is the forward bend, to wit, touch my toes with my fingers, and put my head on my shins, either standing, sitting or lying down. Some of my colleagues can do this well, but thus far, my body does not go there.

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

A Happiness to me is not an idea, it is an awareness that I have inside myself.

Q **WHAT IS YOUR MOTTO?**

A My motto is, "Enjoy!"



Elizabeth Bailey demonstrates the Bow, or Dhanurasana, position in yoga.

BOW (DHANURASANA)

Lie on the stomach with the arms extended alongside the body. Place the chin on the floor.

Bend both legs at the knees. Keeping the arms on the outside of the legs, grasp the ankles.

Inhaling, raise the head, shoulders and chest; then pull the legs up as high as possible. The body should resemble the smooth curve of a bow. Breathe evenly; hold for 5 seconds.

Exhaling, slowly lower the legs until the knees are on the floor; then lower the torso. Relax.

Repeat the exercise one or two more times.

NOTE: Beginners should allow the legs to be apart. In this exercise the strength of the arms is being used to further the suppleness of the back, and due caution should be taken not to strain.

BENEFITS:

- Develops flexibility of the spine.
- Stretches the abdominal muscles and massages them.
- Prepares one for more difficult backward-bending postures, such as the wheel and the scorpion.
- Reduces fat.
- Strengthens the knee joints.

LawSpeak

A drunken man is as much entitled to a safe street as a sober one, and much more in need of it.

— Heydenfeldt, J., *Robinson v. Pioche*, 5 Cal 460, 461 (1855)

To-Wit: Noon of the Living Dead

by S. Sponte, Esq.

As a lawyer with more than thirty years of experience, I have disciplined myself to notice everything that happens around me. When strolling about, one cannot be too diligent in trying to spot an accident or avoid miffed clients. Yet, in the tale I am about to tell, my mind was elsewhere as I walked along the street in this sleepy western Pennsylvania town. I should have remembered that a noonday walk along the public streets is not at all like trying a case in a courtroom. On the street, you have to pay attention all the time.

The miserable, wretched and horrible day I am about to describe started out just like any average day in the life of any average lawyer—miserable, wretched and horrible. At exactly five minutes before the noon hour, just like always, I got up from

my desk, donned my suit coat (no pun intended), and joyfully left my office, bound on foot for lunch.

It wasn't until I hit Main Street that I realized something was amiss. There, on the corner, perched atop a mailbox, I spied a colleague. Like a drawing from James Thurber, he had hunkered down low along the upper arch and, with his left hand shading his eyes from the glare of the noonday sun, he was staring intently, first up the street, then down. His right arm was rigidly proffered out to shake hands with anyone who happened by, and between his lips he was holding both pen and paper from which an amazing quantity of drool hung dripping, glinting in the sunlight. Campaign buttons were pinned to every inch of his clothing and bumper stickers were stuck to every cheek and jowl.

It was all this profound festoonery that immediately alerted me to the

danger I was in. You see, I had completely forgotten that this particular day was the opening day of judicial candidate season and I had accidentally stumbled upon a specimen in full heat.

I immediately sought cover behind the traffic light pole on the corner, but he spotted me anyway. Damn these love handles. Unperching himself, he began walking in my direction with a bizarre, stiff-limbed gait, both arms extended straight out in front of him, one hand now holding both pen and paper, the other hand twitching and flexing in a grotesque and lunging handshake. As he approached he let

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To-Wit: Noon of the Living Dead *continued from page 9*

loose a garbled kind of grunt that, coupled with his actions, I took to be a request to sign his judicial nominating petition. To that end, he thrust forward several drool-laden devices.

I thought I was done for, but at the last second he bumped into a fire hydrant with his right leg and, pivoting on the axis of his left leg, he involuntarily changed direction and marched blindly and stiff-legged out into the street where he was immediately run down by a hard-charging Subaru. Ink and drool spattered everywhere. Funny though, there was no blood.

