



Moving Forward

Three County Judges Choose New Division Assignments

Okay, who was it who said a love relationship is like a shark, it has to keep moving forward or it dies?¹ Whoever it was might well have been referring to most any kind of relationship, including the relationship of a judge to the law. Perhaps that's the best explanation of all to explain recent movements in the judiciary in Westmoreland County.

As most of you already know, Judges McCormick, Marsili, and Bell have recently taken advantage of the age-mandated retirements of Judges Ober and Ackerman to move from their long-standing assignments in criminal, family, and family courts, respectively, to take assignments in other divisions. Judge McCormick had been in criminal court for almost twenty years, Judges Marsili and Bell in family court for ten. None of them had to leave their respective environs, they all chose to, and we thought this a perfect opportunity to ask them why.

"particularly the trial work. I came to the bench after eleven years in the Public Defender's Office and I had a strong background in criminal law. But I needed to broaden my horizons, to take on new and positive challenges.

"What I liked best in criminal court was the opportunity to fairly apply the constitution when it became necessary to do so. And what I liked least was dealing with the inefficiencies of the criminal system, particularly the lack of resources to deal with such problems as addiction.

"My father (Judge Richard McCormick, Sr.) was well known for the efforts he put in trying to negotiate solutions in civil court matters, and I'm really looking forward to doing the same thing. There will be a learning curve, to be sure, but I don't see any major hurdles. A trial is still a trial and depends on evidence. I am fortunate to have Beth Orbison as my clerk to assist me."

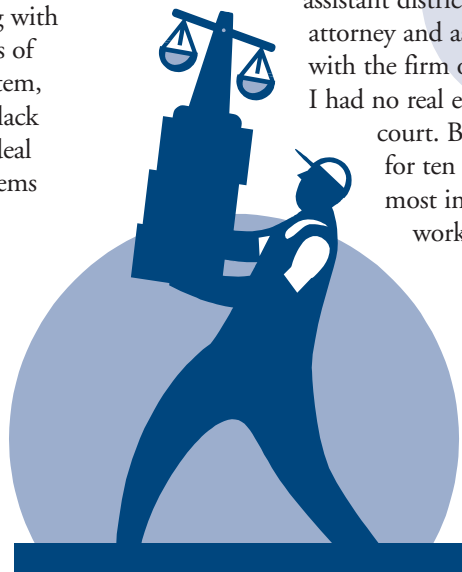
THE HON. ANTHONY G. MARSILI

I didn't choose family court," Judge Marsili said, "so much as it chose me. I came to the bench with experience as an assistant district attorney and as a civil trial lawyer with the firm of Mears and Smith. I had no real experience in family court. But after doing it now for ten years, I think it's the most important judicial work of all.

"It is the most trying, the most heartbreaking of all legal work," he said, "and has the most to do with the human element. I loved the work and came to view my job as working to get families back on track.

"You have to keep your eye on the big picture," he said. "Family court litigation is a part of life and my job was to help people and families cope. But in the last year or so I was running

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THE HON. RICHARD E. MCCORMICK, JR.

I have thoroughly enjoyed my time in criminal court," Judge McCormick said,

¹ It was Woody Allen, in "Annie Hall." But you knew that, didn't you?



President's Message

It Is Something We Just Do

by James R. Antoniono, Esq.

One of my goals during my two years as President of the Academy of Trial Lawyers and during this year as Bar President is to attempt to bridge the gap between doctors and lawyers. Despite our many



differences, we are both trained to help people—they, through medicine, and we, through the law.

What sets our profession apart from the medical profession is that by and large we enjoy each other's

company; we are more than willing to help one another; we like to see each other succeed; we are able to work well together toward a common purpose. The Bar Association works hard to promote this civility—it is one of the most important reasons why we exist.

In our individual practices we spend many hours dealing with ugly, nasty legal problems that just seem to not go away. What keeps me going, however, and why I am proud to be a lawyer, are the times when I am able to help someone who really can't afford to hire legal counsel with what they consider to be a difficult legal problem and, therefore, make their life a little less burdensome.

In 1991, our Bar Association formed the Westmoreland Bar Foundation as a vehicle to foster civility among lawyers and allow us as a legal profession to collectively help people in a number of different ways.

My guess is that every lawyer who is in private practice undertakes a certain amount of pro bono work as a routine part of their practice. For the most part, we don't keep track of these hours or discuss these pro bono clients with our partners or close colleagues—it is something we just do. Through

the Foundation's Pro Bono Program, we are able to reach a much larger group of people who have serious legal problems with nowhere to turn for help.

The Foundation helps people in the following areas:

- The WBF sponsors the high school Mock Trial competition, which helps cultivate law-related education in our secondary schools. One of the problems created by the "No Child Left Behind" program is that it encourages schools to concentrate their educational efforts in those areas where students will be tested. Civics and law are not included. Programs like Mock Trial and Law Day may be the only opportunity for students to learn about government and law.

• Thanks to the generous gifts from a number of our members who have passed away, we have several scholarships we give to deserving students who have an interest in pursuing a legal career. In recent years, we have been awarding these scholarships in the courtroom of President Judge John Blahovec. The students and their families are very appreciative of these scholarships.

- Finally, the Bar Foundation was formed "to cultivate jurisprudence, improve the legal and judicial system, facilitate the administration of justice, elevate the standard of integrity, honor, courtesy, and skill in the legal profession, and cherish the spirit of brotherhood among members."

