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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION  
VOLUME XXIV, NUMBER 4  
SEPTEMBER 2012

Vacancies on the Bench

# On Your Mark, Get Set, Wait

If you both practice law and consume oxygen in Westmoreland County these days, you are no doubt aware that many, many, many, many, many, many, many colleagues are reputed to be lining up to vie for the several judicial vacancies everyone thinks are shortly to occur.

While none of the candidates need demonstrate any particular degree of intelligence, experience, temperament, or ability to be a judge, we at *the sidebar* think the aspirants should at least know if there's even going to be a race. Judging (you should pardon the expression) by the rumors floating about, that does not seem to be the case.

Our task puts us in mind of that old joke about the Army master sergeant who's directed by a lieutenant to break the news to Jones, a new recruit, that his wife has just passed away back home.

"However you do it," the lieutenant says, "please try to be sensitive."

After pondering the matter, the sergeant hits upon what seems to him to be the perfect approach. He lines up all the men on the drill field and says, "All those married men please take one step forward. Not so fast there, Jones."

Well, to all those colleagues who have been hankering for a scamper to the bench next year, we say, "Not so fast there, Jones." It turns out you are going to have to wait a little while longer to get the hell out of your practice. Next year there will be only one judicial seat up for election, not



the several that have been rumored.

Judge Driscoll, who turns 70 during this calendar year, faces mandatory retirement at the end of 2012. That vacancy will be contested for by election in 2013, and unless the Governor makes an interim appointment, that seat will be vacant until January 2014.

As for any other judicial seats that become available due to voluntary retirement, those seats, if indeed they do become vacant, will be filled by gubernatorial appointment until a

successor is elected at the first municipal election (municipal elections are held only in odd-numbered years) scheduled more than ten months after the vacancy occurs. What that means is that any seat that becomes vacant after early January 2013 (within ten months of the scheduled municipal election that

year) will be filled by appointment of the governor and will not be contested by election until the municipal election of 2015, with the successful candidate(s) not taking office until January 2016.

Those of you who don't want to take our word for it can easily check this out for yourselves. Look at the

Pennsylvania Constitution, Article 5, Section 13(b). It's all spelled out there.

As for those of you dying to start judging *eo instantur*, oh, we're so sorry. Until your seat opens up, perhaps you can practice judging at home. Wear your dark robes in the bathroom, end all your e-mails with "It is hereby Ordered," and try your hand at gaveling with the meat tenderizer. Oh sure, you may never end up on the bench, but just think how much you will have entertained your spouse and kiddies with the effort. 🍷

President's Message

# Image: Is Perception Reality?

by David S. DeRose, Esq.



What is the public's perception of our profession? Are we, as a group, held in much lower esteem than in days past? Are we as trusted a group of professionals by our clients and the public as we once were? Are we, as professionals here in Westmoreland County, outside of the bigger city environment, not as skilled or as capable as our contemporaries in Pittsburgh or Philadelphia or other major cities? Are we more motivated by financial gain than in pursuing the best interests of our clients or in seeking a just and fair result? Are we experiencing an erosion of the services we once provided and falling victim to those who fancy themselves as learned legal experts without ever having set foot in a law school?

In May, Diane Krivoniak, members of our Executive Board, and I had the pleasure of having outreach lunches with many of you in Latrobe, Lower Burrell, North Huntingdon, and the Monessen area. Out of those conversations and various discussions at our Board meetings, and for so many of our colleagues in the Greensburg corridor, arises a common concern: the ongoing image of our profession.

Unfortunately, it appears that we are not perceived to be as trusted and respected a group as we once were. Some think that we are not as capable as the attorneys on Grant Street.

Some think that we work for nothing but the almighty dollar. Title closing companies have pushed us aside in real estate matters; LegalZoom has pushed us aside in estate planning; and trust mills have pushed us aside in estate

administration. In light of the above, how do we see ourselves? But, the better question is: "How should we see ourselves?" And is perception reality? No, I don't want to believe that!

What I'm suggesting here is nothing new. Unfortunately, some of the negativity and the less-than-flattering commentary directed at our profession has been self-inflicted. We bear part of the blame. The public is bombarded daily through the airwaves with legal advertisements—and dollar signs—that push the limits. These ads go far beyond the public service/educational type announcements that attorneys were limited to years ago, and they contribute to the erosion of the foundational blocks upon which professionalism is built. Of course, this is just one factor that contributes to our mushrooming image problem.

Lawyer jokes, tort reform, frivolous lawsuits—these all contribute to the problem as well.

On the flip side, we may not be promoting and marketing ourselves as an association of professionals as well as we can. We may never be able to counter or repair the damage that has been done to our profession; but that shouldn't stop us from trying. With power in numbers and determination, as an organization we should be able to accomplish much more than we can alone.

Our Bar Association has to step up. We contribute a lot to the common good of our communities—in the government sector, in churches and synagogues, in sporting activities for our children and youth, in charitable

organizations, and in education, to name a few. We are capable as lawyers, and are just as capable as our colleagues in larger cities. We care about our work product and the results we achieve for our clients.

One of our most senior members recently commented: "Everybody these days dislikes lawyers until they need one—then the lawyer becomes their best friend." We need to put lawyers on the best-friend page long before somebody needs one of us!

How do we accomplish this? First, professional image-making begins at home. Each and every one of us

needs to utilize our creativity and talents to promote our profession.

And in addition to an individual effort, the Bar Association can respond. The Board has met with a professional marketing consultant—for

now, let's call him a coach. We hope to use his expertise in an effort to refocus the public's perception of the image of our Association and its constituent members. We are committed to combating this negative imagery.

As part of that process and as a first step, I would like to resurrect an idea that was first suggested by one of my predecessors in this office, Jim Antoniono, and gather information about the kinds of things we do outside of our law offices for either minimal or no compensation. A questionnaire is enclosed as part of this edition of *the sidebar*. Take just a few minutes to complete it and forward it back to the bar office. Your identity

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**“With power in numbers and determination, as an organization we should be able to accomplish much more than we can alone.”**

# Lawyers Meeting Room at the Courthouse Open for Relaxation

**P**-s-s-t. Looking for a safe refuge in the Courthouse? Somewhere to go to get off your feet, have some quiet time, make a couple of phone calls? Then consider using the new Lawyers Meeting Room, located on the fourth floor annex, Suite 411. All members of the Westmoreland Bar Association are welcome to stop in, enter their PA ID number into the keypad, and make themselves at home.

We have worked hard to make the feel of the meeting room one of comfort and relaxation. You will find leather club chairs, a barista-style table with chairs, a sofa-chair-ottoman setting, and two self-contained offices. Wi-Fi is available and the access code is posted within the meeting room.

County Commissioners Anderson, Courtney, and Kopas have been kind enough to provide this space for our members to use and we are grateful. They have also given us the Pro Bono space located on the same floor in Suite 403.

We do have a few rules—sorry, but we felt we needed some. The full list can be found inside the suite. Please remember:

- The meeting room is for the exclusive use of the member attorneys of the Westmoreland Bar Association. Non-member attorneys are not permitted to use the facility unless they are accompanied by a WBA member.
- The room is only for use by member attorneys. Clients, witnesses, or litigants are not permitted entry into this meeting room.
- This meeting room is accessible to Westmoreland Bar Association members by key code. The code, or any changes to the code, will be available to Bar Association members through the Pro Bono office, Suite 403.
- Thank you for leaving the space in the condition that you found it!

If you have ideas on how to improve the setting, please give the bar office a call at 724-834-6730.