In the next instant, even before I could catch my breath, I found myself surrounded on the corner by at least a dozen other judicial candidates. The smell of ink and drool must have attracted them to the scene. Similarly stiff-limbed and festooned, they had closed in on me so quickly, so silently, I never had a chance. They must have been lurking out of sight in doorways, hiding under parked cars, who knows. All I know is that I was begirted and bludgeoned to my knees by the unrelenting slaps of a dozen nominating petitions. As I lay there twitching, I couldn't help but recognize the irony in being finally vanquished by colleagues not yet elected to the

bench. Well, for me it was irony, for them it was good practice.

But then, in a sudden rush of rage-induced adrenaline, I leapt to my feet. In the momentary start thus created, I swept away a path with my arms and fled to the nearby courthouse. (It has always been astonishing to me how much

As long as just anyone can run for judicial office, the streets will never be safe.

adrenaline I can pump out when enraged at injustice, but it usually only happens when I get back an appellate opinion.)

It is now early evening. I have been in hiding in the courthouse since noon. I know they followed me here, I caught a glimpse of them over my shoulder as the guard admitted them single-file through security. I guess metal detectors can't recognize campaign buttons for the dangerous weapons they really are.

As a last resort, I have taken refuge in the law library. It has been closed for hours and I am sitting here alone, typing away on the librarian's word processor in total darkness. I cannot turn on the light for fear of discovery.

In my time of quiet terror, I have given this matter much thought, and I have concluded that as long as just anyone can run for judicial office, our streets will never be safe. It is up to us as a profession to control this wanton proliferation of judicial candidates. I therefore propose that every potential judicial candidate undergo an initial screening process as a prerequisite to running for the bench. Nothing fancy, mind you. Why, a simple spelling test would eliminate most of them.

For the time being, I intend to remain right here. I know they're still out there looking for me, but I think I'm safe. That is, after all, a law library, the last place any judicial candidate would ever go. Besides, I figure that if any of them actually knows where this place is and can find me here beneath the U.S. Supreme Court Reporters, well, then, that's the petition I'll sign.

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Pro Bono

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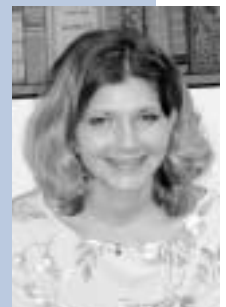
grown to a 1,200-square-foot office with three employees and five contract attorneys. Cases handled through the Pro Bono Program include: landlord/tenant, custody, bankruptcy, license suspension, unemployment, and social security.

The New Kensington program is expected to begin sometime in November. By the end of 2005, it is expected that a landlord/tenant mediation program and a domestic relations clinic will be added to Pro Bono programming.

Meet Amanda Stein

Amanda Stein has joined the staff of the Pro Bono Program. "As the Pro Bono Program grows with the times it was necessary to hire another person," says Pro Bono Coordinator Iva Munk, "and Amanda fits into the mix very well." Amanda will be sharing the paralegal position with Kate Wiatrowski, who has gone to part-time status in order to continue her education.

"It is truly rewarding to be able to utilize my skills while helping others in the community," says Amanda of her new position. Amanda earned an Associate's Degree in Legal Assisting and a Business Management diploma from the Westmoreland County Community College, graduating with high honors. She also completed an internship with DeBernardo, Antoniono, McCabe & Davis in Greensburg.



▲
Amanda
Stein

July 2004 Trial Term

Jury Trial Verdicts

by Rachel Huss, Esq.

Of 93 cases listed for the July 2004 Civil Jury Trial Term, 30 settled, 43 were continued, two were transferred to non-jury, three moved to arbitration, one will be mediation, two were stayed due to bankruptcy, two were verdicts from binding summary jury trials, one verdict was from June 4, 2004, non-suit was granted in one, three verdicts were entered and five were held to the next term. The four cases that were deliberated upon by juries are summarized below.