The funds that allow the WBF to achieve its objectives come from a variety of sources. Each year the WBA provides funds and resources to the Foundation to help it operate. The Lawyers Abstract Company of Westmoreland County, in profitable years, makes donations to the WBF. IOLTA grants from the state provide another source of funding (this source of funding has been dropping because of low interest rates). In addition, money comes in from the dues check

off program, the silent auction at the Holiday Dinner Dance, and memorials.

For the WBF to grow and truly be able to fulfill its mission, we need all of our members to be involved in its funding. If just half of our members (250) left the Foundation an

average of \$10,000 in their estate plan, our Foundation would grow by \$2.5 million. We would be EIGHT times larger than we are today.

The Foundation is preparing to start a major fund-raising campaign. Hopefully we will come close to 100% participation. By joining in this campaign, you will be helping not just your clients, but the community as a whole.

We are the only profession within the county that has created a foundation to help our fellow citizens. Help us make our Foundation a foundation we can be proud of and an example to other foundations across the state. 🙌

"I don't know what your destiny will be, but one thing I know: the only ones among you who will be really happy are those who will have sought and found how to serve."
Albert Schweitzer

Committee Reports

Nominations Announced for 2010–2011 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



▲ Incoming WBA President Donald J. Snyder, Jr.

Membership and Building Committees. Those WBA members attending the Annual Meeting of the association, to be held on April 5, 2010, will vote “yea” or “nay” to fill these positions.

At the conclusion of the annual meeting, Donald J. Snyder, Jr., will assume the Bar presidency.

VICE PRESIDENT: DAVID S. DEROSE

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



▲ David S. DeRose

David S. DeRose has been nominated for the

position of Vice President. He is completing his third year as a Director on the WBA board.

A member of the Pennsylvania Trial Lawyers Association and the Association for Conflict Resolution, Dave is also a founding member of Lawyers Abstract Company of

Westmoreland County, serving on its Board of Directors from 1987–1994. Dave is currently serving on the WBA’s Building, Planning, Family Law, and Elder Law & Orphans’ Court Committees.

A graduate of Penn State University, Dave earned his juris doctor from the Duquesne University School of Law and has been a member of the WBA since 1977. He is an associate with QuatriniRafferty, PC, in Greensburg.

BOARD OF DIRECTORS: HARRY F. SMAIL, JR.

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

Harry F. Smail, Jr., has been nominated for the open position on the WBA Board of Directors. He was elected to the Membership Committee in 2005 and currently serves as its chair. As chair,

Harry says he endeavors “to motivate new members into active participation.” As Director on the WBA board, he would “continue to act as a liaison in promoting better activism among the younger bar members.”

Harry is a past Chair of the Young Lawyers Committee, and is a member of the Planning, Family Law, Criminal Law, Civil Litigation, and ADR Committees. He is a Director on the board of Laurel Legal Services, is a member of the PBA House of Delegates, and has been active in the Ned J. Nakles American Inn of Court since being admitted to the WBA in 1998.



▲ Harry F. Smail, Jr.

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Lawyer Referral Service of the Westmoreland Bar Association

The Lawyer Referral Service is now accepting applications for 2010. If you are a full-participating member of the WBA and need an application, call 724-834-6730.

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/thesidebar.

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Nominations Announced for 2010–2011 Board, Committees *continued from page 3*

Harry earned a dual degree in Business Administration–Marketing and Political Science–Pre-Law from Grove City College, and his J.D. from Duquesne University. He owns the Law Offices of Harry F. Smail, Jr., P.C., in Greensburg.

culminated in the Young Lawyers earning the Committee of the Year award at the 2008 Annual Meeting.

A graduate of Seton Hill, DeAnn earned her J.D. from Duquesne University. She is a sole practitioner in Somerset.



**MEMBERSHIP COMMITTEE:
DEANN MCCOY**

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

DeAnn McCoy has been nominated to fill the open position on the WBA Membership Committee.

Admitted to the WBA in 2004, DeAnn is a current member of the Young Lawyers, Family Law, Parent Counsel & Guardian, ADR, and Nominating Committees. During her tenure as Chair of the Young Lawyers Committee from 2007–2008, she helped spearhead a number of programs, including Operation Safe Surf, multiple Lunch and Learns, and Halloween and Christmas parties for members and their families. All this activity

▲
DeAnn McCoy

**BUILDING COMMITTEE:
JOHN N. WARD**

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

John N. Ward has been nominated to serve on the WBA's Building Committee.

A member of the WBA since 1974, John serves on the Planning, Elder Law, Municipal Law, and Real Estate Committees. He is active in a number of community organizations, and serves on the board of the Westmoreland Land Trust and the United Way of Westmoreland County.

John earned his undergraduate degree from Washington & Jefferson, and his J.D. from Duquesne University. He is a partner with Ward & Christner, P.C., in Greensburg.




▲
John N. Ward

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Daniel Joseph

Bench/Bar Committee

2010 Bench/Bar Conference Returns to Seven Springs

Think Spring! Think Sun! Think anything other than February! And think—the 2010 Annual Bench/Bar Conference at Seven Springs Resort is just three months away. Just an hour's drive to adventure, outdoor activities, beautiful scenery, and great food and drink.

The freshly renovated, newly upgraded Seven Springs is worth the drive, worth the registration fee, worth the effort of blocking off Thursday and Friday, June 10–11. And this year's conference looks to offer even more opportunities to unwind, try new things, and still get quality CLE. **All for just \$150!**

What's new this year?

