



Recession In Our Backyard?

by Beth Orbison, Esq.

Lately, the relative state of my mental health on any given day (usually around the fifth of each month) can be assessed mathematically simply by measuring the minutes, hours, and days. The computation goes something like this. If only minutes pass between the time I



Beth Orbison

retrieve the monthly brokerage statement from the mailbox and the time I split open the ominous envelope and peek—ever so hesitantly—at the bottom line, then it’s a good day. If, on the other hand, hours or, worse, days pass before I can muster up the strength to lift the letter opener (or sometimes the butcher knife) before revealing its contents ... well, need I say more?

Because misery loves company, I decided to conduct an informal poll of Westmoreland County’s legal community to see whether, in fact, I am not alone.

MICHAEL CHRISTOPHER, who is employed in the Prothonotary’s Office, guesses that there are twice as many credit card payment default cases that have been filed this year as compared to last, each with an average claim of between \$2,000 and \$3,000. “Every other day, a pile of cases—with 15 to



20 complaints in the pile—from credit card companies like Capital One, Discover, and American Express, comes in to the office for filing. Law firms representing credit card companies file them in bulk at one time,” he explains. “Mortgage foreclosures are way up, too; I’d say they’re up by one-half.”

DENISE TESTA in the Prothonotary’s Office agrees: “This is the worst year caseload-wise. We had over 15,000 cases filed in 2008, compared to 11,450 in 2007, and 11,000 in 2006. Municipal liens (water and sewer) have gone up. Landlord/tenant cases have increased; a tenant cannot pay his rent when he’s lost his job. And writs of execution in sheriff’s sales have increased as well. Everyone in this office is experiencing the increase in the workload.”

CINDY SHEEHAN of Laurel Legal Services (“LLS”) notices an increased demand for services every year. But over the course of the last year, some

new trends have emerged and legal aid attorneys have shifted their focus in order to better address changing concerns. Cindy explains: “We now have a special mortgage foreclosure department, where we didn’t before. Employment law issues are up; unemployment, job loss, and the removal of barriers to employment are problems that are more prevalent.” In addition, she sees a substantial increase in the number of people who seek help to obtain public benefits such as medical assistance and energy assistance.

“PFAs [Protection From Abuse Petitions] are always going up. It is probably fair to say that the stress that accompanies an economic downturn contributes to this,” says Cindy.

The LLS operating budget depends upon the income generated by IOLTA (“Interest On Lawyers’ Trust Accounts”), and with the plunge in stock values, IOLTA earnings have

continued on page 4

President's Message

LRS Website Goes Live

by Barbara J. Christner, Esq.

In my initial message to you I indicated that I wanted to write something of interest to my readers. With so many different personalities, it has occasionally been difficult to select a topic. Hopefully you found an article that you enjoyed. It is with great delight that I share with you the progress of our website.



A new WBA Lawyer Referral Service website debuted on Tuesday,

January 20. Designed by WBA Publications Specialist Susan Zellner along with database/website developers Scott Koontz and Todd Wonders, the LRS website is the first phase of an entire overhaul of the Westmoreland Bar Association website. Visitors to www.westbar.org will find easy-to-use navigation and welcoming graphics.

The front page of the WBA website has not changed, with the exception of a graphic that directs visitors to click on a photo to link them to the LRS site. The board decided to leave the original WBA front page untouched until the rest of the site is completed and launched, which should occur by mid-2009.

When potential clients "click" to the new LRS site, they are greeted with a blue-and-white welcome screen that includes a photo banner of the county courthouse, LRS contact information, and many legal resources. A second click onto the link "complete our online Lawyer Referral request form" starts the process for a referral.

Clients submit credit card information before obtaining the name, address, phone, and e-mail of the referred attorney. The client then has the option to select an attorney by geographic location, which is an

▲ The Westmoreland Bar Association's new Lawyer Referral Service website debuted in late January. Clients can now receive referrals to our participating attorneys 24 hours a day, 7 days a week. The LRS website is the first phase of an entire overhaul of the WBA website, which should be completed by mid-2009.

option that addresses the uniqueness of our county size. When the referral is completed, the attorney, the client, and the LRS office receive a confirmation e-mail that outlines the steps necessary to schedule an appointment.

"To remain relevant to today's consumers, having an online referral service that makes it accessible 24 hours a day is a must. The processing of credit card information is what makes this online process possible," explains Executive Director Diane

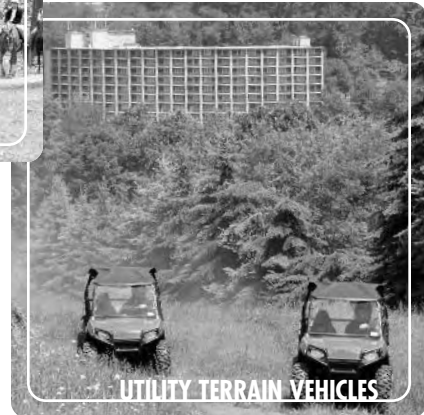
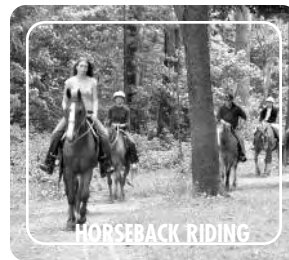
Krivoniak. "We are quite excited about this new project because many local and state bar associations have not yet been able to offer this service. Our ultimate goal is to increase referrals to our local lawyers and to provide better service to the public."

Check out the site for yourself and feel free to refer others as well: www.westbar.org.

Seven Springs to Host 2009 Bench/Bar Conference



Return to Seven Springs with the WBA for the 2009 Bench/Bar Conference in June. Both the mountain resort and our Bench/Bar have undergone major renovations since Seven Springs hosted the conference in 2005. The hotel has been completely refurbished (visit www.7springs.com for details) and the conference is sticking to the slimmed down 1½-day schedule introduced last year. So block off your calendar for Thursday, June 11, and Friday, June 12, and be part of the WBA group that creates new memories at the 2009 Bench/Bar Conference. 🍷



the sidebar

the sidebar is published bimonthly as a service for members of the Westmoreland Bar Association. Letters to the Editor should be sent c/o WBA, 129 North Pennsylvania Avenue, Greensburg, PA 15601-2311, fax 724-834-6855, or e-mail westbar.org@verizon.net. the sidebar welcomes unsolicited submissions from members or non-members. Please submit to the Articles Editor, c/o WBA.