CATHERINE SUSIN
V.
NASIR SHAIKH, M.D.,
ALSO KNOWN AS M. NASIR SHAIKH, M.D.
NO. 215 OF 1999

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

On January 16, 1997, plaintiff was admitted to Jeannette District Memorial Hospital for elective surgical treatment of an abdominal aortic aneurysm. On that date, defendant Dr. Shaikh, a thoracic and cardiovascular surgeon, performed a replacement of the abdominal aneurysm of the aorta with a

graft. During the surgery, plaintiff suffered surgical perforations of her small bowel. Although defendant repaired one of the perforations, plaintiff claimed that defendant failed to detect another perforation at the time of surgery and left the perforation untreated post-surgery. Plaintiff underwent a series of surgeries to repair the perforation and to irrigate liquid that was pooling in plaintiff's abdomen. Plaintiff argued that defendant was negligent in failing to recognize and administer treatment for the progressive infection plaintiff developed after surgery. As a result, Plaintiff received extensive periods of total parental nutrition and intestinal tube feedings, had a drainage tube placed through the abdominal wall, and received a skin graft to the abdomen. As to the informed consent claim, plaintiff asserted that defendant did not obtain her informed consent in that he failed to take an appropriate history of her prior surgeries which would have revealed that the surgery would have been complicated due to the scarring plaintiff sustained from previous surgeries.



▲ Rachel Huss

continued on page 12

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Jury Trial Verdicts *continued from page 11*

Defendant denied negligence and contended that any damage that was done to any of the surrounding tissue was a result of the severe adhesions which were encountered at the time of the surgery. Defendant also contended that he did not miss the second perforation at the time of surgery. Defendant maintained that he rendered appropriate treatment in the post-surgical period. Defendant further argued that if the second perforation opened up post-surgery, it did so spontaneously and at a time later than contended by plaintiff.

Plaintiff's Counsel: Ned J. Nakles, Jr., Nakles and Nakles, Latrobe

Defendant's Counsel: Robert W. Murdoch, Rawle & Henderson LLP, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Plaintiff in the amount of \$600,000.00. (Jury found that the surgery by defendant was done without the informed consent of the

plaintiff. Jury also found defendant negligent, but that such negligence was not the factual cause of plaintiff's harm.)

**PATRICIA R. CHOLOCK
AND STEVEN R. CHOLOCK,
HER HUSBAND
VS.
HERITAGE MANUFACTURING,
INC., REESE SUPPLY,
AND ACUSPORT, INC.
NO. 5856 OF 2002**

*Cause of Action: Strict Products
Liability—Loss of Consortium*

This action arose out of an accidental discharge of a .22 caliber single action Colt-style Rough Rider revolver manufactured by Defendant Heritage Manufacturing, Inc. The gun was registered in the name of wife-plaintiff and was purchased for her personal safety. Husband-plaintiff stored the loaded gun on a shelf in the bedroom armoire, on top of a cardboard box

and underneath a pile of sweaters. On February 26, 2002, wife-plaintiff removed a sweater from the armoire, causing the loaded revolver to fall to the floor and discharge a bullet into wife-plaintiff in her groin and abdominal area, causing multiple injuries to internal organs. The bullet was never removed from wife-plaintiff's body. Plaintiffs contended that the revolver contained a design defect in that it should have been equipped with a transfer safety bar, a passive safety mechanism, which would have prevented the gun from firing even if all active safety mechanisms on the revolver had been activated by plaintiffs.

Defendants contended that the revolver did not contain a defect and did not require a transfer safety bar in addition to the two active safety mechanisms that were incorporated into the historic design of the gun. Defendants also asserted, as a defense to strict liability, that husband-

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plaintiff was reckless in storing the loaded gun without activating the safety mechanisms and in such a location and manner that it could fall to the floor and discharge.

Plaintiffs' Counsel: James L. Welsh, III, Robert C. Klingensmith, Payne, Welsh and Klingensmith, P.L.L.C., Turtle Creek

Defendants' Counsel: Timothy A. Bumann, Bridgette E. Eckerson, Budd Larner, Rosenbaum, Greenberg & Sade, Atlanta, Ga.; Stanley A. Winikoff, Swartz Campbell, LLC, Pgh.