A GROUP DINNER IN THE ALPINE ROOM—This 4,200-square-foot private dining room has its own deck, its own bar, its own dance floor, and plenty of room for attendees to gather, rain or shine.

GROUP CLAY SHOOTING LESSON—We booked time for the NSCA-certified instructors to teach beginner's clay shooting. After a safety presentation and practice session, guests will have ample opportunity to experience the thrill of pulverizing clays.



MOUNTAIN BIKING—Take the ski lift up and bike down the Rock and Roll trail. Strictly for beginners (or old lawyers) this trail flows perfectly with gentle banked turns, rollers and junior-sized rock gardens. If you just want to take a mellow cruise, Rock and Roll was built for you.



A SPECIAL GUEST: THE HON. J. MICHAEL EAKIN, PA. SUPREME COURT—Justice Eakin served in the Pa. National Guard and was the Cumberland County District Attorney before being elected to the State Superior Court in 1995, and the State Supreme Court in 2001. He plays the harmonica, has been known to write his opinions in rhymes, and has been a favorite guest speaker at several state bar leaders conferences.



The Hon. J. Michael Eakin

RELAX AND UNWIND

If you seek pure and simple relaxation, unwind at the new outdoor pool with poolside bar. Or visit the hotel's Trillium spa, which offers the perfect place to escape the stress and commotion of everyday life. Book a facial, massage, or body wrap and rejuvenate your mind, body and spirit.

Of course, the WBA will again offer 4.5 credits of Continuing Legal Education programming with a movie critic's CLE, Malpractice Avoidance seminar, and a one-hour judges forum.

Plus, don't forget the Thursday vendor hours, opening reception, outdoor cookout, and evening entertainment.

We hope you'll keep these dates open and choose to join us for a pre-Summer escape to the retreat-next-door, Seven Springs. You'll have fun. We promise! 🍷

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Three County Judges Choose New Division Assignments *continued from page 1*

out of patience, becoming less effective. That's when I knew it was time to move on. I'm looking forward to fewer emergencies, having more time to deliberate.

"At first, being a judge was not what I expected. I had had no prior experience in looking at a case from both sides—a required skill for a judge. Once I learned to do that, I enjoyed the job much more.

"Oh, and I get a new courtroom now, too. Seniority does have its advantages."

THE HON. ALFRED B. BELL

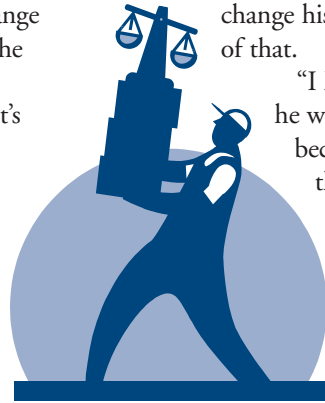
You know what I loved most about being in family court?" Judge Bell asked as he leaned back in his chair. "It's the juvenile work.



Some things I do can change a young person's life for the better. It doesn't happen often, but when it does, it's the best feeling.

"You've asked me something I'm proud of during my tenure here in Family Court," he said. "Well, there was this one young man, he was in front of me several times

as a juvenile, headed for a life of crime and neglect. I took a personal interest in his life and he recently called me: he got a full scholarship to school, he's doing well, he's graduating, and I realized that some things I did for this young kid really mattered, helped



change his life. I'm really proud of that.

"I hated custody cases," he went on. "Frequently it became a matter of picking the least worst parent.

Often there is no good or long-term solution to the mess that some people make of their family lives.

"I'm leaving," he went on, "because I

felt the desire to go back to criminal court. I'd spent 27 years there, both in private practice and in the District Attorney's office, and I was starting to tire of the extreme bitterness between litigants in custody, divorce, and PFA cases. Besides, I've always liked jury trials: they're in a way representative of the highest ideals of the American experiment." 🐾

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New Member Sketches

STEPHEN M. CREVAK has been admitted as an associate member of the WBA. Born in Latrobe, he graduated from Blairsville High School, and Saint Vincent College, where he majored in History. Stephen earned his J.D. from Widener University and works for Eckert Seamans in Pittsburgh.

JOHN E. EGGERS, JR., has joined the WBA as a participating member. John was born in Washington, Pa., and graduated from Washington High School. He attended Edinboro University of Pennsylvania, where he majored in Criminal Justice, and earned his J.D. from the Duquesne University School of Law. A sole practitioner with an office in Murrysville, he and his wife, Amy, live in Plum Borough.

JASON N. HUSKA was admitted to the WBA as a participating member. A native of Latrobe, he graduated from Greater Latrobe Senior High School. Jason earned his undergraduate degree from Clarion University of Pennsylvania, and his J.D. from the Duquesne University School of Law. A former Assistant District Attorney for Westmoreland County, Jason is now an associate with Ferguson Law Associates in Latrobe.

BRADLEY ALLEN KING, son of WBA member Robert W. King, has been admitted as a participating member of the WBA. A graduate of Hempfield Area Senior High School, Brad majored in History at Gettysburg College, and earned his J.D. from the Villanova University School of Law. He is an associate with King & Giddy in Greensburg.

JAMES THOMAS LAZAR has joined the WBA as a participating member. Born in Greensburg, James is a graduate of Hempfield Area Senior High School. He attended The College of Wooster, where he majored in Political Science, and earned his J.D. from the Duquesne University School of Law. James is currently with

the Westmoreland County District Attorney's office. He and his wife, Sara, live in Youngwood.