Back issues from 2000 to the present and a comprehensive, searchable index are available online at www.westbar.org/html/publications.

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Recession In Our Backyard? *continued from page 1*

diminished. “We have two grants from IOLTA and both decreased this year,” says Cindy. “Luckily, our IOLTA grant the previous year was up significantly.



We were holding that extra money in reserve, so this year and next, we’re spending the reserves, with the hope that by the following year the amount of the grant will increase.”

PHIL SHELAPINSKY at Lawyers Abstract Company says, “We’re clearly down.” Although he couldn’t cite actual numbers, his impression is that they have experienced a significant percentage decrease in their workload as a title insurance company, a reflection of the drop in the number of real estate transfers in 2008.

JIM RIPPLE, now retired, concurs. “We are fortunate to have the strong support of local attorneys,” says Jim, “but there’s no question that we’re seeing a definite decline in closings and title work.”

IVA MUNK of the Bar Association’s Pro Bono Program sees a small increase in the number of calls that her office receives inquiring about bankruptcy, but otherwise, she sees little change. “The majority of the calls are about domestic matters. We have not had too many questions about evictions,” she says.

DIANE KRIVONIAK, Executive Director of the Bar Association, has not seen any of the changes that one may have anticipated. “We had good attendance at the Holiday Dinner Dance and

the Silent Auction generated as many charitable contributions to the Bar Foundation as we have had in years past. WBA members have promptly paid their annual association dues as well.” If local lawyers are feeling the crunch of the economy in their pocketbooks, the WBA and the WBF have not seen evidence of it.

Needless to say, the Westmoreland Bar Foundation has seen the overall value of its investment portfolio decrease, but it continues to have the resources to meet its objectives. Its adviser, **PAUL BRAHIM**, continues to advise to “stay the course” and make no changes at this time.

DAN JOSEPH, an attorney in New Kensington, has altered his form engagement letter in recognition of the impact that bankruptcy can have on his representation of clients. Dan explains: “I’ve had a couple of cases this year where the client declares bankruptcy and then I can’t represent

them anymore. For example, I had a binding arbitration case and got a good award. Then the client, using another attorney, and unbeknownst to me, filed for bankruptcy. As soon as the bankruptcy claim is filed, I have no authority to move forward. When an attorney gets a letter from the trustee in bankruptcy, a whole new set of rules governs. I become the attorney for the trustee instead of the client. In other words, I answer to the trustee and the client is sidelined. So if I get an offer of settlement, the trustee is the one who decides whether to accept, not the client. That whole award is null and void, unless I get permission from the bankruptcy trustee to give the client his award and take my fee.

“Also, legal fees can be reduced by bankruptcy judges,” Dan continues. “So I now include an additional clause in my fee agreement, which explains that if the client files for bankruptcy, he must advise me immediately.

“There are other concerns for practitioners to consider in this distressed economy,” cautions Dan. “If insurance carriers go belly up, the Pennsylvania Property and Casualty Insurance Guaranty Association steps in. Then you’re dealing with the state association rather than the insurance company. Playing under their rules is different with potential caps on collection and potential set-offs.”

Most of the experts caution that it ain’t over yet. These challenging times serve as a reminder to the bar to display their professionalism by assisting some clients through *pro bono* representation, when possible. If you have practice tips to share, gained as a result of having lived through these trying times, let us know.

To be continued ... 🐼

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Committee Reports

Nominations Announced for 2009–2010 Board, Committees

Nominating Committee

The Nominating Committee of the Westmoreland Bar Association has recommended the following members for positions on the Board of Directors and the Membership and Building Committees. Those WBA members attending the Annual Meeting of the association, to be held on April 6, 2009, will vote “yea” or “nay” to fill these positions.



▲ *Incoming WBA President James R. Antoniono*

At the conclusion of the annual meeting, James R. Antoniono will assume the Bar presidency.

VICE PRESIDENT: MICHAEL J. STEWART

The Vice President ensures that the WBA’s mission, services, policies, and programs are carried out. One-year term.



▲ *Michael J. Stewart*

Michael J. Stewart has been nominated for the position of Vice President. He is completing his third year as a Director on the WBA board.

Co-Chair of the WBA’s Family Law and ADR Committees, Mike is also a member of the Young Lawyer and Planning Committees, and the Ned J. Nakles American Inn of Court.

A graduate of Penn State University, Mike earned his juris doctor from the University of Pittsburgh School of Law and has been a member of the WBA since 1978. He is the founding father and managing partner of Stewart, McArdle, Sorice, Whalen, Farrell,

Finoli & Cavanaugh, LLC, in Greensburg.

BOARD OF DIRECTORS: JOSEPH W. LAZZARO

The Director ensures that the WBA’s mission, services, policies, and programs are carried out. Three-year term.

Joseph W. Lazzaro has been nominated for the open position on the WBA Board of Directors. Joe is the current Chair of both the WBA’s Unauthorized Practice of Law Committee and the Committee on the Unauthorized Practice of Law of the PBA. He is a member of the WBA’s Technology Subcommittee of the Planning Committee, as well as the

Corporate Counsel and Municipal Law Committees. He belongs to the Ned J. Nakles American Inn of Court, is a WBA Zone 6 Representative to the PBA’s House of Delegates, and is Vice President/Chief Counsel of the State Tax Collectors’ Association.