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

Result: Verdict for Defendants. Jury found that the Heritage revolver did not have a design defect and was not unsafe when sold.

ROBERT A. ROCKWELL

V.

**DERRY MEDICAL ASSOCIATES,
A PENNSYLVANIA CORPORATION,
AND ROBERT L. DAVOLI, M.D.
NO. 6100 OF 2000**

Cause of Action: Professional Negligence—Medical Malpractice

This medical malpractice action was filed by plaintiff against his treating physician, Dr. Davoli, as a result of injuries plaintiff allegedly suffered after taking a medication prescribed by the defendant. In July of 1998, plaintiff reported to Dr. Davoli with complaints of shoulder pain. Plaintiff alleged that he communicated to Dr. Davoli that he had a history of bleeding ulcer in 1991 and 1997, and that the ulcer was related to the use of non-steroidal anti-inflammatory drugs. On July 9, 1998, Dr. Davoli prescribed Cataflam ("Diclofenac"), a non-steroidal anti-inflammatory medication, to treat plaintiff's shoulder pain. Plaintiff was instructed to take Cataflam for shoulder pain as needed. In April of 1999, after using the medication, plaintiff was admitted to Latrobe Hospital as a result of severe abdominal pain and upper GI bleeding. He was further diagnosed as having a severe and bleeding ulcer, which required him to undergo surgery, receive substantial transfusions,

and be hospitalized in the intensive care unit. Plaintiff alleged that the cause of the bleeding ulcer and surgery was determined to be secondary to the use of Cataflam. Plaintiff is required to take Prilosec, Prevacid and/or other medications on a permanent basis and developed dumping syndrome, which is a permanent condition.

In addition to asserting the provisions under the applicable medical care services malpractice act, defendants asserted the comparative negligence of plaintiff and the existence of intervening and superseding causes. Defendants asserted that Dr. Davoli attempted to treat plaintiff's condition as best as he could in light of plaintiff's restrictions with taking various medications. Defendants contended that plaintiff was instructed to take the medication sparingly and was informed of the dangers associated with the medication, which was denied by plaintiff. Defendants also maintained that plaintiff suffered from the chronic condition of bleeding ulcer and argued that the medication prescribed by Dr. Davoli was not a substantial factor in contributing to plaintiff's injuries.

Plaintiff's Counsel: Alan H. Perer, Matthew T. Logue, Swensen Perer & Kontos, Pgh.

Counsel for Defendants: Diane Barr Quinlan, Olszewski & Quinlan, P.C., Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendants.

**OLGA B. GETTINS AND
JAMES A. GETTINS**

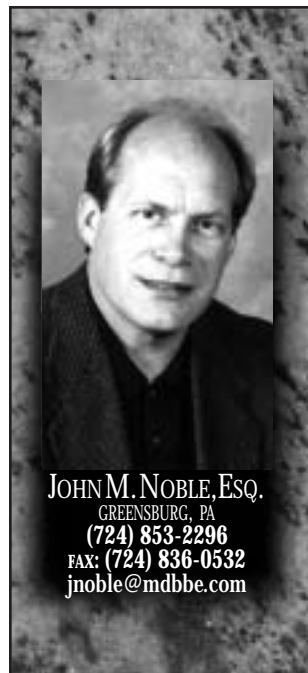
V.

**JOHN A. MORRISON
NO. 5316 OF 2003**

Cause of Action: Negligence—Motor Vehicle Accident—Loss of Consortium—Summary Jury Trial

On May 18, 2002, at approximately 1:15 p.m., husband-plaintiff was operating his vehicle, in which wife-plaintiff was a passenger, in an easterly direction on State Route 3099 in Hempfield Township. Plaintiffs' vehicle began to proceed through the intersection of State Routes 3099 and 119 on a green light for their direction of travel. Defendant was operating his vehicle in a northerly direction on Route 119. Plaintiffs alleged that defendant failed to stop at the red light, causing his vehicle to collide with the passenger's side of plaintiffs' vehicle. As a result of the accident, wife-plaintiff sustained the

continued on page 14



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Jury Trial Verdicts

continued from page 13

following injuries: multiple fractured ribs; bilateral lung contusion; respiratory arrest; concentric left ventricular hypertrophy with mitral and tricuspid insufficiency; cardiac contusion; irregular heart rhythms; aggravation of pre-existing heart condition; and anxiety and emotional distress. Husband-plaintiff asserted a claim for loss of consortium.