If you need help while accessing or using the Lawyers Meeting Room, please talk to Iva or Rita in Suite 403 for assistance. ☺



*the sidebar*

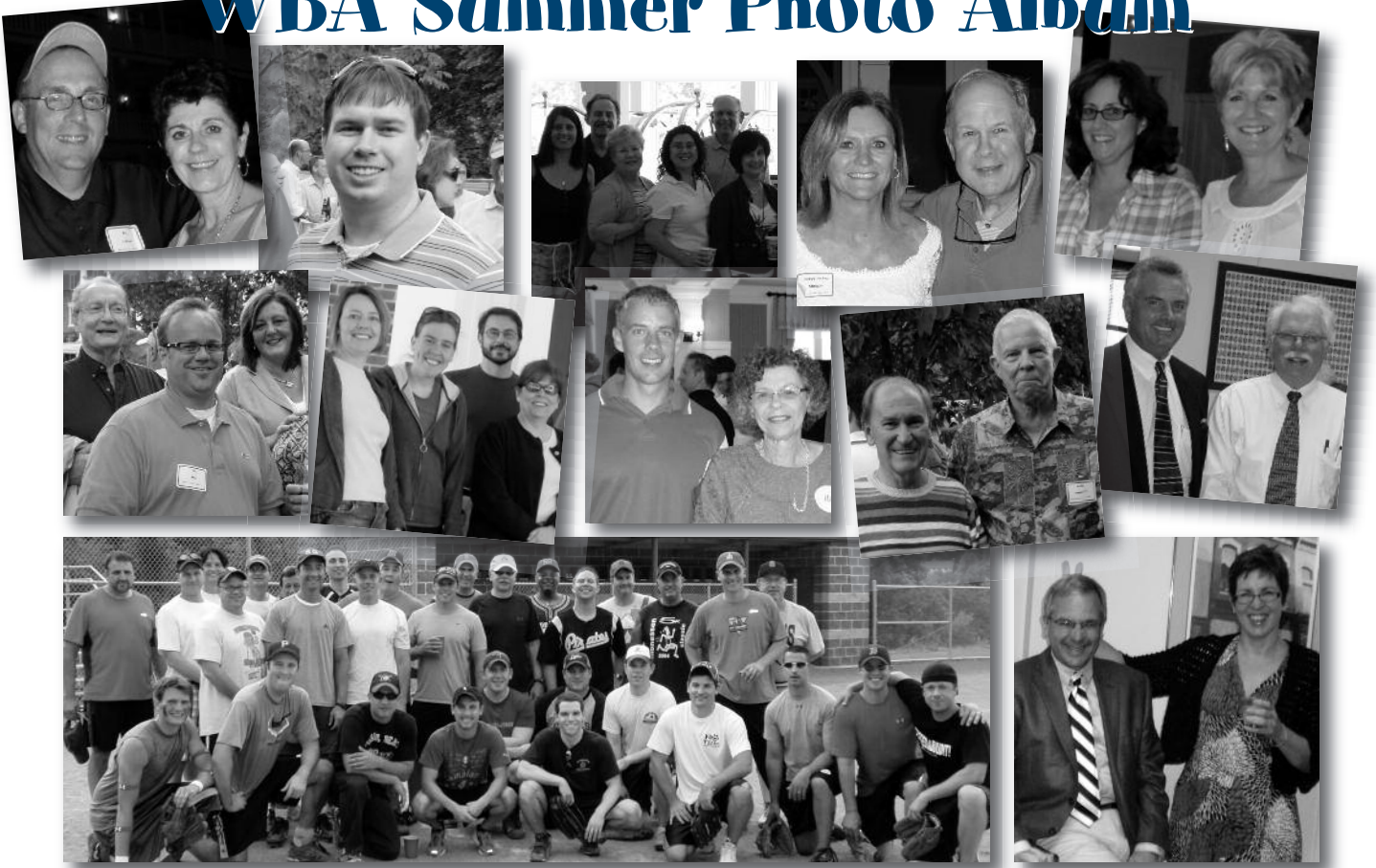
the sidebar is published bimonthly as a service for members of the Westmoreland Bar Association. Letters to the Editor should be sent c/o WBA, 129 North Pennsylvania Avenue, Greensburg, PA 15601-2311, fax 724-834-6855, or e-mail [westbar.org@westbar.org](mailto:westbar.org@westbar.org). the sidebar welcomes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

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# WBA Summer Photo Album



## HOW STRONG ARE YOUR ADVISOR'S STRATEGIES?



Hopefully, strong enough to handle typical market volatility.

After all, isn't that why you hired an advisor? At Private Wealth Advisors, we employ tactical asset allocation in designing a strategy for our client's investment portfolios. This strategy is designed to produce a less volatile portfolio while enhancing the possibility for greater returns. And doesn't everyone want a portfolio that solid. Call us. We would like to share our strengths with you. 800.245.5339 or visit [www.pwaua.com](http://www.pwaua.com).

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*Our investment strategy does not assure profit or guarantee against loss.*

### President's Message

## Image: Is Perception Reality?

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will be protected, but not the valuable information that you provide.

We will provide this information to our marketing coach and make it part of a process to better promote our Association. We need to start somewhere and we need to start now. We all need to believe that it is possible to promote the WBA as a very capable group of skilled and competent professionals who are grounded in their own communities and possess a genuine desire to help those around them.

I trust you will join me in this effort and take the first step by supplying our Board with the information we request. Help us to help you!

Yours respectfully,

# foundation focus

## Scholarships Awarded at Annual Ceremony



▲ *Westmoreland Bar Foundation Trustee Bill McCabe (far left) and President Judge Gary Caruso (far right) were on hand to present two law school scholarships and four college scholarships to Westmoreland County residents (from left to right) Donald Jake Cole, Alexis Mozga, Endia Vereen, Leah George, and Alexandra Gumbita. Kayci Hines was unable to attend.*

The Westmoreland Bar Foundation presented two law school scholarships and four college scholarships for the Fall 2012 semester at an awards ceremony held on August 9, 2012, at the Westmoreland County Courthouse.

### DONAHUE AND JUDGE WEISS MEMORIAL SCHOLARSHIPS

Endia Vereen, from New Kensington, was awarded \$2,200 from the Wayne Donahue Memorial Scholarship and \$400 from the Honorable David H. Weiss Memorial Scholarship. Attorney Donahue, a sole practitioner from New Kensington, was a lifelong resident of western Pennsylvania. The Weiss Memorial Scholarship is named for the former President Judge of the Court of Common Pleas in Westmoreland County.

Endia, a first-year law school student at University of Pittsburgh School of Law, is a graduate of Valley High School and the University of

Pittsburgh, where she earned a B.A. and a Masters in Public and International Affairs. She has worked as a legislative intern with state Senator Jim Brewster.

### HANKEY MEMORIAL SCHOLARSHIP

Kayci Hines, from Lower Burrell, was awarded \$2,600 from the Donald Laird Hankey Memorial Scholarship. Attorney Hankey was a sole practitioner in New Kensington and a member of the Westmoreland Bar Association for more than 65 years. Kayci is a first-year student at American University Washington College of Law. She is a graduate of Burrell High School and Duquesne University, where she majored in Political Science.

### MOCK TRIAL SCHOLARSHIPS

Mock Trial Scholarships are made possible through the generous donations of members of the Westmoreland Bar Association,

appropriately titled the Founding Fellows. Over \$60,000 was raised by this group to ensure that at least two \$1,000 scholarships could be awarded each year to deserving mock trial participants.

This year's Mock Trial Scholarship winners are:

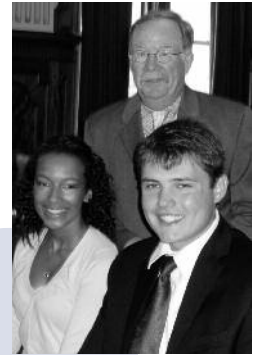
**Alexis Mozga.** A 2012 graduate of Kiski Area High School, Alexis is attending St. Vincent College to study Early Childhood/Special Education. She is the daughter of Janice and George Mozga.

**Leah George.** A 2012 graduate of Greensburg-Salem High School and a member of the winning county Mock Trial team, Leah is attending the University of Pittsburgh. She is the daughter of Donna and James George.

**Donald Jake Cole.** Also a 2012 graduate of Greensburg-Salem High School and a member of the winning county Mock Trial team, Donald is attending St. Vincent College. He is the son of Elizabeth and Donald J. Cole.