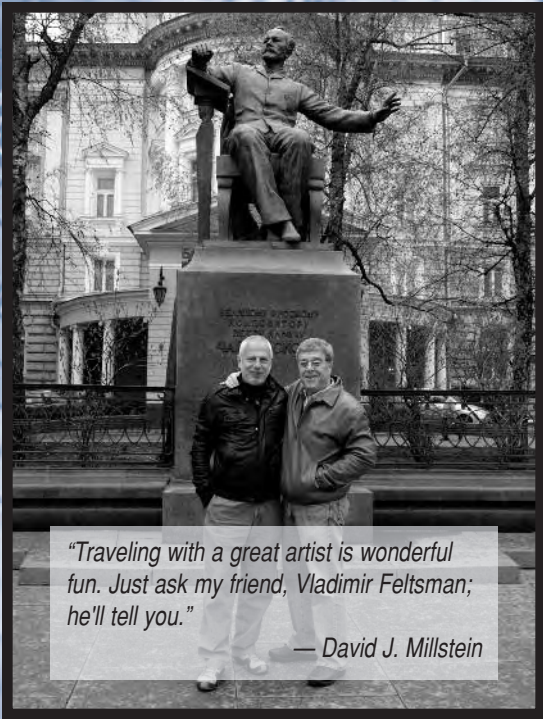


▲ *Joseph W. Lazzaro*

A graduate of Penn State with a degree in Journalism, Joe earned his J.D. from the University of Pittsburgh. He is a partner with Kratzenberg & Lazzaro in Irwin.

continued on page 6

where in the world
IS THE WBA MEMBER?



“Traveling with a great artist is wonderful fun. Just ask my friend, Vladimir Feltsman; he’ll tell you.”

— David J. Millstein

MOSCOW, RUSSIA

Nominations Announced for 2009–2010 Board, Committees *continued from page 5*



▲ Maureen S. Kroll

**MEMBERSHIP COMMITTEE:
MAUREEN S. KROLL**

The Membership Committee is the first point of contact that most applicants have with the WBA. Five-year term.

Maureen S. Kroll has been nominated to fill the open position on the WBA Membership Committee.

Admitted to the WBA in 1991, Maureen is a current member of the Bankruptcy, Elder Law, and Family

Law Committees. In 2004, she was honored as the Pro Bono Attorney of the Year for both the WBA and PBA. A member of the Pennsylvania Bar Association, Florida Bar Association, Supreme Court of the United States, and FBI Citizen's Academy, Maureen is a part-time instructor on legal and medical topics at the Westmoreland County Community College, and serves on the editorial board of the Journal of Gerontological Nursing.

Maureen received her B.S.N. in Nursing, graduating *summa cum laude*, her M.N. in Nursing, and her J.D. from

the University of Pittsburgh. She is a sole practitioner in North Huntingdon.

**BUILDING COMMITTEE:
CHRISTOPHER SKATELL**

Responsible for maintaining the management and upkeep of Bar Headquarters. Five-year term.

Christopher Skatell has been nominated to serve on the WBA's Building Committee.

A member of the WBA since 1994, Chris serves on the Real Estate, Business Law, Civil Litigation, and Mock Trial Committees. In the community, Chris is a board member of the Bethlehem Project, Vice President and board member of the Westmoreland Centurion Midget Football Association, and coaches the Mock Trial team for Greensburg Central Catholic High School.

Chris earned his undergraduate degree from the University of Pittsburgh, and his J.D. from Duquesne University. He is a sole practitioner in Greensburg. 🇺🇸



▲ Christopher Skatell

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Remembering Shirley Selepchak

Editor's note: Shirley A. Selepchak passed away on March 14, 2008. She was a fixture at the Courthouse for 36 years, having worked for Judge Weiss and Judge Mihalich, and, when the court administrator's office was first formed, serving as deputy to P. Louis DeRose, Esq. She continued to serve as a deputy court administrator in charge of the civil division until her death.

She is survived by her husband, William J. Selepchak Sr.; two children, Kathleen E. Washabaugh and husband, Vernon, and William J. Selepchak and wife, Jill, of Hunker; four grandchildren, and a number of nieces and nephews.



by James R. Antoniono, Esq.

I was fortunate enough to have known Shirley as a friend from the beginning of my law practice. Our daily lunch table at the Baggy Knee usually included Judge Ambrose, Jeanne Griffith, David DeRose, and anyone else who was available to join us. Occasionally there were eight or ten people at a four-person table; there was always room for one more.

To call Shirley the Civil Court Administrator is to describe the maestro as the person holding the stick. Her concert hall was our beloved Courthouse. When competing interests pulled in opposite directions, she brought harmony. Just as the maestro inspires performance, Shirley's upbeat and always understanding personality challenged us to deal with each other in a more respectful manner. And like the good maestro, she never sought personal accolades but rather humbly

credited the smooth running of her office to the wonderful staff, the best Judges in the world, and the finest lawyers anywhere. She did not understand the criticism of lawyers. To Shirley, they were all good people. She always stood ready to help and protect the civil court lawyer.

Shirley transformed the Civil Court Administrator's Office through technological changes into a model that was the guide for other counties. She was more than professional and intelligent. She was a dedicated employee, a well grounded person, a loving mother and grandmother, a devoted wife, and a truly kind soul to all who knew her.

The timing of birth can be to each, a detriment or benefit. That we all are living with innovative conveniences, not available to our ancestors, might be considered a positive. That some of you were born too late to know, work with, and have Shirley as a friend—now that's a loss. 🌸



WENDY, SCOTT, TAYLOR, AND DYLAN AUSTIN

Jacque and I would like to thank all of the members of our Bench and Bar who have been so very generous and thoughtful in response to the recent loss of our son, Scott. Your expressions of sympathy, prayers, and contributions to Scott's wife and children have been a source of great comfort to our entire family. The kindness of so many of you has made us feel a part of a much larger family, the Bar Association, and we want you to know how much that has meant to us.

*God bless all of you.
Bob and Jacque Johnston*

New Member Sketches

David DiCarlo has rejoined the WBA as an associate member. A graduate of the University of Pennsylvania with a degree in English, and the University of Pittsburgh School of Law, David is a sole practitioner with offices in Washington and Greensburg.

Matthew S. Faber has joined the WBA as a participating member. Matt earned a B.S. in Psychology from the University of Pittsburgh, and a J.D. from Duquesne University School of Law. He is an associate with Geary & Loperfito, LLC, in Vandergrift, and is married to WBA member Amanda Nuzum Faber.