MARK G. MOYNIHAN has been admitted as a participating member of the WBA. A graduate of The Kiski School, Mark earned a degree in History from Carnegie Mellon University, and his J.D. from the Western New England College School of Law. Mark recently opened an office in Pittsburgh, and resides in Murrysville.

MICHAEL L. NESTICO has joined the WBA as a participating member. A graduate of Greensburg Central Catholic High School, Michael attended Penn State University, where he majored in Crime, Law & Justice. He earned his J.D. from the Western New England College School of Law. An associate with Berk, Whitehead, Kerr & Turin, in Greensburg, Michael lives in Jeannette.

JESSICA L. RAFFERTY, daughter of WBA member Dennis B. Rafferty, has been admitted to the WBA as a

participating member. A graduate of Greater Latrobe Senior High School, Jessica attended Bucknell University, where she majored in Business Administration, and earned her J.D. from George Mason University School of Law. She is an associate with QuatriniRafferty in Greensburg.

COREY J. SACCA was admitted to the WBA as a participating member. A native of Latrobe, he graduated from Greater Latrobe Senior High School. Corey earned a degree in Political Science from Westminster College, and his J.D. from the University of Detroit Mercy. He is an associate with Bononi & Company, PC, in Greensburg.

MATTHEW R. SCHIMIZZI, son of WBA member Richard W. Schimizzi, has joined the WBA as a participating member. A graduate of Greater Latrobe Senior High School, Matt majored in Political Science at the University of Pittsburgh at Greensburg. After earning his J.D. from Duquesne University School of Law, he joined his father's practice in Greensburg. Matt and his wife, Lindsey, live in Greensburg.

GERALD F. SCHOONE was admitted to the WBA as an associate member. Born in Natrona Heights, Jerry is a graduate of Highlands High School. He earned a degree in Political Science from Penn State University, and his J.D. from the University of Pittsburgh School of Law. Jerry is a sole practitioner in Murrysville, where he lives with his wife, Rebecca, and children, Hannah and Cary.

FRANK M. SPOTO, JR., has been admitted as a participating member of the WBA. Born in Rochester, N.Y., Frank is a graduate of Belle Vernon Area High School. He attended the University of Pittsburgh at Greensburg, where he majored in Political Science, and earned his J.D. from the University of Pittsburgh School of Law. He is a sole practitioner in Belle Vernon. 🍀

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November 2009 Civil Trial Term

Jury Trial Verdicts

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

Of 24 cases listed for the November 2009 Civil Jury Trial Term, five settled, 16 were continued, a non-jury trial was scheduled in one, and two verdicts were entered. One jury verdict for the November 2009 civil trial term is summarized below.

**KAREN J. FULTON AND
JOHN FULTON, HER HUSBAND
V.**

**ROBERT BEGONIA, INDIVIDUALLY;
FRANK LETTERINE, INDIVIDUALLY AND
T/D/B/A FRANK LETTERINE TRUCKING;
AND FRANK LETTERINE TRUCKING
NO. 3316 OF 2004**

Cause of Action: Negligence—Personal Injury

On July 24, 2002, Karen J. Fulton, an employee of the United States Postal Service, was working on the loading dock of a postal facility in Allison Park, Pennsylvania. On that day, Robert Begonia, an employee of Frank Letterine Trucking, was delivering mail to the postal facility. The mail was packed in heavy, wheeled bins, which Begonia was

required to roll from his truck and on to the loading dock. While Begonia was unloading his truck, a bin loaded with mail collided with Fulton and pinned her arm against a door. Fulton sustained wrist injuries, including fractures of the distal radius and ulnar styloid, which required surgical repair.

Fulton contended at trial that Begonia was negligent because he pushed the loaded bin on to the loading dock in an unsafe manner and thereby caused her injuries. Begonia and Frank Letterine Trucking denied that they were negligent and contested the nature and extent of Fulton's injuries.

Plaintiffs' Counsel: Thomas J. Smith, Caroselli, Beachler, McTiernan & Conboy, Pgh.

Defendants' Counsel: Robert A. Loch, Robb, Leonard & Mulvihill, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendant. 🤝



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LAW BOOKS NEED NEW HOME Up-to-date: Purdons, U.S. Code Service, Corporate Statutes. Contact Paul Ward, 724-539-5337, Kennametal

foundation focus

C'mon, Get Happy

by Diane Krivoniak

I recently stumbled onto a remarkable book, by an attorney-turned-writer, titled "The Happiness Project." Author Gretchen Rubin devotes a year of her life studying the science of happiness, then purposely implements specific goals each month in the hopes of improving her life through changes—big and small.

One life goal that she comes back to again and again is "one of the best ways to make yourself happy is to make other people happy." At one point in her yearlong quest, she focuses on using her "decluttering" talent to help her friends clean and organize their closet spaces. Such a simple talent, but because she was improving someone else's life, she was spreading happiness.

As an attorney, your talent is problem solving. You may not know everything about the law, but you know how to find the answers and how to help people. Whether your clients are rich or indigent, honest or dishonest, individuals or small businesses, they are what allow you to practice your talent as a professional problem-solver. Lawyers make people's

lives better, and, following author Rubin's dictum, this "makes them and you happier."