### COMPLETE REPORTING SCHOLARSHIP

The WBF has a new scholarship—a court reporting scholarship—and our first recipient is **Alexandra Gumbita**, a Westmoreland County resident enrolled in the Court Reporting program at CCAC (Community College of



▲ *The Hon. Richard E. McCormick, Jr., coach of the Greensburg-Salem Mock Trial team, with scholarship winners Leah George and Donald Jake Cole.*



▲ *Kris Samloff and Complete Reporting Scholarship winner Alexandra Gumbita*

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## foundation focus *continued from page 5*

Allegheny County). Alexandra, a graduate of Greater Latrobe High School, will be earning an associate's degree in 2013. The Complete Reporting Scholarship is funded by court reporter and Complete Reporting Service owner, Kristine Samloff. 🌟

## Law Day Volunteers

More than fifty volunteers from the Westmoreland Bar Association visited elementary, middle, junior high, and high schools in Westmoreland County throughout the month of May as part of this year's Law Day campaign, whose theme centered on Dr. Martin Luther King's 1963 "I Have A Dream ..." speech.

Sponsored by the Pennsylvania Bar Association, Law Day sends judges and lawyers back to school for classroom visits in an effort to teach students about the law.

More than 4,400 students in 28 schools throughout Westmoreland County were treated to presentations by the judges, attorneys, and magisterial district judges who volunteered this year.

We offer our sincere thanks to the following volunteers, without whom Law Day would not be possible:

- Timothy C. Andrews
- Rosalie J. Bell
- Jack L. Bergstein
- Diane Landis Bickers
- The Hon. Michele Bononi
- Bruce A. Boyle
- Jason Buczak
- The Hon. Gary Caruso
- William F. Caruthers, II
- Judith Karns Ciszek
- Barry J. Clegg
- Charles Conway, III

- Meagan B. DeFazio
- Amy M. DeMatt
- David S. DeRose
- James N. Falcon
- The Hon. Christopher Feliciani
- Mark Galper
- Michael Garofalo
- Melissa A. Guidy
- Christopher Haidze
- Sherry Magretti Hamilton
- Kelly Tua Hammers
- Kevin G. Henderson
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- The Hon. Anthony Marsili
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- Larissa McGrew
- Jeffrey W. Miller
- Angelea A. Mitas
- Lisa Galloway Monzo
- Henry L. Moore
- Karen Patterson
- Ian Petrulli
- Judith Potoka Petrush
- Joyce Novotny-Prettiman
- Daniel Schimizzi

- Matthew R. Schimizzi
- Richard W. Schimizzi
- Tim Sethman
- Mark Shire
- James P. Silvis
- Harry F. Smail, Jr.
- Michael J. Stewart
- Michael J. Stewart, II
- Allison Thiel
- Bruce C. Tobin
- Leslie J. Uncapher
- Cheryl Yakopec 🌟

## Volunteers for Justice

The Pro Bono Program extends thanks to all the attorneys who volunteered their time from April through June 2012: Maria Altobelli, John Bumbaugh, Debra Cribbs, Rebecca Fenoglietto, Charles Fox, IV, Barry Gindlesperger, Peter Gough, John Greiner, James Kelley, Jr., Maureen Kroll, Moe Lewis, Robert Liotta, Irene Lubin, Shirley Makuta, Charles Mason, Jr., Philip McCalister, Paul Miller, Jr., Debra Nicholson, John O'Connell, Jr., Dennis Persin, Ian Petrulli, Andrew Skala, Robert Slone, Harry Smail, Jr., Mark Wible, and Ronald Zera. 🌟

*Looking for a special way  
to remember someone?*

**Births • Deaths • Marriages • Anniversaries  
Making Partner • Passing the Bar**

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

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



July 2012 Civil Trial Term

# Jury Trial Verdicts

by Beth Orbison, Esq., Thomas L. Jones, Esq., and Monique J. Lafontant Mears, Esq.

**O**f seventeen cases listed for the July 2012 Civil Jury Trial Term, four settled, ten were continued, one summary jury trial was held and two jury trials were held. There were two jury verdicts during the July 2012 civil trial term.

**CARROLL PLUMBING  
V.  
CHRISTIAN FELLOWSHIP  
OF GREENSBURG, ED DAY,  
AND LEWIS GAINFORT  
NO. 2409 OF 2011**

*Cause of Action: Breach of Contract*

Plaintiff alleges that in December 2010, it entered into a contract with Defendants Christian Fellowship of Greensburg, through its agents, Gainfort and Day, to do plumbing work and remove a boiler at the Christian Fellowship of Greensburg facility. Plaintiff alleged that the work was completed, but Defendants failed to pay for costs of said work. Plaintiff requests judgment in the total amount of \$1,450.00, including costs and fees. Defendants deny the allegations and, for various reasons, allege they owe less than the amount demanded by Plaintiff.

After summary jury trial<sup>1</sup>, the verdict was unanimous. A molded verdict was entered in favor of Plaintiff for \$1,450.00, and against Defendant Day, only.

*Plaintiff's Counsel:* Morrison F. Lewis, Jr., Gbg.

*Defendants' Counsel:* Pro se

*Trial Judge:* The Hon. Anthony G. Marsili

*Result:* Molded verdict in favor of Plaintiff and against Defendant Day, only, for \$1,450.00.

<sup>1</sup> A jury in a summary jury trial consists of eight individuals. At least six jurors must agree to reach a verdict.



**DONNA HUTCHINSON, PERSONAL  
REP. OF THE ESTATE OF FLOYD  
HUTCHINSON, DECEASED**

**V.  
LYNN & KAMINSKI  
MEDICAL ASSOCIATES AND  
KENNETH BOSCHA, M.D.  
NO. 5746 OF 2009**

*Cause of Action: Professional  
Negligence—Medical Malpractice*

On September 18, 2007, decedent Floyd Hutchinson presented to the

Frick Hospital emergency room with complaints of chest pain. A stress test was administered by Defendant Dr. Boscha. During the stress test, Mr. Hutchinson complained of chest pain, fatigue, and shortness of breath and the test was ended. Immediately following the stress test, Mr. Hutchinson developed chest tightness and an elevation in blood pressure. Dr. Boscha ordered the administration of medications and Mr. Hutchinson's vital signs normalized. On September 19, 2007, he was discharged from the hospital. On September 21, 2007, Mr. Hutchinson collapsed at home, could not be resuscitated, and died.

Mr. Hutchinson had a significant past medical history, including coronary artery disease, prior myocardial infarction with residual 90% blockage of the distal left anterior descending coronary artery, diabetes, hypertension, obesity, elevated cholesterol, and untreated sleep apnea, as well as being a chronic smoker. Plaintiff contends that Dr. Boscha failed to act appropriately in the face of lab results, failed to order another EKG to be performed when Mr. Hutchinson was experiencing chest pain after the stress test, and failed to perform a cardiac catheterization. Defendants presented expert medical testimony that the care and treatment provided to Mr. Hutchinson was at all times appropriate and skillfully rendered in accordance with the applicable standards of care in the medical community.

*Plaintiff's Counsel:* Victor H. Pribanic, Pribanic & Pribanic, LLC, White Oak

*Defendants' Counsel:* Steven J. Forry, Marshall, Dennehey, Warner, Coleman & Goggin, P.C., Pgh.

## LawSpeak

"Freedom of speech implies the world isn't defined. It is meaningful when people are allowed to see their world their way."

— Ai Weiwei (@aiww) on Twitter, December 22, 2011

Chinese artist and political activist who was secretly detained by Chinese authorities for 81 days in 2011 for his political views.

*continued on page 8*

# Jury Trial Verdicts *continued from page 7*

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

*Result:* Molded verdict in favor of Defendants and against Plaintiff.