Irving Freeman was admitted to the WBA as a participating member. A graduate of the University of Michigan and Duquesne University School of Law, Irv is employed by the Lake Erie College of Osteopathic Medicine.

Joshua F. Hall has been admitted as a participating member of the WBA. A graduate of the University of

Pittsburgh and Duquesne University School of Law, Joshua is an associate with Cassidy, Kotjarapoglus & Pohland, LLC, in Greensburg.

Julie Hogan has joined the WBA as a participating member. A graduate of Washington & Jefferson College, with degrees in Biology and English, Julie earned her J.D. at Duquesne University School of Law, and is a sole practitioner in Smithton.

Caroline R. Mosites has joined the WBA as a participating member. A graduate of Washington & Jefferson College, with degrees in History and Sociology, Caroline earned her J.D. at Duquesne University School of Law, and is an associate with Cassidy, Kotjarapoglus & Pohland, LLC, in Greensburg.

Bradley M. Ophaug was admitted to the WBA as an associate member. Bradley earned a degree in Business/Finance from the University of Northern Colorado, and his J.D.

from Nova Southeastern University. He is a sole practitioner with offices in Indiana County.

Donald C. Rega has joined the WBA as an associate member. Don studied Sports Management at St. John's University (New York) and earned his J.D. from Florida Coastal School of Law. He is a sole practitioner based in Mount Pleasant.

Christopher J. Watson has been admitted as an associate member of the WBA. Christopher earned both his undergraduate degree in Economics and his J.D. from Duquesne University. He is an associate with Geraghty + Associates in Pittsburgh.

Douglas J. Welty has been admitted to the WBA as a participating member. Doug earned a B.A. in Philosophy from Bucknell University, and a J.D. from Widener University. He is in practice with his father, WBA member George V. Welty, in Ligonier. 🐾

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Westmoreland Revisited

Stephen B. Ewing and the Birth of New Kensington

by James E. Kopelman, Esq.

Most of the Westmoreland County lawyers who were admitted to practice prior to July of 1978 will remember Stephen B. Ewing, who practiced law in New Kensington for more than forty years.



James E. Kopelman

For the last ten years of his career, Mr. Ewing was the law librarian when the law library was on the east side of the second floor of the Courthouse in the area now occupied by the courtroom and chambers of Judge Hathaway. Steve Ewing always was extremely helpful when any lawyer had a research project and was a perfect gentleman of the old school. What I believe most members of the Bar Association do not know is that Stephen Ewing was descended from the first family of New Kensington.

The story was related to me by Steve Ewing's sister, Florence M. Ewing, who was the librarian at the New Kensington High School for more than forty years. Miss Ewing told me that her great-grandfather, Alexander Young, loaded his saddle bags with gold coins in October of 1835 and traveled by horseback up the bank of the Allegheny River a distance of 18 miles from the Point at Pittsburgh, where he purchased beautiful river bottomland from Daniel Gilmartin. The deed for this conveyance is dated October 9, 1835, and is recorded in the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania, in Deed Book Volume 22, page 82.

When Steve and Florence Ewing's great-grandfather Young died, a portion of this farm became vested in their grandfather, Stephen Young. These proceedings are set forth in the Orphans' Court of Westmoreland County at Partition Book 6, page 484. The portion of ground described in this Partition makes up all of what is present-day downtown New Kensington, and extends partway up the hill into the residential area. A great portion of this ground was sold to the Burrell Improvement Company in 1890, and the present City of New Kensington was incorporated as the Borough of New Kensington in 1891.

The Company that purchased the major part of the Young farm was the Burrell Improvement Company, whose majority stockholders were the Mellon family of Pittsburgh. The purpose of this purchase was to lay out the town of New Kensington.

The Mellon family and the Hunt family financed a young chemist by the name of Charles Martin Hall, who, in 1888 at Oberlin College in Ohio, discovered a chemical process to extract alumina ore from bauxite in a commercially feasible way. A company was started on Smallman and 18th Streets in the Strip District of Pittsburgh, but it soon became apparent that this location was not large enough for the expansion needed for this new industry. The new company, called the Pittsburgh Reduction Company (forerunner to Alcoa), purchased ground from the Burrell Improvement Company along the Allegheny River and constructed a plant. The rest of the Burrell Improvement Company property was divided into residential and commercial lots, except the remaining riverfront area, which was reserved for industry.

continued on page 10

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Stephen B. Ewing *continued from page 9*

My family came to New Kensington in the 1890s; our family's original deed was signed by one of the Mellon brothers as the President of the Burrell Improvement Company.

When I was a young lawyer, I talked to Peter Edward Moran, who was a notary public on the fifth floor of the Mellon Bank Building when my office was located on the third floor. He told me that as a young boy, he traveled to New Kensington by train with his father prior to the sale of the Young farm to the Burrell Improvement Company; the farm represented some of the most beautiful rich bottomland that he had ever seen.

Shortly after Alexander Young purchased the property, he built a magnificent brick farmhouse between what later became Third Avenue and Second Avenue in the Burrell Improvement Company's Plan. Because the house was there before the grid plan was laid out, Seventh Street was unable to continue to the river. Many years later, I represented Mrs. Helen Barsky, the owner of this original farmhouse. She and her husband ran a hotel in the old mansion, which was the subject of condemnation proceedings by the New Kensington Redevelopment Authority. After the case was settled, I asked Mrs. Barsky if there were any liens against the property to be deducted from the settlement. She told me no, but she also showed me something of interest from a bygone era. I was told that if a house had a mortgage on it, there would be a hole drilled in the newell post of the banister on the first floor stairway leading to the second floor. When the



▲ *Stephen B. Ewing in 1978 and 1940*

mortgage was paid off, a peg was placed in the hole. The purpose of this was to show that the home was free and clear, because in those days transportation to the Courthouse was extremely difficult. There was a peg placed in the hole of the old Young-Barsky mansion house.