At trial, defendant did not contest negligence. However, defendant argued that such negligence was not a substantial factor in causing most of the injuries to the plaintiff. Defendant contended that plaintiff suffered from an existing heart condition that was aggravated by the accident, and that such aggravation ceased after a short period of time. Defendant argued that plaintiff was hospitalized immediately following the accident, but never treated with any

New Member Sketches

Judith M. Fischer was admitted to the WBA as an associate member. A graduate of Penn Hills High School, she majored in Education at North Carolina State University and graduated from the NCCU School of Law. Judith works for the Internal Revenue Service in Pittsburgh. She and her husband, W.D., live in Apollo.

Justin M. Walsh has joined the WBA as a participating member. A graduate of Yough, he earned a B.S. in Political Science from St. Francis College, and his J.D. from Seton Hall University School of Law. Justin is an associate with Fisher, Long & Rigone in Greensburg. He and his wife, Jennifer, live in Belle Vernon.



medical providers after the hospital stay. Defendant also contended that any injuries plaintiff received in the accident resolved within a short amount of time.

Plaintiff's Counsel: Christopher M. Miller, Edgar Snyder & Associates, LLC, Pgh.

Defendant's Counsel: Michael C.

Maselli, Law Office of Marianne C. Mnich, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Summary jury rendered verdict in favor of Plaintiff in the amount of \$12,000.00. The parties had previously entered into a high-low agreement with respect to damages.

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The Experts Are There to Help

by Judge Irving L. Bloom

Today, somewhere in Pennsylvania, a lawyer is impaired. He may be late and unprepared for court. She may be intoxicated at work, or worse, in court. He may be contemplating suicide. What if this is you or someone you know? What strictly confidential help is out there specifically tailored to aid lawyers, judges and their families? Lawyers Concerned for Lawyers of Pennsylvania.

In 1988, recovering lawyers and judges created Lawyers Concerned for Lawyers to assist their colleagues who were still struggling with substance abuse, emotional difficulties and other related concerns. Today, Lawyers Concerned for Lawyers is a comprehensive assistance program designed to meet impaired lawyers, judges and their family members' unique needs. It is available every minute of every day to legal professionals and their family members in Pennsylvania.

Lawyers Concerned for Lawyers offers a free evaluation to assess specific concerns and, if needed, coordination of continued care. Their clinical staff also offers case management services—follow-up phone calls at established intervals to ensure all the needs and concerns of the person are being adequately addressed. If the situation is direr,

Lawyers Concerned for Lawyers can walk a family member or a concerned colleague through an intervention. By contacting Deputy Executive Director Cindy Reigle, the concerned party receives directions on how to talk to the person and help them to help themselves. If appropriate, Lawyers Concerned for Lawyers will provide a professional interventionist to address the person in need. The goal is to motivate the person to attend the free evaluation to begin the journey toward health and happiness.

Lawyers Concerned for Lawyers has an established statewide base of volunteers—recovering lawyers who offer support to a lawyer new to the program. They also conduct Lawyer Recovery Meetings on a regular basis throughout Pennsylvania.

Lawyers Concerned for Lawyers has many informative pamphlets and books on addiction, stress/anxiety/depression, grief, gambling, nicotine addiction, family concerns and employment/work issues. This free material is readily available to anyone who calls to request it. Lawyers Concerned for Lawyers presents CLE programs that provide vital information to foster the well-being of the legal professional.