**IN RE: CONDEMNATION BY THE  
COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION,  
OF RIGHT-OF-WAY FOR STATE ROUTE 0022,  
SECTION BO2, IN THE MUNICIPALITY  
OF MURRYSVILLE**

**EMOGENE F. JOHNSON, FLOYD JOHNSON,  
BARRON JOHNSON AND DOUGLAS JOHNSON  
V.**

**COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF TRANSPORTATION  
NO. 7426 OF 2009**

*Cause of Action: Eminent Domain*

On August 23, 2004, the Defendant/Condemnor filed a Declaration of Taking, condemning a 3.1244-acre portion of the Plaintiffs'/Condemnees' unimproved 8.5827-acre property located on State Route 22 at the intersection of Berlin Farm Road in Murrysville. Prior to the condemnation, the property consisted of approximately 800 feet of frontage on Route 22 and was accessible from

both Berlin Farm Road and a private roadway known as Cemetery Lane. After the condemnation and resultant road construction, the grade along Route 22 changed, thereby affecting accessibility from both Route 22 and Berlin Farm Road. In addition, the distance to a sewer line was increased from 375 feet to over 700 feet away, thereby diminishing the ability to bring public sewage to the property. Although the property was zoned Residential on the date of condemnation, a comprehensive plan adopted in Murrysville changed the zoning to Commercial.

Plaintiffs' expert testified that loss of fair market value damages were \$270,000, and Defendant's expert, a real estate appraiser, testified that the loss of fair market value damages were \$46,800. Both experts agreed that the after-condemnation value of the property was approximately \$81,000.

During trial, the Court, the parties, and the jurors went on a view of the property.

*Plaintiffs' Counsel:* Robert P. Lightcap and Amber R. Leechalk, McDonald, Snyder & Lightcap, P.C., Latrobe

*Defendant's Counsel:* Ryan J. Kammerer, Assistant Counsel, PennDOT, Pgh.

*Trial Judge:* The Hon. Richard E. McCormick, Jr.

*Result:* Verdict in favor of the Plaintiffs/Condemnees in the amount of \$77,360. Plaintiffs/Condemnees have filed a Motion for Post-Trial Relief. 🏌️

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firm by putting your  
clients' needs first.  
We follow the same  
business model.**

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**The Westmoreland  
Bar Association  
invites all WBA  
members to a  
complimentary  
afternoon of  
golf at the**

## **WBA Fall Golf Outing**

**Thursday, Sept. 27  
Tee Time: 4 p.m.  
Cherry Creek Golf  
Club, Youngwood, Pa.**

**Green fees waived.  
Cart fees \$8 for 9  
holes. Beverages and  
snacks to follow.**

**To register, call  
724.834.6730 or visit  
[www.westbar.org](http://www.westbar.org).**

**Coordinated by the  
WBA Young Lawyers**





# Spotlight on Judge Charles R. Conway



**Q WHAT JOBS DID YOU HAVE BEFORE BECOMING A LAWYER?**

**A** Lawn care; paperboy; junk yard attendant; landscape laborer; brakeman on the Erie Lackawanna R.R.; Bricklayers' Laborer—U.S. Steel, Ohio Works; Janitor—U.S. Steel, McDonald Works; Band Saw Operator—U.S. Foam Rubber Corp., South Bend, Ind.; Bar Back, Welder—Mercury Montego plant—South Bend, Ind.; Car Salesman—Valley Pontiac; Accounting Clerk—U.S. Steel, Homestead Works; House Painter; Janitor; and summer Law Clerk—Duffy, Austin & Cassarino, Greensburg.



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

**A** Car sales. A job to prepare one for Plaintiffs' Personal Injury work.

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

**A** Adjudicating shoplifting case of two 12-year-old male Wal-Mart condom thieves.

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

**A** Ability to stipulate.

**Q WHAT IS YOUR FAVORITE JOURNEY?**

**A** This spring's week in Dublin, where I was very welcome to sit on the bench in Irish Criminal Courts.

**Q WHAT IS YOUR GREATEST REGRET?**

**A** Skipping three years after college before law school, to earn money for law school.

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

**A** My roommate at Notre Dame, Tony Oppegard, who was raised in Somerset, as a non-Catholic. Active in anti-war efforts during the Vietnam War, he was inspired by his Liberal Arts education to document his pacifist beliefs in an application to the Somerset County Draft Board. Although he had a "safe" draft lottery number, he turned in his draft card in protest of the war. Tony became

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## Intellectual Property Law Patents, Trademarks, Copyrights

**NILS H. LJUNGMAN, JR.**  
724-836-2305

**NILS H. LJUNGMAN & ASSOCIATES**  
nhla@earthlink.net

**NILS H. LJUNGMAN & ASSOCIATES**  
ljungmanandassociates.com



- Over 30 years of practice before the U.S. Patent and Trademark Office
- 95% success rate in obtaining U.S. patents with over 1600 U.S. patents issued (overall average success rate for all U.S. patent practitioners is 46%)
- Registered at Canadian Patent Office with over 300 patents issued
  - Registered over 300 Federal and Pennsylvania trademarks
- Obtained patents in all major countries, including European Union, Japan, China, U.K., Germany, Brazil, Mexico, etc.

Bachelor's degree in Engineering from New York University  
 Master's degree in Electrical Engineering from Drexel University  
 J.D. from Temple University  
 Chemistry studies at University of Pittsburgh  
 Registered Professional Engineer (Pennsylvania)  
 Formerly Assistant Professor at Villanova University  
 Formerly Doctoral Candidate in Mathematics at Bryn Mawr College

# Spotlight on Judge Charles R. Conway

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involved with Jesuit priest Phillip Berrigan at the Jonah House, a non-violent, civil disobedience community in Baltimore, and he spent time in jail for his civil disobedience convictions, not to mention his deeply held convictions.

After law school at Antioch in D.C., Tony worked as a legal aid lawyer for the Appalachian Research & Defense Fund of Kentucky, where he began his life's calling as an advocate for coal-miners' safety by successfully representing miners terminated for refusing to work in unsafe conditions.

His work was noticed by Sen. Ted Kennedy, who facilitated his political appointment as counsel, Advisor to the Assistant Secretary for Mine Safety & Health in the Department of Labor. He returned to his beloved Kentucky in 2001, after being fired by the Bush administration during his investigation of the October 2000 Martin County Coal Slurry Impoundment Disaster. Appointed by then-Governor Patton as the General Counsel/Prosecutor for the Kentucky Department of Mines & Minerals, he vigorously prosecuted coal mine safety violators, endemic in the non-union mine fields operated by fast-buck operators, the only employment opportunities for many men in the state. Once again, a new Republican administration relieved him of his zealous efforts in 2005.



▲ *Judge Charles R. Conway (far right) spent a week in Dublin, Ireland, this spring, where he was invited to sit on the bench in the Irish Criminal Courts.*

He has since represented miners and their survivors in whistle-blower and wrongful death actions across Appalachia as a solo practitioner. Unfortunately, he has often been called to comment on mine safety by the national media following each of the widely publicized mine disasters; he continues to advocate for the safety of miners on a daily basis. He is respected by his opponents as an indefatigable litigator, as well as coal miners who know he has the experience, gained in the deep mines he has visited, across the U.S. as well as abroad. Tony is a lawyer who has made a difference.

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

**A** Stipulate.

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

**A** My marriage with Diane, and our four educated, employed, and happy kids.

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

**A** My 1974 Triumph TR6, purchased new in 1974.

**Q WHAT IS IT THAT YOU MOST DISLIKE?**

**A** Counsel reading out loud to me.

**Q WHAT IS YOUR GREATEST EXTRAVAGANCE?**

**A** Parts & repairs for TR6.

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

**A** Languages.

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

**A** Keeping in touch.

**Q WHAT IS YOUR MOTTO?**

**A** Do you mean, like, a family crest? Mine is "Beat 'em Bucs"; but I guess that is more a slogan. 🐾

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# To-Wit: Raging Lamb

by S. Sponte, Esq.

I paused outside the conference room for just a moment to take my customary pre-deposition inventory. Hair mussed, check; nostrils snorting and flared, check; faux blood stains on shirt-sleeve cuffs, check. Now just a brief dab to my lips of the dried spittle I carry around in my briefcase and yep, I looked intimidating. Sweet!