Pro bono participation can give you the same satisfaction. As Rule 6.1 of the Pennsylvania Rules of Professional Conduct, titled Pro Bono Publico Service, outlines: "A lawyer should render public interest legal service. The basic responsibility of each lawyer engaged in the practice of law [is] to provide public interest legal services, without fee ... in one or more of the following areas: poverty law ..."

Our local Pro Bono Program allows you to use your problem-solving skills while also satisfying your Pro Bono Publico Service requirement. And this year, we can use your help.

The Westmoreland Bar Foundation trustees have set the following objective for the Pro Bono Program in 2010: to more efficiently provide legal representation to pro bono clients.



Simply put, the WBF board is seeking to eliminate waiting lists and long wait times for those seeking pro bono representation.

The action goals include:

1. Eliminate the divorce waiting list by asking WBA members to commit to one pro bono divorce case a year.
2. Assign family law volunteers to pre-interview clients to determine exact needs of clients prior to assigning them to (other) Pro Bono attorneys.
3. Enlist "triage" volunteers who will serve as first line responders. The "triage" volunteers will remain in their offices and receive phone calls one half-day a year; they will be asked to screen the caller for determination of "case worthiness," and then refer the appropriate clients back to Pro Bono for assignment to (other) lawyers.

These are lofty goals that have been set by the WBF trustees and these new procedures will take a couple of months to activate. However, as Gretchen Rubin preaches as one of her Secrets of Adulthood, "Do good, feel good."

If any of the new ideas appeal to you, please contact Iva Munk at Pro

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Past speaker at the National Business Institute's "Complex Bankruptcy Issues" seminar.

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JUDITH A. STURDEVANT

foundation focus *continued from page 9*

Bono, Diane at the bar association or any WBF trustee. Otherwise, we hope you will respond positively when you receive the request to participate. 🍷

2009 Silent Auction Benefits Pro Bono Program

Every December, lawyers, judges, and guests gather from across the county to attend the annual holiday dinner dance and to support the Westmoreland Bar Foundation's mission. Now in its 15th year, the WBF Silent Auction was held on Saturday, December 5, 2009, at the Westmoreland Country Club in Export. A cocktail reception, in conjunction with the auction, began at 6:00 p.m., and dinner and presentations followed at 7:00 p.m.

This year, the WBA, WBF, Ned J. Nakles American Inn of Court, and Westmoreland Academy of Trial Lawyers honored our retiring judges, The Honorable Daniel J. Ackerman and The Honorable William J. Ober, for their years of service with the Court of Common Pleas.

The WBF is grateful to the supporters of the silent auction. This year's event raised almost \$10,000 through auction bids and through monetary donations. The proceeds will go directly to providing operating funds to the Pro Bono Program, which has experienced a 40% cut in grant funding over the past three years.

Special thanks to each of the following WBA members, and WBF friends:

- Judge Daniel Ackerman
- Aestique Medical Center and Spa
- Robert Austin

- Judge Alfred Bell
- Jack Bergstein
- Ray and Scott Bitar
- Judge John Blahovec
- James Boggs
- Caffe Barista
- Judge Gary Caruso
- Thomas Cole
- David Colecchia
- DeBernardo Antoniono McCabe Davis and DeDiana
- Janice and Richard Galloway
- Gillen Geary
- Duke George
- Judge Rita Hathaway
- Deborah Hines Massage Therapy
- Judge Joseph Hudock
- Daniel Joseph
- Kathleen Kemp
- Lawyers Abstract
- Morrison Lewis, Jr.
- Judge Charles Loughran
- Judge Anthony Marsili
- Judge Richard McCormick, Jr.
- David Millstein
- Mister Bones Bistro and Brew Hub
- Milt and Iva Munk
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- Carol and Judge William J. Ober
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- Michael Quatrini
- Vince and Patti Quatrini
- Kathy Rafferty
- David Regoli
- Dwayne Ross

- Lois Sayers
- Seven Springs Mountain Resort
- Judge Jacqueline Shogan
- Mike and Karen Stewart
- Bruce Tobin
- USI Affinity
- Westmoreland Symphony Orchestra 🍷

Volunteers for Justice

The Pro Bono Program extends thanks to all the attorneys who volunteered their time from October through December 2009.

- | | |
|-----------------------|--------------------|
| • Steven Allias | • Karen Kiefer |
| • Janette Baisley | • Maureen Kroll |
| • Mary Baloh | • Jon Lewis |
| • Eric Barchiesi | • Irene Lubin |
| • Jason Bertram | • Shirley Makuta |
| • Faith Burns | • Bill McCabe |
| • Larry Burns | • Phil McCalister |
| • Brian Cavanaugh | • Paul Miller, Jr. |
| • Peter Cherellia | • David Millstein |
| • David Colecchia | • Donald Moreman |
| • Charles Conway III | • Debra Nicholson |
| • Debra Cribbs | • Terry O'Halloran |
| • Michael DeMatt | • Brad Ophaug |
| • David DeRose | • Gino Peluso |
| • Becky Fenoglietto | • Dennis Persin |
| • Charles Fox IV | • Tereasa Rerko |
| • Dick Galloway | • Robert Slone |
| • Barry Gindlesperger | • Mark Wible |
| • John Hauser III | • Preston Younkins |
| • Debra Henry | • Ron Zera |
| • James Kelley Jr. | |

If you would like to volunteer your time or resources to provide legal help to the indigent of Westmoreland County, please contact Pro Bono Coordinator Iva Munk at 724-837-5539. 🍷

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To-Wit: The Origin of the Specious

by S. Sponte, Esq.