Attorneys have a tremendous responsibility to the public to provide the best legal services possible. Lawyers Concerned for Lawyers' responsibility is to help impaired attorneys obtain the help they need to fulfill this mission. By calling Lawyers Concerned for Lawyers for assistance, you have taken the first step in saving a colleague's career, and, possibly his life, while preserving the integrity of the legal profession.

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▲ Judge Irv Bloom

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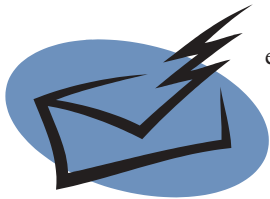
On The Move ...

RICHARD J. BAUMGARDNER has moved his offices to 1724-B Theatre Street, Latrobe, PA 15650. Phone: 724-539-3688; fax: 724-532-1918; e-mail: richard.baumgardner@verizon.net.

JOHN R. MCCREARY has moved his offices to 1724-B Theatre Street, Latrobe, PA 15650. Phone: 724-537-9139; fax: 724-532-1918.

E-Mail Etiquette: Dos and Don'ts

When we speak, we observe certain rules of behavior. The same should be true when we use e-mail. Here are some guidelines to communicating more effectively on-line.



DO answer e-mails promptly. Most people use e-mail because they want to receive a quick response. Reply to your e-mail within the same working day, or at least within 24 hours. If the reply is complicated, send an e-mail saying you will get back to them as soon as you can.

DO make sure that the content is relevant to the recipients. Send your message only to the people who really need to receive it.

DO use the "Subject" line to summarize the content of your message.

DO be polite. The tone of e-mail can be misinterpreted.

DON'T TYPE IN CAPITALS. THIS IS CONSIDERED TO BE SHOUTING.

DO keep your messages short and focused. Reading from a computer screen is difficult; reading from tiny screens of cell phones, pagers and other mobile devices is even harder. Long messages may be ignored.

DO tell people the format of attachments you send if they're anything other than basic Microsoft Office file types. **DON'T** send large attachments without checking with the recipient first.

DO include a brief signature on your messages to help the recipient understand who it is from. They may not be able to tell from your e-mail address alone.

DO use proper spelling, grammar and punctuation. E-mails with no full stops or commas are difficult to read and may even change the meaning of the text. Use your e-mail software's built-in spell checker.

DON'T use the "Reply All" feature unless you want to reply to all the recipients of the original message.

DO quote from the original message when responding. Click "Reply" rather than "New Mail." For clarity, break the quoted message down into paragraphs to comment on them individually.

DON'T quote a long message in its entirety just to say "I agree."

DON'T reply to an e-mail message when angry, and **DON'T** write anything you wouldn't say in public—you may regret it later. Once the message is sent, you can't recover it.

DON'T use e-mail to discuss confidential information. Sending an e-mail is like sending a postcard. If you don't want the world to know your business, don't send it.

An e-mail directory of WBA members is available at the WBA office. Just call to request one and it will be e-mailed to you.

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Adelphoi Dedicates Marker Home

Marker Home, an Adelphoi Village residential treatment facility for girls aged 12 to 18, was dedicated on June 30, 2004. The facility was named for

The Hon. Charles E. Marker, who is credited with making the Westmoreland County juvenile court system one of the finest systems for juvenile justice in the state during his 20 years on the bench.



▲
The Hon.
Charles Marker

Elected to the bench in 1979, Judge Marker was the county's first family court judge. During his five years as president judge, he helped with plans to build the new county prison and was active in the plans to expand the juvenile detention center. Judge Marker retired in January 2000.

Headquartered in Latrobe, Adelphoi Village is a non-profit

agency that provides comprehensive, community-based treatment to youth and families in Pennsylvania, Maryland, New York and West Virginia. Through residential programs, foster care, education and other in-home and community services, Adelphoi Village makes a difference in the lives of over 1,500 youths each and every year.

Civil/Orphans' Court Notice

The bar is advised that small estate petitions and petitions to approve the settlement of minors' claims, both of which require a review of documents, may be mailed or brought to the judge's chambers for review and consideration, and need not be presented at motions court. Should the judge decide, upon review of the petition, that further explanation or direction is needed, the petitioning party's counsel will be notified.