I have long known intimidation is an essential litigation tool for eliciting the truth from recalcitrant witnesses during depositions. To do it well, though, I have to erect a hostile facade entirely around my native human kindness. Fortunately, it's not hard for me to do.

On this particular morning, I was scheduled to take the deposition of a witness in a difficult and contentious case. The deponent had significant

knowledge of a series of Rube Goldberg-like misunderstandings that had culminated in my client's unwarranted arrest. Although the charges had been quickly withdrawn and apologies issued, my client had

**“In an instant, my facade was down and my jig was up. Damn that human kindness, now what was I supposed to do?”**

nonetheless suffered the kind of gut-wrenching, crippling, life-altering mortification that cannot ever possibly be assuaged by any means known to humankind except the payment of money.

Loaded for bare truth, I strode into the conference room like a menacing leviathan.

Opposing counsel ducked for cover, as I had expected. So did the court reporter, but I have to tip her extra for that. As for the deponent though, she didn't budge. Not an inch, nothing, nada, gornischt.

“You must be Mr. \_\_\_\_\_,” she said. “Hi, I'm Trudy. I'm so happy to meet you. I've heard such nice things about you. I'm getting married next week, I'm so excited. Maybe I'll name my first child after you. Isn't this just the most beautiful day? Would you like a posy?”

She was, God help me, darling. In an instant, my facade was down and

*continued on page 12*



# G

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**Duke George**



**Daniel Joseph**

## To-Wit: Raging Lamb

*continued from page 11*

my jig was up. Damn that human kindness, now what was I supposed to do? I didn't want to take her deposition so much as I wanted to give her a lollipop. I needed to think.

"What do you mean you want a recess?" opposing counsel asked from under the conference table. "You haven't started the deposition yet."

The deposition was a disaster. I managed to discover only that she loved her mother and father, that she adored all of her siblings, and that she was about to marry her high school sweetheart, Biff, the quarterback of the football team. The only negative thing I could come up with was the suspicion that those were probably pompoms under her blouse.

I walked out of the deposition feeling pretty impotent. Was I fatally surfeit with the milk of human kindness? Was I not really the

aggressive, wily, intimidating litigator I've always striven to be, fit instead only to practice elder law? Whatever will become of me now?

As I exited the building, I was accosted by a wretched, ragtag old lady out in the street. "Would you like to make a donation, mister?" she pleaded, holding up a collection can with a picture of an adorable puppy on it. "It's for the Old Folks Home."

She couldn't have come a'begging at a better time. "Get out of my way, you old hag," I said, and with that I kicked her off the curb and almost into the path of an oncoming taxi. Oh, and it was glorious. I am still a litigator, yes, and that's a really comforting thing because based upon what had just happened, I think elder law now is completely off the table. 🐾

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*Jim Irwin (left) consoles local chicken farmer (on the right, sobbing) at graveside, on the loss of his prized Belfast Bantam, which he had accidentally run over with a tractor.*

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## bookmark What Have You Been Reading?

by Maureen Grace, Esq.

When do you have time to read? Most people are only able to read a book for entertainment when the children are asleep or daily obligations are handled. Based on my observations, the best attorneys are master storytellers. The listener hangs onto his or her every word and wants to hear more. His opening argument doesn't lull the crowd to sleep, but instead, helps the listener understand that a human drama is unfolding in the courtroom. A jury can focus on the facts when a good story is provided to them.

I once thought that the best attorneys couldn't possibly find time to read. Over time, I have learned that the opposite is true. Attorneys who can tell a good story usually love a good story.

In the 1950s, prominent attorneys in Westmoreland County belonged to literature appreciation clubs and Shakespeare clubs. They clipped book reviews to the inside of their books and discussed the books with fellow club members. The local Shakespeare club had reading assignments and questions for the members. Prominent Bar Association members who belonged to such clubs included John Pollins, Sr., and Ned Nakles, Sr. In the present, many attorneys either belong to book clubs or have an outstanding grasp of fiction, nonfiction, and current events. We have many good storytellers in our Bar Association.

A synopsis of some of the books that I have read in the last year include the following:

**DEAD END IN NORVELT** ❖ by Jack Gantos ❖ Winner of the 2012 Newbery Award for Literature, *Norvelt* in the early 1960s is the setting for this book. For those of you not familiar with *Norvelt*, it is located about two miles south of the Westmoreland County Fairgrounds. The author's

mother is a native of *Norvelt* and the author, Jack Gantos, lived in *Norvelt* when he was young. The book is unique in that the author casts himself as a character in his own book and the story is true in parts; other parts of the tale are fabricated from the imagination and perspective of an adolescent boy. The book provides local history relating to the creation of *Norvelt* by Eleanor Roosevelt in the 1930s and the economic realities faced by residents in the area in the 1960s. The book is humorous and a good read for junior high students and anyone else who is young at heart.

### THE HUNGER GAMES TRILOGY

❖ by Suzanne Collins ❖ *The Hunger Games* (Book 1) is an incredibly quick read. Originally, the target audience for the books was young adults, but the popularity of the books has spread to parents, grandparents, and book clubs. The book starts in the future in economically deprived District 12. Katniss Everdeen is 16 years old and steps forward to take the place of her 12-year-old sister, Primrose, in the annual reaping known as the *Hunger Games*. Government control is extreme in the thirteen districts comprising the country, and each district is forced to sacrifice a boy and a girl to fight in the annual *Hunger Games*. The fight is to the death—only one competitor will emerge from the games alive. The games are a punishment to all thirteen districts for daring to rebel at an earlier time in their history. The author will not comment on her theme or message, but most reviewers will agree that the book is about government control and the consequences of a failure of the populace to stop undue control.

*Catching Fire* (Book 2) picks up after Katniss Everdeen and fellow District 12 competitor, Peeta Mellark, survive the last round of the *Hunger Games*. This time, they must fight previous *Hunger Games* winners in

order to amuse the wealthy, frivolous inhabitants of the Capitol. Again, the author won't comment if the book has a deeper meaning. Virtually all inhabitants of the thirteen districts are impoverished and controlled. The citizens and competitors exist to serve and amuse the relatively few inhabitants of the Capitol and their corporate sponsors.

*Mockingjay* (Book 3) is the final book of the trilogy. The people rebel, only to find that neither their former government nor the leader chosen after the rebellion can be trusted. Both sides have betrayed the people. A better leader and governing body are then chosen.

### JACQUELINE KENNEDY: HISTORIC CONVERSATIONS ON LIFE WITH JOHN F. KENNEDY

❖ by Michael Beschloss ❖ The book and accompanying audio were released in September 2011. The book is a transcript of the conversations of 34-year-old Jacqueline Kennedy with historian Arthur Schlesinger, Jr., four months after the death of her husband. The book and audiotapes provide interesting insight into the role of the first lady and the Kennedys' strained relationship with Lyndon Johnson and Martin Luther King, Jr. Some of her comments are very surprising.

### THE TRILLION-DOLLAR CONSPIRACY: HOW THE NEW WORLD ORDER, MAN-MADE DISEASES, AND ZOMBIE BANKS ARE DESTROYING AMERICA

❖ by Jim Marrs ❖ The book begins with the following quote from George Orwell: "During times of universal deceit, telling the truth becomes a revolutionary act." The author of the book asserts that people are given the illusion of freedom, but they are actually controlled by the governing bodies that are puppets of banks and corporate interests. The book focuses on the Bilderberg Group and conspiracy theory. ❖

# who's who@ THE COURTHOUSE

BY AMY DEMATT, ESQ.

SEPTEMBER 2012

To say that **MARTA URBAN's** work is well-documented is an understatement. You may know Marta as the secretary for Judge Bell, formerly part of the staff for Judge Ackerman, or as the daughter of the late Tom Tridico, or wife of Andy Urban, the former Director of Adult Probation. To others, she is one of the most highly regarded and gifted Fraktur artists in the field.

Fraktur is the term for hand-lettered documents adorned with folk art motifs made by the Pennsylvania Germans in the mid-1700s to mid-1800s. The word "fraktur" derived from the Latin word for "fracture," because the letters in Fraktur are separate from one another, as opposed to other fonts, in which the letters are connected.