When Steve Ewing's grandfather, Stephen Young, died, he left his estate by a Will filed at No. 393 of 1916 in the Register's Office of Westmoreland County in Will Book Volume 19,

page 134, to his daughter, Elizabeth Y. Ewing, in trust, and upon her death to be paid to the guardian or guardians of her children, Stephen B. Ewing and Florence M. Ewing, in such amounts as may be necessary for the maintenance and education of his grandchildren until the youngest reached the age of 21, and then the estate was divided between them.

When Steve Ewing died on July 6, 1978, he left his half-interest in a new family home that was built on Freeport Road around 1916 to his sister. This home was part of the original 1836 property. I remember when Miss Ewing was to come into the office for me to represent her in the sale of the house, and I asked her to bring her deed. Just as in high school, she called me James and said, "The deed won't do you any good." We pleasantly argued about it for a few minutes, and finally, I said, "Miss Ewing, please humor me and just bring in the deed."

Of course, my former teacher and librarian was correct, because the deed she brought in was the 1836 deed for over 100 acres of ground, and by the early 1980s, the new family house built in 1916 was the only remaining portion of that ground. Accordingly, a survey had to be completed, and I researched the information set forth in this article to prepare a 28-line deed recital.

Stephen B. Ewing, though married twice, never had any children. His legacy and posterity to the New Kensington community, as well as the Westmoreland Bar, is his pioneer roots. His hard work, modesty and gentlemanly demeanor represented the touchstone of his life. 🌿

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Memories of the Early New Kensington Legal Community

by James E. Kopelman, Esq.



B. R. Kline



H. H. Dinsmore



Louis Claster



Mead Mullvihill



Clyde Armstrong

To refresh my recollection of what I know about early New Kensington lawyers, I looked at the 1900 and 1922 composites of the Westmoreland Bar Association membership on the third floor meeting room of the association.

In looking at the 1900 picture, I note two New Kensington practitioners. One was **B. R. KLINE**, who had a general practice in New Kensington and is shown on both the 1900 and 1922 composite of members of the Westmoreland Bar. Mr. Kline's daughter, Elizabeth Kline Howell, was my sixth grade teacher at the old Third Ward School that has been long demolished.

The other, **H. H. DINSMORE**, practiced in both New Kensington and Greensburg, and his practice was primarily real estate. He is shown in the 1900 picture as well as the 1940 picture. In those days, because of poor transportation, most title searches from New Kensington, which usually involved the Burrell Improvement Company, were referred to Mr. Dinsmore because the greater portion of the road between New Kensington and Greensburg was not paved and cars were extremely undependable.

LOUIS CLASTER, who graduated from Pitt Law School in 1916, is shown in the 1922 picture. Lou practiced in New Kensington until the time of his death in the 1970s, and told me that as a young lawyer, when he needed to go to the Courthouse, he would take a train from New Kensington to East Liberty and then wait on the platform to make a connection with a train to Greensburg. The one-way trip generally took somewhere in the neighborhood of three to three-and-one-half hours because of the difficulty in making connections. Accordingly, a New Kensington lawyer could not go to the Courthouse for any menial or low-paying tasks. Lou Claster at various times in his practice served as both the assistant solicitor and solicitor for the City of New Kensington, as well as the solicitor for the Borough of Arnold before it became a third-class city.

MEAD J. MULLVIHILL, shown in the 1922 picture, was the solicitor for the City of New Kensington in 1912, and this fact is noted in the 19th Annual Convention of Volunteer Firemen of Western Pennsylvania Souvenir Program, dated August 12, 1912. Mr. Mullvihill's family was involved with what was called the "glass house" in the then-Borough of Arnold, which later became the America Window Glass Company and was ultimately taken over by American St. Gobain. It is interesting to note that there are several Mulvihills who are presently members of the Allegheny County Bar, but their name is spelled with one "l" instead of the double "l" in Mead's name. I do not know if these Mulvihills are related.

Two early lawyers who were members of the Westmoreland County Bar, but had their main practices in Pittsburgh, were **CLYDE A. ARMSTRONG** and **JOHN McCARTNEY KENNEDY**. Clyde Armstrong had a younger brother, **DALE ARMSTRONG**, who was a member of our Bar and a 1924 graduate of Pitt Law School. Dale Armstrong practiced in New Kensington but died early in his career. His brother, Clyde A. Armstrong, lived in New Kensington during the early years of his practice and commuted to Pittsburgh working for the firm of Thorpe, Reed and Bostwick. During the Depression, Clyde Armstrong became a name partner in the firm. Mr. Armstrong related to me late in his life that he was made a partner during the Depression because the firm could no longer afford to pay his salary and, therefore, he would merely get a percentage of the firm's profits. Thorpe, Reed and Armstrong, of course, is still a venerable firm in existence today. Clyde Armstrong's main client for many years was National Steel Company. Clyde

continued on page 14



Dale Armstrong



J. M. Kennedy



Albert Yoder



Benjamin Thompson



Victor Bouton

Letters to the Judge

Editor's note: Since the inauguration of the Letters to the Judge series, we have received discreet inquiries from several jurists asking about the etiquette regarding reply to prison mail. Fortunately we have been able to refer them to a published opinion at 72 W.L.J. 183 (1990, Ackerman J.), which touches on that issue. We are republishing it in its entirety, with the exception that we have not used the judge's name as he still has another retention election ahead of him. The plaintiff, however, has given permission to use his name. For our purposes the case will be referred to as Benbow v. Hiz honor.

This case involves the rather unique question of whether or not a common pleas court judge need answer his prison mail. It arises out of an action in mandamus filed by the plaintiff against a judge of this court who contends that the duties and responsibilities of a common pleas court judge include answering correspondence from inmates. After conducting an extensive evidentiary hearing, I conclude that no matter how derelict the defendant judge has been in answering his correspondence and no matter how much his indifference is a reflection of poor taste and bad manners, there is, in fact, no legal duty on his part to reply.

The plaintiff, Ricky H. Benbow, Sr., appeared *pro se* and complains that as an inmate sentenced by the defendant, the defendant should have replied to his correspondence which requested in

the alternative consideration for a medical furlough, a natal furlough, prompted by the current condition of a Miss Darla Jean, or best of all, an early parole. It was Mr. Benbow's initial argument that had the defendant replied, at the very least, Mr. Benbow would have answered the defendant's letter and the defendant might have replied a second time and that some meaningful correspondence might have developed that would have convinced the defendant that Mr. Benbow was a regular sort of guy deserving some small amount of consideration.