Well, there it goes, another year galumphing off into the past like way too many before it. And like way too many before it, this year's end has been accompanied by the same end-of-year e-mails I always get, carrying the same end-of-year messages: charities seeking donations, florists suggesting posies for my "special lady," Canadian pharmacies suggesting Viagra in case flowers alone don't cut it anymore.

And just as I can count on those e-pistles, so can I rely on the year-end arrival of the Darwin Awards, that allegedly factual annual compilation of really stupid human conduct resulting in really stupid fatal or humiliating injuries to those involved. It purports to be a



culling out of the weaker-minded from the human herd by the process of natural selection, but I'm hoping it's not facetious. Herd culling of any kind makes it so much easier for me to find good parking.

Yet it seems to be a compulsion of my ilk, and others like me, to mull things over at year's end, and this year's Darwin Awards have stirred up plenty of grist for my mull. Is there a similar process going on in the practice of law, I wonder? Does this explain why over the years some colleagues have just suddenly disappeared from the scene?

They haven't died, they haven't retired, they've just vanished from the profession. Could a similar process of natural selection be eliminating them from the practice of law because they aren't

good enough, smart enough, clever enough to survive as lawyers anymore? It certainly would explain the results of some recent judicial elections.

A quick call to our bar association's executive director produced the names of a number of colleagues who have in recent memory left the profession. A few more discreet phone calls to other colleagues provided sufficient information to support the theorem. What follows, then, is a list of those lawyers and the facts surrounding their respective departures from the profession. Of course, I've changed the names for reasons of privacy. I've also changed the facts.



continued on page 12

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- Westmoreland Academy of Trial Lawyers**
- Best Lawyers in America**
- Pennsylvania Super Lawyers**
- Pittsburgh Magazine: Best Trial Lawyers**
in Westmoreland County
- Philadelphia Magazine: Top Attorneys**
in Pennsylvania

I would be happy to accept referrals on Personal Injury and Wrongful Death cases. Reasonable referral fees are paid in accordance with the Code of Professional Responsibility.

To-Wit: The Origin of the Specious *continued from page 11*

Otherwise the following accounts are completely accurate.

DUMONT (DEWIE) FIELDS—

An eminent domain specialist, he spent years pushing his theory of the “de otto” taking, arguing that condemnors must compensate condemnees for property they ought to have taken. “My biggest mistake,” he admitted when interviewed at the car wash where he now works for steady wages, “was taking all those cases on contingency fee.”

SHIRLEY UJEST—A family law sole practitioner limiting her practice to gullible, wealthy physicians in brief second marriages with no minor children and iron-clad prenuptial agreements, she made the mistake of representing two doctors in the same practice, billing each one more than

eighteen hundred hours in the same year. At her hearing before the Bar Association’s Unbelievable Even For Us Committee on Billing, she was asked why she thought the doctors wouldn’t figure out she was charging more billable hours than there are in a year. “Yeah, my bad,” she said, “I should have represented only one and billed him thirty-six hundred hours. But don’t worry, I won’t ever make that mistake again, I promise.”

PARIAH JONES IV—Upon receiving a phone call from a client requesting a status report on his personal injury claim, Pariah looked at the file and realized the statute of limitations had already passed. Hoping to dissuade the client from further action, Pariah said, “But I told you I needed a five thousand dollar retainer before I’d file suit.”

“So what you’re telling me,” Pariah said at his disbarment hearing, “is that when the client came in with

the check, I shouldn’t have taken it, right?”

CLAIRE DE LOON—Graduating first in her class, Claire had it firmly entrenched in her heart and soul that all clients were truthful, all lawyers were honest, all judges were smart, and everyone entitled to it got justice. Her condition first became apparent to the court when she was seen to be smiling excessively at her swearing in. She was disbarred six minutes later as suffering from existential jubilation and thus, psychologically unfit to practice law. It’s a career brevity record likely to stand for all time.

Let me take this opportunity to wish all of you the very best for the coming year. It promises to be a year of joy, of peace, of prosperity and good will, provided of course that you survive. 🍀

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



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What Often Passes Between Opposing Parties (Answer: CROSSWORD)

We express our gratitude to the puzzle editor of the New York Times for her involuntary assistance in permitting us to steal her format so's we could create the first of what we hope will be a series of legal crossword puzzles to be run in *the sidebar*—as if you aren't already puzzled enough just remembering where the hell your office is. Anyone who manages to correctly finish the puzzle will be reported to the Mental Health/Mental Retardation Unit of Westmoreland Hospital as being hopelessly psychotic. And, yes, we'll publish those names.

ACROSS

- 1 Inchoate crime involving animals, lollipops, and Goobers
- 7 PBI President's nickname following arrest
- 11 Interim trustee of interlocutory estate of temporary minor
- 12 String of adjectives used to describe plenary power of Commonwealth Court when invoked to client's disadvantage
- 13 Judicial mistress
- 15 Credit card given to judicial mistress to keep her quiet
- 16 Statute of Ultimate Repose
- 17 Last in his/her class on ethics
- 21 Sham defense; also known as Insurance Counsel's Gambit
- 22 PFA hero's date of parole in Roman numerals
- 24 Could have dressed better for court
- 25 Recipient of 2008 WBA Sharp Practices Award
- 26 Dryer Act chauffer
- 27 Family Court magician
- 29 Manual dexterity maneuver to relieve deposition boredom