Those who attended Judge Ackerman's retirement gathering will recall the large commemorative artwork done in his honor, which was personalized to include symbols from the courtroom, as well as documenting his service to Westmoreland County as judge. The piece of commemorative artwork done in Judge Ackerman's honor is an example of Marta's work.

You can navigate directly to Marta's work online at [www.MartaUrban.com](http://www.MartaUrban.com) and [www.american-artists.com](http://www.american-artists.com), but, if you Google "fraktur" or type "fraktur" in a Pinterest search, Marta's work will jump off the screen, even when surrounded by other examples of notable Fraktur. Her style is striking and distinctive: detailed and symmetrical, often illuminated with birds, flowers, leaves, and colorful folk art images. Randomly choosing the most beautiful piece of work usually results in choosing a piece done by Marta. This recognition of Marta's work as

distinctive is shared by experts in the art world. Marta has been named in the top 200 artists by *Early American Folk Art* magazine, and has been sold in juried historical art shows. Her work has been displayed at museums and galleries and for historic shows in



Philadelphia, New York, and Virginia. She has had demonstrations at the Heinz History Center, and her art has been displayed at the Winterthur and Mercer museums.

Astonishingly, Marta is self-taught. She became interested in calligraphy at age 12, and recalls taking frequent trips to museums as a child. When she became interested in Fraktur, she borrowed books from our local library and read about the style. She then traveled to Lancaster, Pa., to study examples of Fraktur firsthand. She

continued to educate herself by visiting museums and libraries. Marta's work is historically authentic. She uses the colors that original artists would have made from berries or what was available at the time. She views the words of the Fraktur as the most important piece of the work, as the words reflected the core belief system of the Pennsylvania Germans. In deference to the history and authenticity of Fraktur, she uses only sentiments that were actually used by the Pennsylvania Germans, rather than modern sayings or aphorisms.

Marta recalled seeing a quote from the era that read "[Y]ou need not borrow from one another, because God gave you the ability." She says that this is the sentiment behind Fraktur, and that the free expression is what drew her to the art form. She noted that the Pennsylvania Germans viewed talent as meaning that whatever ability God gave a person was good.

Marta's work is available for sale. Pieces range in price from \$50 to \$800, and can be customized to the owner. For example, Marta has created birth announcements and marriage documents and has incorporated stained glass windows owned by one of her clients into her work. She makes her own frames to complement her work.

Marta Urban and her work have received both local and national attention, with articles in our local newspaper, the *Tribune-Review*, and in *Early American Life* magazine. Several examples of Marta's work are shown below, but to see the full impact of her colorful work, visit her website or search "Marta Urban Fraktur" in Google Images. 🌈



Westmoreland Revisited

# The Killing of Obadiah Haymaker, Part II

by The Hon. Daniel J. Ackerman

When we left Obadiah Haymaker in the last issue, his partner, H. J. Brunot, had traveled to Chicago to either tender a deed and receive payment from millionaire capitalist Milton Weston of the amount due on the lease of the Haymaker well, or sever all ties with him. The confrontation resulted in Brunot returning Weston's initial payment of \$1,000 by depositing a cashier's check for that amount in Weston's account at a Chicago bank and returning home, free to conduct business with new partners Joseph Newton Pew and Edward O. Emerson, founders of The Peoples Natural Gas Company—or so he thought.



▲ The Hon. Daniel J. Ackerman

## THE CRIME

It was a surprise, and a bad omen, for the Haymakers and Brunot when Milton Weston and his wife established a residence in Murrysville. His presence, they knew, could be for no other reason than to assert his claim to the well. The Haymakers, by then, had reached an agreement with Pew and a ditch was under construction in which a pipeline was to be laid.

On November 26, 1883, a gang on the pipeline had ceased their work around noon and sought shelter from a hard, cold rain. There was no one at the well. Then a young man came running through the rain to the workmen, breathlessly shouting, "They've got the well!"

"They" were a group of about fifty armed men, led by a Westmoreland County constable by the name of Absalom Bowser, and gathered at the request of Milton Weston, who was not present at the scene. A fence had been constructed surrounding the well at a distance of 100 feet, and Bowser's men were inside the fence, with some stripping boards from a lumber pile to make a shelter around the rig.

An opposing force, whose numbers were a point of contention, quickly assembled. Michael Haymaker, the only eyewitness known to have recorded his observations and writing decades after the event, put the number at twelve—the two brothers and ten laborers. Newspapers used higher numbers, with the *Reading Eagle* reporting 80 laborers with picks and shovels, while Milton Weston, asserting hearsay, said that the Haymakers brought 150 men armed with pick handles and revolvers. The first thing the Haymaker group thought of was to get through the

fence and stop the looting. Their objective was the lumber pile. Michael Haymaker, armed with a pistol, climbed on top of the pile while Obadiah stood at one end confronting Bowser and about half of his followers.

Accounts vary as to what happened in the next minute, as one would expect from the participants in any melee, and they were followed by embellishments in the press. Bowser stood toe-to-toe with Obadiah, shouting and waving his arms. One account has Henry Remaley (the lessor) ordering the Haymakers away, and when they didn't comply, shouting, "Give it to them boys!" Weston, though he was not there, later contended that Obadiah initiated the violence by striking down a man named Kelly, fracturing his skull with a pick. Most witnesses, however, agreed with Michael Haymaker, who wrote:

*"Suddenly [Bowser] reached around and grabbed a bayoneted rifle from one of his men. He plunged it into Obe four times. At the same instant, another of the gang*

*continued on page 16*



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# The Killing of Obadiah Haymaker, Part II

continued from page 15



◀ Near the Turtle Creek, in a secluded spot off Robatnol Court, in-between and to the rear of two residences, sits a large rock monument to the Haymaker Well.

*drew a revolver and shot Obe in the arm, the bullet then passing through his body.*

*“It was the signal for general firing. Lytle, who was standing next to me on the lumber pile, went down with a bullet in his hip, crippling him for life. Charley Steager was hit in the back with a charge of buckshot. Gid Ray, as he turned to run, got two buckshot in the back of his head.”*

Eight to ten shots were fired. Michael raised his revolver against his brother’s attacker, but his gun misfired. It was a strange turn of fate that Obadiah, who had joined the Union army as a teen-ager, would die a soldier’s death, not defending the Union, but a pile of boards and a gas well. No one could say who shot Obadiah Haymaker, but the witnesses were consistent in identifying Absalom Bowser as the source of the bayonet thrusts.

Bowser was soon arrested by Deputy Sheriff Ben Byers in a shanty near Murrysville. The deputy testified at trial that Bowser told him that he heard that Haymaker had been killed by a bullet, and if that was so, he didn’t kill him; but, if he had been killed by a bayonet, then he had killed him. Subsequently, Dr. Rugh testified that he found eleven different wounds on Obadiah Haymaker’s body, and any

one of three could have been fatal. Dr. Dervice corroborated his testimony, adding that the wounds could have been caused by a bayonet.

## THE LEGAL PROCESS

Indictments for murder and felonious assault were handed down against Bowser and Weston. Also indicted were Henry Remaley of Murrysville, William Johnston of Greensburg, Archibald Blakely of Pittsburgh, William McFarland of Greensburg, and W.F. Miller of Greensburg. The local community was so enraged over Haymaker’s killing that the court of common pleas granted a defense motion for a change of venue which moved the trial to Allegheny County. It was relief that was more form than substance since Franklin Township abutted Allegheny County.

Absalom Bowser, the Greensburg constable, was tried first and was convicted of second-degree murder. On August 30, 1884, he was sentenced to ten years’ imprisonment at the Western Penitentiary. The rank-and-file followers at the scene were all acquitted, or had the charges against them dismissed.

Weston, the “Chicago millionaire,” went to trial in 1885 and was found guilty of voluntary manslaughter. He

was sentenced to “pay a fine of six cents to the commonwealth, pay the cost of prosecution, and to undergo an imprisonment in the Western Penitentiary for the period of five years.” On appeal, his counsel, John S. Robb, William Reardon, C. A. O’Brian, and Thomas Marshal, stressed three main arguments:

- Milton Weston had not been present at the time of the crime;
- Some jurors had read testimony from Bowser’s trial, as reported in the newspapers; and
- In taking possession of the property, Weston acted upon advice of counsel.