It is Mr. Benbow's contention that under the Constitution a judge can't throw a person in jail and then simply ignore him like he never heard of him. The case cited by Mr. Benbow, *Scaglione v. Ambrose*, 721 Fed. Supp. 298 (1988) is not applicable since the parties in that case did, in fact, correspond for a regular period of time, although not on a first-name basis.

Mr. Benbow vigorously asserts that it was the judge's duty to write and seemed somewhat upset that the defendant was abandoning his sworn duty to him and instead was pursuing other pursuits such as: "Shaken hands that did not want to be shook, and kissen babies that did not want to be kissed and making a general nuisance of himself." (Notes of testimony, hearing of September 2, 1989, page 64.) Mr. Benbow would have us believe that meaningful correspondence between him and the sentencing judge would have resulted in Mr. Benbow's vacating his cot at the jail so that it

could be filled by a principal from the Medellin drug cartel,¹ although Mr. Benbow does admit that he does not really have a cot but, rather, has been assigned to sleep on top of the filing cabinets in the intake room, which does not bother him so much because it is hard and cramped, but does bother him some in that he is not fond of heights. Mr. Benbow suggests, however, that:

Hiz honor is probably afraid to send cartel members to jail and instead sends the little people whose violent tendencies are sporadic and directed only against their loved ones, and hence, are no threat at all to the general public.

(Notes of testimony of hearing of September 2, 1989, page 112.) Mr. Benbow, however, misses the point. In *Hammicker v. Schlemer*, 468 U.S. 621, 96 S.Ct. 14, 86 L.Ed. 2d 115 (1984), the U.S. Supreme Court held that members of the Courts of Appeals were not mandated to send fruit baskets to inmates on nationally recognized holidays, and I believe that an analogy can be drawn to the case at bar; the defendant does not have to answer Mr. Benbow's heartfelt correspondence, and the defendant can go on doing whatever it was he was doing instead.

The complaint of Ricky H. Benbow, Sr., is hereby dismissed. 🍷

¹ See *Commonwealth v. Melvin Medellin*, 1242 C 1989.



ACTORS NEEDED

"Witness for the Prosecution" being performed by the Valley Players of Ligonier. Agatha Christie tale of a man on trial for murder: a trial featuring surprise after surprise. Casting call for actors: Feb. 23 and 25 from 7 - 9 p.m. at the Ligonier Theatre. No experience necessary. Cameo roles available. Performance dates: April 24, 25 and May 1, 2, 3. For more information call the theatre at 724-238-6514 #5.

To-Wit: The Tippling Point

by S. Sponte, Esq.

According to the latest report from the Institute For The Study Of Imbibing Professionals (“ISIP”), lawyers now lead all when it comes to the non-involuntary consumption of alcoholic beverages. It isn’t official yet—the proctologists have demanded a recount—but it’s looking good.

These results may be revelatory to some, but they don’t surprise me at all. They also don’t surprise the many selfless colleagues who have done their part to garner this victory, mostly because their general state of consciousness quite regularly prevents them from being aware of anything at all.

Although I rarely drink alcohol myself, I have been interested in this subject for years. The practice of law, what with its adversarial nature and its

almost incomprehensible array of sudden, treacherous, almost demonic twists and turns, has the inherent power to force one’s soul into a limousine of despair and drive it straight to drink. It is this maddening component of lawyering that, more than any other, explains why so many distilleries offer full law school scholarships as a vital component of their long-term strategic planning.

The ISIP study further notes that while some yield to drink as a consequence of genetic predisposition and that others simply make it their avocation of choice, many colleagues turn to alcohol only because their already careworn psyches become exposed to some kind of straw/camelback moment, a tipping point if you will, that catalyzes them and sends them careening wildly over the crushed grape precipice.

In the practice of law there is no end to the kinds of stresses that trigger a descent into that black hole of psychic despair where there is no hope, no dreams or aspirations, no wonderfully graphic, full-color sexual fantasies of Gwyneth Paltrow. It is a place where profound nothingness is compressed by gravity into a wretchedness of infinite weight. There is no escape, no way out, neither respite nor release, none, nada, gornischt, save in drink. Trust me, this is not a happy camp.

In an effort to understand more about this particular professional phenomenon, I called Dr. I. M.

continued on page 14



G

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Daniel Joseph

To-Wit: The Tippling Point *continued from page 13*



Tiesing, the study's primary author. "What is the main reason lawyers have more problems with alcohol than other

professionals," I asked.

"They drink more of it," he replied.

"Yes, I know," I said, "but why?"

"Rage," he said. "Instead of finding an acceptable outlet for their anger, they numb it with alcohol. Now if you'll excuse me, I have to finish my report on alcohol and stockbrokers. I call it 'The Point of No Returns.' Catchy, huh?"

Now when it comes to anger, I know a thing or two. My world is wretchedly overrun with judges and opposing counsel who sometimes just can't seem to grasp the innate correctness of my arguments. I would have long ago been swept away by endless tsunamis of rage had I not learned some techniques to manage it.

Hoping to save even one colleague from the false Siren of demon rum, I am going to share my secrets with you. When your professional life hits the skids, give them a try. If, however, I have a case with you now and if you're already drinking, well, perhaps you ought not to try anything new just yet. In your condition, you don't want to be rushing into anything precipitously, now do you?

1. LOLLIPOPS—In moderation, of no particular benefit. In huge quantities, however, they lead to tooth decay which leads to Novocain which leads to blessed numbness. For maximum effect, bite hard.

2. SMALL DOGS OR CATS—Long known for the ameliorative effects petting them has on the human psyche, they also serve admirably to assuage raging aggression when punted across the living room. Avoid larger breeds.

3. THE GOOD BOOK—A reliable source of inspiration and reverence, it also functions well as a means of settling hash with an iniquitous world when flung through a plate glass window. When you need extra-strength relief, try stained glass.