- 30 Repeat recidivist
- 31 *Dolus latet in generalibus* in Hebrew
- 32 _____ & Gomorrah P.C.
- 34 Latent ADA virus
- 40 Site of 1903 Bench/Bar Conference
- 41 Law clerks' most-common recurring dream
- 42 Nude fiduciary
- 43 Unisex asbestos suit

DOWN

- 1 Megan's ____
- 2 BarFly understudy
- 3 Lien creditor
- 4 Fat creditor
- 5 Presumptive legatee
- 6 Predatory settlement
- 7 Common law sanction for contempt of Queen
- 8 *E moribus et octet unalaporium*
- 9 Waiver of alimony; a/k/a Charlene the Gloater
- 10 Lacking no merit
- 14 Successful oral argument
- 15 Equity dispenser
- 16 Electronic filing nemesis
- 17 *Prima facie de ____ humongous*
- 19 Obscure form of citation
- 20 Execution by mark (cruel and unusual?)
- 21 On-line unitrust statement
- 22 No sealed verdict
- 23 *In camera cutie*
- 28 What judges don't know
- 29 Excused for flagrant stupidity
- 31 A less than grand jury
- 32 No flush rule
- 33 Excessive fee
- 34 IME impersonator
- 35 Mediation mutilators
- 36 Judge Ober's ram (first name)
- 37 Retainer renegade
- 38 "And the lawyer said, 'You gotta be ____ me.'"
- 39 Really really really stacked insurance 🍀

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Letters to the Judge

The Honorable Joseph Hudock
 c/o AOPC Mobile Judiciary Division
 Box 1777
 HARRISBURG, Pa 17058

Your honor, Sir,
 I write to pick a bone with you, but before you flare in anger at the prospect let me tell you how much indeed you are respected by all of the inmates here. Your decisions have raised the bar for comedic opinion writing. Each week when the advance sheets arrive in the library, we take turns reading your opinions aloud. The criminal ones are a particular howl and our laughter often earns us a rebuke from the guards. So certainly you are the most entertaining of all the appellate judges.

I will start my humble narrative from the beginning. Norman, Darla Jean's middle boy, went to the bar association's office to inquire as to whether there might be there some scrap of information about pending legislation concerning the legalization of marijuana, strictly for medicinal purposes of course, as he felt that he might be prone to croup or possibly post-nasal drip and the accompanying anxiety associated with each. Those at the bar association told him however that lawyers have no interest in pending legislation but only toy with it after the fact.

So that his visit would not be a total loss, Norman, on his way out, lifted a stapler and a magazine from the secretary's desk. When he got to his truck he found that what he had taken was not a real magazine, but a parochial tract titled "the sidebar." His first inclination was to pitch it out the window onto the parking lot, but Norman has high standards when

“There in print you suggest that I am a nonexistent fiction, a fantasy, like a troll, a gremlin, or a president judge.”


it comes to littering. So it was a few days later that his mother found it on the seat of the truck and perusing it she saw your byline on an article and hurried it on to me, knowing me to be such a fan of yours.

When I read it, I was crushed. There in print you suggest that I am a nonexistent fiction, a fantasy, like

a troll, a gremlin, or a president judge; created in the warped mind of a has-been retiring colleague from your less exalted days on the local bench. Does your honor think that our overcrowded prison would give up space so that my cellmate, Jeeter, could live with a fictional and nonexistent character?

He, of course, thinks it is rather funny and makes sport of me in the cafeteria line saying that he should get two portions of everything because the guy next to him really doesn't exist. I am devastated that "my judge," the one who sent me here, no longer recognizes me. Now Norman is telling his mother that when I am paroled she will be marrying an apparition.

You can make amends by sending an open letter to "the sidebar" acknowledging your error, or better yet, how about that parole?

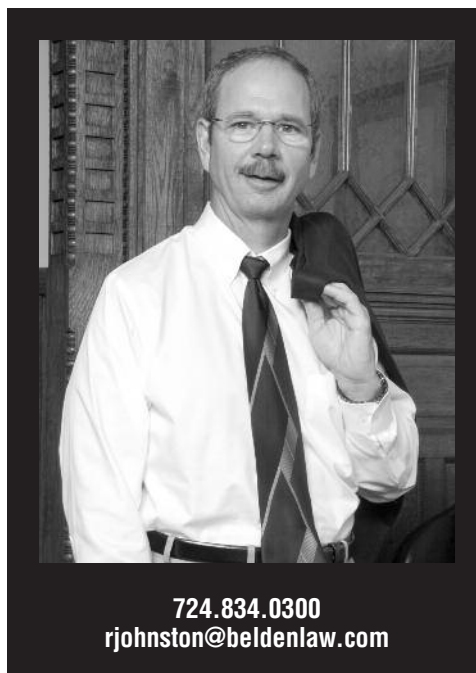
Your REAL friend,
 Ricky H. Benbow, Sr. 



LawSpeak

"[A]n ancient legal maxim...: 'Ratio est legis anima, mutata legis ratione mutatur et lex.' ("Reason is the soul of the law; when the reason of the law has been changed, the law is also changed.")"