The conviction was affirmed by the Pennsylvania Supreme Court in *Weston v. Commonwealth*, 111 Pa. 251, 2 A. 191 (1886). The court held that it was not necessary for the defendant to be present, nor was it necessary that the crime be a part of the original design. Rather, criminal liability will attach, “if the killing was a probable consequence of the common purpose.”

As to the jurors’ foreknowledge of Bowser’s conviction, the court stated, “an opinion that Bouser [*sic*] was guilty, upon evidence given to implicate him, would not at all necessitate an opinion as to Weston’s guilt.” And further, every juror had denied the formation of any fixed opinion as to Weston’s guilt.

Finally, advice of counsel was irrelevant, as “[t]he giving of the advice neither increases nor diminishes his criminality in any degree...”

Prior to sentencing, Milton Weston returned to Chicago to close his business affairs and to say goodbye to his wife, children, mother, and brothers. “You are shaking hands with a convict,” he told a well-wisher, according to a newspaper account. “I am able to bear all this, but when my sons and daughters place their arms around my neck and cling to me and weep, it unmans me.” He wondered



how this could happen to a man who, for 43 years, never had a black mark against him. "As God knows," he said, "in all my years of prosperity I never allowed a fellow human being to suffer if I knew it and could relieve that suffering. Yet here I am, convicted of a crime which I never committed."

Remonstrating against his conviction, he told the press that he had purchased 1,050 acres, containing 44 leases, in Westmoreland County and had paid H. J. Brunot the full amount of \$20,000, plus another \$4,000 to remove a cloud from the title; that Brunot sold the same land to Pew Emerson and Company, a corporation in which Brunot was a shareholder; and that Haymaker brought 150 men armed with pick handles and revolvers to dispossess him and his wife. He also claimed that Haymaker was shot by one of his own men by a bullet intended for Weston's foreman. Lamenting the cost,

he said the incident had stripped him of his fortune, to the point that his wife had to sell her diamonds. His legal fees had come to \$45,000, and he estimated his business losses at \$260,000.



After serving two years and eight months of his sentence, Weston was pardoned by Governor James A. Beaver on September 26, 1888.

This was over the protest of Obadiah Haymaker's widow, "in the name of her orphan children." But, according to the press, "The friends of Weston almost moved Heaven and earth to secure his pardon. Letters in his behalf were written by the judges of this county [Allegheny]; Governor Oglesby of Illinois, Senators Logan and Cullom, Supreme Court Justices, and Congressmen. Petitions with the names of prominent persons of New York, Illinois, Pennsylvania, and other states were sent to the Board of Pardons."

After obtaining his freedom, Weston demonstrated loyalty by leading a campaign for the pardon of Absalom Bowser, which was granted four years later in 1892.

**EPILOGUE**

Within a year after what became known as the "Murrysville Gas Well Riots," the Penn Fuel Gas Company bought the Haymaker well and began transporting gas through a line to Sixteenth Street in Pittsburgh, which would be the first major city with natural gas service.

The Haymaker brothers were separated by both death and geography. Obadiah was laid to rest in the Presbyterian Cemetery off North Hills Road in Murrysville, while his brother, Michael, died at age 93, and was buried in San Antonio.

Near the Turtle Creek, in a secluded spot off Robotnol Court, in-between and to the rear of two residences, there is a large rock monument bearing a plaque, which reads:

*continued on page 18*

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# The Killing of Obadiah Haymaker, Part II

continued from page 17



*“On this site, a pioneer natural gas well ‘blew in’ on November 3, 1878, named for the brothers Michael and Obe Haymaker, who drilled it. The well was drilled to a depth of 144’ to the Murrysville sandstone, a bed of porous rock similar to the boulder which bears this tablet. The well produced at a rate of 34 million cubic feet of gas daily. It caught fire and burned for 18 months before its flow was controlled and the fire was extinguished. Gas from this well was piped into Pittsburgh in 1884. This was the first time that gas was transported to a large metropolitan city by a corporation organized to produce and transport natural gas.”*

The monument is primarily one to technology. It would have been equally true, however, if it simply read, “Here we commemorate grit and determination.” 🐾

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## WESTMORELAND BAR FOUNDATION ASSISTANCE FUND

**W**e’ve all been there at one time or another. The best laid plans go awry. Or we are blindsided. And we find ourselves slowly sinking without the resources to stay afloat. That’s when the **Westmoreland Bar Foundation Assistance Fund** can help.

Several years ago, the Trustees of the Westmoreland Bar Foundation created a separate fund to provide financial assistance to lawyers of Westmoreland County and their families in times of need. A subcommittee of the Board of Trustees approves loans and grants to lawyers and their immediate family members who have fallen on hard times, often as a result of circumstances that were beyond their control. The payment of medical bills, CLE credits, licensure fees, and expenses related to catastrophic losses are some of the ways in which the Assistance Fund has been able to help.

The information provided is confidential, with only the Chairperson of the Fund Committee or the Executive Director being aware of the identity of the recipient.

If you, or someone you know, have nowhere else to turn, please consider contacting Diane Krivoniak as Executive Director of the Bar Foundation (724-834-6730) and ask whether the Assistance Fund can help. 🐾

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# Actions of the Board

## MAY 16, 2012

- Learned that the 2011 accountant review is ready in draft form and has been forwarded to Treasurer DeDiana for review.
- Reviewed draft of rules for lawyers meeting room.
- Agreed to add language that non-WBA members are permitted in the meeting room as long as they are accompanied by a WBA member.
- Agreed to host an open house in the meeting room in early July at either 4 or 4:30 p.m.
- Agreed to invite the commissioners and circulate a letter of thanks to each commissioner.
- Agreed to circulate the committee liaison assignments to board members and to begin making reports at the June meeting.
- Agreed to assign the Bylaws Committee the review of the V.P. requirements.
- Agreed to forward the request for possible financial sponsorship of a veterans/chamber talk at WCCC to the Westmoreland Bar Foundation.
- Learned that the St. Thomas More Society has asked the WBA to partner with this organization to offer a CLE on adoption.
- Agreed that YL Chair Don Rega and WBA member Adam Gorzelsky will be attending the PBA YL retreat at the end of July.
- Approved Young Lawyers expenditure for the croquet tournament and YL tent.
- Learned that YLs and seasoned attorneys will challenge each other on June 22 at the UPG softball field for a softball game.
- Heard recommendation from Activities Committee that the Fall Gathering be canceled with those

funds used to supplement the Dinner Dance.

- Voted to move forward with the October 4 “Lessons at Nuremburg” film event at the Seton Hill Performing Arts Center and to hold as a quarterly meeting, which will offer free CLE to our members.
- Heard report that the Pro Se Task Force is actively pursuing law school students to help with pro se matters.
- Learned that Laurel Legal Services may need to cut back on PFAs if more funding is curtailed.

## JUNE 19, 2012

- Heard presentation from Shirley Makuta, President of the St. Thomas More Society concerning an adoption CLE as a partnering endeavor with the WBA.
- Heard presentation from CPA Theresa Shanta who performed the 2011 review.
- Membership Committee report accepted as submitted: Michael Nestico, participating; Rolf Patberg, Holly Deihl, and Trent Echard, associate.
- Learned that Register of Wills advertising rate increases will take effect in July. Board agreed to mimic the Law Journal advertising rates at this same time.
- Agreed to schedule a meeting with Joe Scarpo and Private Wealth Advisors to discuss activity in WBA investment accounts over the past year.
- Agreed to extend an invitation to PBA leadership to discuss PBA's dues increase.
- Reappointed Investment Committee member Bob Lightcap.
- Learned that Mike Stewart was appointed to fill the unexpired term of Brian Bronson on the Laurel Legal Services board.
- Mike Stewart will work with Laurel Legal Services board and the task force to jump start the law student

involvement with the Pro Se Task Force program.