4. THE COMPUTER/SLEDGE HAMMER DUOLOGY—As icons for all the knowledge in the world, computers make useful targets. As weapons of mass destruction that can

be purchased locally, sledge hammers are ideal. Applying one to the other is immensely satisfying.

Now admittedly my techniques can be costly and if done right may require some dry cleaning. But you get what you pay for, and take it from me, it's still a lot cheaper than therapy. 🍷

© 2009, S. Sponte, Esq.

Can't get enough Sponte? More articles are online at www.funnylawyer.com.

Memories of the Early New Kensington Legal Community *continued from page 11*

Armstrong's father, U. S. Armstrong, was a councilman in New Kensington, as is noted in the 1912 souvenir book and was also the New Kensington postmaster.

The other local lawyer with Pittsburgh connections was John McCartney Kennedy. At the turn of the last century, Mr. Kennedy lived in a fine house in the Borough of Parnassus, which merged with New Kensington in 1931 and lost its political identity. Mr. Kennedy was a wealthy person and owned a good deal of real estate in both New Kensington and Parnassus. He commuted to Pittsburgh by train every day, when they ran every hour. Mr. Kennedy was also extremely active in the affairs of the community and in particular, the Parnassus Presbyterian Church, and is buried in its graveyard.

It is interesting to note on the 1922 picture that **ALBERT S. YODER** and **BENJAMIN H. THOMPSON** are both shown. Al Yoder practiced law in New Kensington until his death in 1966, and in his later years, was associated with Robert D. McVey, who is still practicing law in his 89th year. Al Yoder practiced primarily in the estates and real estate area and, also, was the first solicitor for the New Kensington Water Authority. His counterpart, Benjamin H. Thompson, represented the other bank in New Kensington, the Logan Trust Company, which later became Mellon Bank and is now Citizens Bank. Mr. Thompson had his offices in the Logan Trust Building, later called the Mellon Bank Building, and was also the first person from the New Kensington area to serve in the state senate. The only other state senator, to my recollection, that we have had from New Kensington was John Regoli, Sr., who is the father of current WBA member David A. Regoli.

VICTOR B. BOUTON is also shown in the 1922 picture. Vic Bouton, to the best of my knowledge, was the only district attorney that we have ever had from New Kensington until the election of our present district attorney, John Peck.

These are a few of the recollections that I have gleaned over the years which I thought might be of some interest to the other members of the Association. 🍷

November 2008 Civil Trial Term

Jury Trial Verdicts

by Rachel Yantos, Esq., Charles J. Dangelo, Esq., and Thomas L. Jones, Esq.

Of thirty-three cases listed for the November 2008 Civil Jury Trial Term, eleven settled, one was stayed due to bankruptcy, fifteen were continued, one was continued generally, one was scheduled for a nonjury trial, three verdicts were entered and one was held to the next trial term. The jury verdicts for the November trial term are summarized below.

THOMAS J. WALLACE

V.

RODGER SEARFOSS, M.D. NO. 7450 OF 2006

Cause of Action: Professional Negligence—Medical Malpractice

Plaintiff sustained a right elbow injury in the nature of an avulsion fracture and a possible tear of the right triceps tendon. Defendant-physician treated Plaintiff by immobilizing his elbow with a long arm cast. During the course of treatment, Plaintiff complained to Defendant that the cast was too tight. Following removal of the cast, Plaintiff experienced ongoing complaints of pain, and was subsequently diagnosed as suffering from ulnar nerve neuropathy and treated with surgery.

Plaintiff alleged Defendant's negligence in that the long arm cast was applied so tightly it caused Plaintiff to suffer from ulnar nerve neuropathy. At trial, both parties presented evidence including expert medical testimony.

Plaintiff's Counsel: Brendan B. Lupetin, Portnoy & Quinn, LLC, Pgh.

Defendant's Counsel: Daniel P. Carroll, Davies, McFarland & Carroll, P.C., Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendant.



JOHN BASISTA

V.

DALE FRANCIS NO. 1341 OF 2006

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiff was operating a farm tractor on Cool Springs Road in Sewickley Township when Defendant's vehicle impacted with the rear of the tractor, ejecting Plaintiff. Plaintiff claimed he suffered soft tissue injuries, which resulted in loss of earnings and impairment of his earning capacity.

Defendant argued that Plaintiff was negligent per se as the tractor was in violation of state law requiring a farm tractor to have two rotating

yellow beacons and four-way flashers operating at all times. Defendant further disputed the nature and extent of Plaintiff's injuries.

Plaintiff's Counsel: Francis R. Murrman, Gbg.

Defendant's Counsel: Patrick M. Connelly, Summers, McDonnell, Hudock, Guthrie & Skeel, LLP, Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Defendant. (The jury assigned 55% contributory negligence to Plaintiff.)

ALBERT PAPUGA AND MARY JANE PAPUGA, HIS WIFE

V.

DANA RUPERT NO. 3606 OF 2004

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiffs were operating their vehicle near the Route 30 entrance to Westmoreland Mall when Defendant's vehicle rear-ended Plaintiffs' vehicle. Plaintiff Albert Papuga claimed injuries to his neck and upper back as well as numbness in his shoulder and left arm. Plaintiff Mary Jane Papuga asserted a claim for loss of consortium.

Defendant argued that Plaintiffs did not sustain serious injuries as defined in the Pennsylvania Motor Vehicle Financial Responsibility Law, disputing the nature and extent of the injuries. Also, Defendant maintained that Plaintiff's injuries and damages resulted from superseding, intervening, and/or independent causes.

Plaintiff's Counsel: John N. Scales, Meyer Darragh Buckler Bebenek & Eck, Gbg.

Defendant's Counsel: Kenneth Ficerai, Mears Smith Houser & Boyle, P.C., Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict in favor of Defendant. 🐾

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Candid Camera: 2008 Holiday Dinner Dance



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◀ "Let me put it another way. If a woman who isn't me goes home with this, your life, as we have known it, is over."