— Estate of Fridenberg,
 982 A.2d 68, 76
 (Pa.Super. 2009),
 filed Aug. 25, 2009



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Bob Johnston 

Appointed to Federal Court Mediation and Arbitration Program


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Actions of the Board

OCTOBER 20, 2009

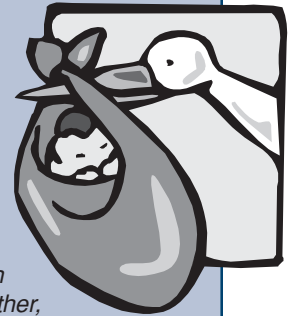
- Approved Membership Committee recommendations as follows: David Tkacik, associate; Frank Spoto, participating.
- Voted to establish a policy that uses both raw data and percentages in press releases regarding the retention polling results for our judges.
- Reappointed Michele Bononi and Mary Meisner to three-year terms on the Laurel Legal Services board, with thanks from the WBA board for their service.
- Voted to increase dues by \$15: \$13 for PBA and \$2 for WBA.
- Learned that CASA fund-raiser raised about \$2,200 and received positive press before and after the event, including a photo in the Trib.
- Voted to cover the expense for YL Chair Bompiani to attend the Wills for Heroes training program in Philadelphia on November 7.
- Agreed to survey members for feedback on the Fall Gathering and Bench/Bar Conference.

NOVEMBER 17, 2009

- Agreed to grant request of Fee Dispute Committee Chair Harvey Zalevsky that committee include non-bar members, who practice in Westmoreland County, to see if situations can be resolved.
- Learned that Disciplinary Board liaison Angie Mitas can be called when one needs to discuss cases anonymously.
- Agreed the WBA president should work to encourage attorneys involved in fee disputes to participate in hearings.
- Approved Membership Committee recommendations as follows: Mark Moynihan, Michael Nestico, Jessica Rafferty, and Brad King, participating.
- Voted to accept 2010 budget as amended.
- President Antoniono reported that he attended the “Get Help Now” reception at the Governor’s Mansion in early November, which served as a “thank you” to all volunteers.
- President Antoniono, Vince Quatrini, Diane Krivoniak, and Bob Johnston met to discuss proposed CLE with doctors in order to foster better relationship with medical community. Group agreed to put a list of proposed seminars together and

And Baby Makes ...

Scott and Erika Bitar welcomed twins London and Barron into the world on August 4, 2009. Both weighed just over 7 lb at birth and join big brother, Scotty, and big sisters, Baylin and Baustin, at home. Scott is a partner with Bitar & Bitar in Lower Burrell.



Margaret Zylka House and her husband, Max, welcomed their newest family member, Shea Theresa, on December 27, 2009. Shea weighed 5 lb 14 oz., and was 19 inches long. They were excited she made the 2009 tax year, despite a Jan. 4 due date. She joins big brothers—and helpers—Max and Isaac at home.

present to Excelsa Health and the Medical Society.

- 2010 Bench/Bar contract with Seven Springs Resort has been signed for the dates of June 10-11.
- Voted to raise the WBA pilot dues from \$80 to \$100 beginning in 2011.
- Westmoreland Bar Foundation reported that new project is underway that will eliminate the divorce waiting list for Pro Bono; WBA board agreed to waive fee for attorneys needing to advertise in the legal journal in search of a defendant.
- YL Chair Bompiani reported on the “Wills for Heroes” training he attended in Philadelphia in early November; board asked for a demo on this program as they have concerns on the process and legal documents that are configured through this program.
- Agreed to invite the Orphans’ Court Committee members for a “look-see” of the Wills for Heroes program prior to moving the program forward. 🐾

where in the world IS THE WBA MEMBER?



This photo was taken at the John Pennekamp Coral Reef State Park in Key Largo, Florida, in May 2009, shortly after I got my open water SCUBA diving certificate.

—Rabe F. Marsh, III

KEY LARGO, FLORIDA



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June 10-11, 2010

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Conference, Seven Springs
Mountain Resort**

CALENDAR OF EVENTS

*All committee meetings and activities will be held at the WBA Headquarters unless otherwise noted. Visit www.westbar.org for more information about activities and CLE courses, or to **register online**.*

MARCH

- 10** Real Estate Committee, Noon
- 11** Membership Committee, Noon
- 12** New Members Ceremony, 3 to 4 p.m., Ceremonial Courtroom No. 3, Westmoreland County Courthouse
St. Paddy's Day Party/New Members Reception, 4 to 7 p.m., WBA Headquarters
- 16** [CLE] Amendments to the Pennsylvania Support Guidelines, held in conjunction with the Family Law Committee meeting, Noon to 1:15 p.m.
Board Meeting, 4 p.m.
- 18** Elder Law & Orphans' Court Committees, Noon
- 23** [CLE] Estate Planning Aspects of IRAs, Noon to 1:15 p.m.

- 24** Bankruptcy Committee, Noon
Dine Around: Bell's Steak and Seafood House, Mt. Pleasant, 6:30 p.m.

APRIL

- 2** Courthouse closed in observance of Good Friday
- 5** Westmoreland Bar Foundation Annual Meeting, 4:30 p.m., followed by the Westmoreland Bar Association Annual Meeting, 5 p.m., Greensburg Country Club
- 8** [CLE] Personal Injury Trial Practice Tips, Noon to 2:15 p.m.
- 14** Real Estate Committee, Noon
- 20** Family Law Committee, Noon
- 21** [CLE] Compliance Period Seminar, 9 a.m. to 3:45 p.m.
Dine Around: Out of the Fire Cafe, Donegal, 6:30 p.m.

LAWYERS CONCERNED FOR LAWYERS CORNER

- 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.
- Lawyers Confidential Help Line: **1-888-999-1941**. Operates 24 hours a day.