Daniel J. Ackerman, PJ
Gary P. Caruso, J
William J. Ober, J

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Pa. Supreme Court Rules On Notary Education

In June 2004, the Pennsylvania Supreme Court ruled that the Notary Public Law as amended by Act 151 of 2002 does not require mandatory education of all notaries.

In a 4-3 decision, the court said the wording of Act 151 limits the education requirement to notaries who have an initial appointment after the new law took effect July 1, 2003.

Actions of the Board

AUGUST 23, 2004

- Accepted Membership Committee recommendation: Andrea Sharrette, participating.
- Public Relations Committee will hold a CLE on the subject of "Media Relations" in November (or later).
- PR Committee will work on a master plan for upcoming bar events so that better publicity can be obtained both before and after events.
- Authorized the E.D. to purchase a color copier to be networked to staff computers. This will save on copying costs while allowing option of adding color to member correspondence.
- Reviewed building usage for July and August, which showed significant increase in usage of rooms for mediations. Referred building usage issue to the Building Committee.
- Sue Brownfield, who holds mediation contract with county for both juvenile and custody matters, has shown an interest in renting back section of first floor. Agreed to consider proposal for rental of first floor of bar building.
- YL Chair will assign a member to coordinate the high school students' Explorer's Post legal program.
- YL Chair Horchak recommended that WBA picnic rotate between Idlewild and Hempfield Parks. This year's picnic at Idlewild went well with about 100 attendees.
- Reviewed ADR Committee report and learned that committee is hoping to schedule a CLE on Mediation with focus on proposed mandatory (Supreme Court) mediation for both medical malpractice and custody.
- Reviewed final Bench/Bar figures showing that the Bar subsidized \$15,000 for the event, which was less than originally anticipated.
- Approved \$1,100 for Judge Bloom to attend the LCL national conference in Philadelphia.
- Authorized \$300 for the Bankruptcy Mixer, noting that this is a new committee and has done a great deal of work for its committee members and the Pro Bono Program.

SEPTEMBER 20, 2004

- Accepted Membership Committee recommendation: Sheri Hamilton, participating.
- Treasurer Munk attended IOLTA Board Meeting and learned that IOLTA borrowed \$1.4 million from client security fund. Access to Justice runs out in two years and will affect grants from IOLTA.
- Accepted Investment Advisory Committee's recommendation that the Bar funds be maintained at Private Wealth Advisors along with recommendation to hire Complete Equity as the investment advisor.
- President Johnston reported that the Code of Ethics document from Montgomery County lawyers and doctors had been circulated to Inn of Court President Barbara Artuso, Trial Academy President James Antoniono and President Judge Ackerman. Each was asked to comment about the validity of continuing with a joint document for the appropriate Westmoreland County associations.
- Appointed Tim Geary to fill the one-year term on the PBA House of Delegates.
- Agreed to begin to work on new appointees to the Laurel Legal Services Board.
- Moved to approve entering into a contract with Seven Springs to hold 2005 Bench/Bar Conference on June 23-25, 2005.
- Reviewed proposal for Mediation business to rent first floor and agreed that it would not be in the best interest of the Bar Association to do so.



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CALENDAR of Events

NOVEMBER

- 11 Courthouse closed in observance of Veterans Day
- 16 Family Law Committee, Noon
Board Meeting, 4 p.m.
- 17 Northern Lawyers, Noon, *King's, New Kensington*
Ned J. Nakles American Inn of Court, 5 p.m.
- 18 Solo Practice/Small Firm Committee, Noon
- 25-26 Courthouse closed in observance of Thanksgiving

DECEMBER

- 4 Annual Holiday Dinner Dance, 6 p.m.,
Greensburg Country Club
- 8 Membership Committee, Noon
- 15 Elder Law & Orphans' Court Committees, Noon
- 21 Family Law Committee, Noon
- 24 Courthouse closed in observance of Christmas
- 31 Courthouse closed in observance of New Year's Day



h o l i d a y
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d a n c e

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