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▲ *"Read my lips: I said 'WATCH'!"*



▲ *And then people began to wonder anew ... could his name really have been shortened from Felicianatovavich?*



▲ *Jim figured he had that old "shoulder fetish" thing licked until SHE walked by.*



▶ *"I see England, I see France, I see ..."*



▲ *"No, I promise, I'm in the race to stay."*



▲ *No doubt you've all heard how Judge Driscoll hurt his back trying to do his Gabby Hayes impersonation at the Christmas party, but the doctors say he'll be up and about again in no time flat.*



▲ *"Yes, I know," said Phil throughout the course of the evening, "but overkill or not, it's the only size I had."*

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▲
Barry Gindlesperger

Gindlesperger recently served as a presenter and prepared a portion of the course manual for the National Business Institute continuing legal education seminar "Collection Law Tips and Strategies," held December 19, 2008, at the Marriott City Center in Pittsburgh. 🍷

W^{BA} Member
Barry B.
Gindlesperger recently served as a presenter and prepared a portion of the course manual for the National Business Institute continuing legal education seminar "Collection Law Tips

Actions of the Board

NOVEMBER 18, 2008

- Approved Membership Committee recommendations as follows: Matt Faher, Doug Welty, Kevin Henderson, participating.
- Voted to downgrade the WBA end-of-year financial audit to a review.
- Voted to provide sponsorship dollars for the Greensburg First Night event.
- Established WBA committee reimbursement policy that allows for committee functions to be held ONLY within the bar headquarters and that any event held outside of the bar headquarters would need prior board approval.
- Agreed not to raise the \$125 LRS registration fee; LRS online referral program, which is scheduled to go live in January, will be included in that fee.
- Learned that ACBA will be vacating the first floor on January 1.
- Voted to continue to cover the cost for judges to attend the Bench/Bar Conference and to alter the reimbursement policy for WBA members serving on the PBA House of Delegates.
- Accepted the following policies:
 - WBA Monthly Financial Statement Policy
 - WBA Credit Card Usage Policy

- WBA Check Signing Policy
- WBA Cancelled Check Review Policy
- Voted to sponsor a full page ad in the UPG La Cultura booklet using the branded advertisement promoting local attorneys that was used with the Chamber.

DECEMBER 16, 2008

- Approved Membership Committee recommendations as follows: Jonathan Bompiani, participating; Julie Hogan, associate.
- Approved hiring CPA firm, Means and Vance, to perform the 2008 WBA financial review.
- Approved the amended 2009 WBA budget.
- Reappointed Chuck Wade to serve another three-year term on the Laurel Legal Services Board.
- Heard Nominating Committee recommendations for elected positions that bar membership will vote on at Annual Meeting:
 - Board of Directors: Joseph Lazzaro
 - Membership: Maureen Kroll
 - Building: Chris Skatell
- Voted to decline sponsorship in the 2010 national mock trial program to be hosted by PBA and held in Harrisburg.
- Young Lawyers reported that two Christmas parties are planned: one for adults on December 19 at Perry's, the other for children on December 18 at bar headquarters.
- Young Lawyers are looking at starting new community programs including:
 - Operation Safe Surf
 - Recycling program for law offices
 - Dress for Success men's suit drive
- Agreed to establish a Blog/Website Committee to make recommendations regarding website, blog, and other technology-based items.
- Agreed to sponsor Judge Feliciani's band for the TGIS summer concert at the Palace. 🍷



▲
Nat Abramson

and that our Bench and Bar are our extended family.

Thanks again for your concern. Be assured. All is well.

—Nat Abramson

Fellow Bar Association Members and Friends,
The December 3rd issue of the Tribune Review reported that I was closing my office. This is absolutely incorrect. This report was based upon the erroneous statement of a public official, who has since acknowledged the error and apologized for the confusion he caused.

I am in good health and I plan to continue practicing for many years to come.

The worried inquiries and sincere concern of so many of our colleagues have reminded me why practicing law in Westmoreland County is special

wba



Volunteers for Justice

The Pro Bono Program of the Westmoreland Bar Foundation extends thanks to all the attorneys who volunteered their time in 2008:

- Marnie Abraham
- Gary Alexander
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- Janette Baisley
- Kenneth Baldonieri
- Dustin Barr
- Richard Baumgardner
- Jason Bertram
- Meagan Bilik
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- Susan Williams
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LawSpeak

"Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves."

— William Pitt the Younger, Speech in the House of Commons (November 18, 1783)

On The Move ...

DICK GALLOWAY and **JEFF AND LISA MONZO** are proud to announce the opening of their new firm, Galloway Monzo, P.C., 1100 Summit Drive, Suite 100, Greensburg, PA 15601. They can be reached at 724-837-6000 and hope their colleagues will stop in, say hello, and see the new office.

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ABSTRACTS

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CALENDAR OF EVENTS

FEBRUARY 2009

23 A CLE Event: "Trial Tips in Action," 5 and 6:30 p.m., Westmoreland County Courthouse

25 Mock Trial Finals, Noon, Westmoreland County Courthouse
Ned J. Nakles American Inn of Court, 5 p.m.

MARCH 2009

11 Membership, Noon
Bankruptcy, Noon

13 Presentation of New Members, 3 p.m., Westmoreland County Courthouse; immediately followed by the St. Paddy's Party at WBA Headquarters

17 Lunch 'n Learn: Collaborative Law, Noon to 1:30 p.m.
Co-sponsored by the ADR, Family Law, and Young Lawyer Committees
Board Meeting, 4 p.m.

19 Elder Law & Orphans' Court, Noon

31 Dine Around: The Tin Lizzy, Youngstown, Pa., 6:30 p.m.

save the date!

Dine Around will visit The Duquesne Club on April 29, 2009. Meals must be prechosen and prepaid. Call the WBA office for more information.

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- The 12-step recovery meeting, exclusively for lawyers and judges, is in downtown Pittsburgh every Thursday at 5:15 p.m. For the exact location, call Pennsylvania Lawyers Concerned for Lawyers at **1-800-335-2572**.
- LCL has a new website at www.lclpa.org. Attorneys and judges will find information on how LCL can help them, a member of their family or a colleague who may be in distress. It is confidential and easy to navigate. Visit it today.
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