- Heard report on the outreach luncheons, which had one common theme discussed by WBA attendees: how to better market local attorneys to county residents.
- Agreed to begin search for possible marketing firm to help WBA promote its own members.
- Agreed to hold grand opening of lawyers meeting room on Tuesday, July 17, at 4 p.m.
- Agreed to revamp croquet event in 2013 to market the WBA and its members to the community.
- Confirmed that Peg Tremba's house is the location for the pool party on Friday, August 24.
- Nuremburg film speaker is seeking an alternative date from October 4 as she has a travel conflict.
- Learned that some of the Laurel Legal Services county offices will be closed—Jefferson and Armstrong—due to grant cutbacks.
- Discussed holding a fund-raiser to help LLS with its funding issues. 🍷

## 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](http://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.



Westmoreland Bar Association  
 129 North Pennsylvania Avenue  
 Greensburg, PA 15601-2311

[www.westbar.org](http://www.westbar.org)

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## CALENDAR OF EVENTS

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

### OCTOBER

- 3** Activities Committee, Noon
- 4** Business Law Committee, 8:30 a.m.
- 8** Courthouse closed in observance of Columbus Day
- 9** Executive Committee, Noon
- 10** Fee Dispute Committee Annual Meeting, 11:45 a.m., Chef Mark's Palate, Latrobe  
Board Meeting, 4 p.m.
- 11** Membership Committee, Noon  
Dine Around: The Nest, 6:30 p.m.
- 16** Family Law Committee, Noon

### NOVEMBER

- 6** Executive Committee, Noon
- 7** Board Meeting, 4 p.m.
- 8** Membership Committee, Noon
- 12** Courthouse closed in observance of Veterans Day
- 13** Dine Around: Out of the Fire Café, 6:30 p.m.
- 14** Real Estate Committee, Noon
- 15** Elder Law & Orphans' Court Committees, Noon
- 20** Family Law Committee, Noon
- 22** Courthouse closed in observance of Thanksgiving
- 23** Courthouse closed in observance of Thanksgiving

## correction<sup>s</sup> & AMPLIFICATIONS

- **The meeting of WBA members who have never been president of the association is still set for October 13 in Jury Room No. 5 on the second floor of the Courthouse, as previously noted; but the time has been changed from 4 to 5 P.M. to accommodate the scheduling of a deposition.**
- **The sidebar's seven-part series, *The Law in Antediluvian Times*, is nearing publication, but we are short on illustrations. Members having photographs or drawings from the period are asked to contact the bar office.** 🙋



[www.facebook.com/westbar](http://www.facebook.com/westbar)



## MEMBERSHIP ACTIVITIES QUESTIONNAIRE 2012

My President's Message in this edition of *the sidebar* asks for your assistance. We need you to supply us with some personal information that we would potentially like to use in the future to help improve the image of our profession. We are looking at ways to convey a positive message about our Association and to put to rest some of the negative commentary that is so often directed our way. **HELP US TELL OUR STORY.** Please take a few minutes to complete this questionnaire. Please list names of organizations, positions of leadership and years served. Use separate sheets if necessary and return the form to the Bar Office on or before October 12<sup>th</sup>.

Thank you,  
David S. DeRose

1. **PROFESSIONAL POSITIONS** i.e. solicitorships, consultants

Example: \_\_\_\_\_ Solicitor, ABC School District, (1985-present)

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2. **CHARITIES** i.e. board, committees, special events

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3. **CIVIC ORGANIZATIONS** i.e. membership, board positions

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4. **RELIGIOUS AFFILIATION** i.e. church boards, committees, education positions

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5. **GOVERNMENTAL POSITIONS** i.e. elected office, appointed office, compensated or volunteer

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6. **YOUTH SPORTS ACTIVITIES** i.e. coaching, officiating, governance

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7. **MISCELLANEOUS VOLUNTEER EFFORTS**

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it's time  
for you

to take the lead.

**T**he Westmoreland Bar Association is soliciting applications from members who would like to serve as a director on the Board, or on the Membership or Building Committees. There are two openings on the Board, one opening on the Membership Committee, and one opening on the Building Committee.

If you are interested in serving in any of those capacities, please contact the Bar Association Office at 129 North Pennsylvania Avenue, Greensburg, PA 15601, phone 724-834-6730, or e-mail [westbar.org@westbar.org](mailto:westbar.org@westbar.org) to obtain an application.

**Prospective applicants are invited to attend a Wine & Cheese Reception on Thursday, October 25, 2012, at 4 p.m., at WBA Headquarters, for a brief informational gathering that will provide an overview**

**of the WBA Board and responsibilities. This is also an opportunity for members to obtain information about the nominating process.**

The Nominating Committee—Barbara J. Christner, Esq., Chair, Michael J. Stewart, Esq., John K. Greiner, Esq., Kerri Ann Shimborske-Abel, Esq., Samuel R. Coury, Esq., Terrance C. Ferguson, Esq., and Annaliese P. Masser, Esq.—will meet in December to begin preparation for a slate of nominees to present to the Board of Directors and the membership of the Westmoreland Bar Association.

**Please RSVP for the Wine & Cheese Reception by calling 724-834-6730, faxing 724-834-6855, e-mailing [westbar.org@westbar.org](mailto:westbar.org@westbar.org), or registering online at [www.westbar.org](http://www.westbar.org).**

**Now is the time to become involved in leading the Westmoreland Bar Association into the future. Join the WBA board and Nominating Committee members on Thursday, October 25, at 4 p.m., for a Wine & Cheese Reception at WBA Headquarters to learn more about bar leadership and to discuss the openings and qualifications for elected positions at the 2013 annual meeting.**

# DINE AROUND



**J**OIN OTHER BAR MEMBERS AND THEIR GUESTS FOR AN INFORMAL EVENING OF FOOD AND CONVERSATION. THE **DINE AROUND** WILL TRAVEL TO THREE DIFFERENT EATERIES ON THREE DIFFERENT WEEKNIGHTS OVER THREE MONTHS. REGISTER FOR THE ONES THAT INTEREST YOU, OR REGISTER FOR ALL THREE. THERE ARE OPENINGS FOR APPROXIMATELY 30 ATTENDEES WITH NO REGISTRATION COSTS. RESERVATIONS ARE NECESSARY AND TAKEN ON A FIRST-COME, FIRST-SERVED BASIS. REGISTER ONLINE AT [WWW.WESTBAR.ORG](http://WWW.WESTBAR.ORG), OR CALL THE BAR OFFICE AT 724-834-6730 TO RESERVE YOUR DINE AROUND DATE(S). START TIME: 6:30 P.M. • COST: ON OWN, AS ORDERED FROM MENU.

**THURSDAY, OCTOBER 11: THE NEST**  
407 CLAY AVENUE, JEANNETTE, PA 15644

Known for some of the area's finest seafood, The Nest specializes in Australian cold-water lobster tails. But don't overlook the Black Angus steaks: all aged beef, from filets to strips. What sets The Nest apart is attention to detail and the quality of food. For this family-run operation, how they treat their customers is as important as providing a great dining experience. Dinner selections at The Nest average \$15 to \$20, with lobster dishes slightly higher. [www.nestrestaurant.com](http://www.nestrestaurant.com)

**TUESDAY, NOVEMBER 13: OUT OF THE FIRE CAFÉ**  
3782 STATE ROUTE 31, DONEGAL, PA 15628

Back by popular demand! Tucked into the Laurel Highlands, Out of the Fire boasts an open kitchen where flames dance and pans sizzle and crack in appreciation. The casual dining space is complemented by an incredible view of the ever-changing Laurel Highland ridge—a perfect opportunity to enjoy the autumn colors. This is a BYOB restaurant, so remember to bring your own favorite wine or beverage with you. Guests will order off a limited menu at cost of \$25 per person. [www.outofthefirecafe.com](http://www.outofthefirecafe.com)

**THURSDAY, DECEMBER 6: SOLSTICE**  
911 GREEN STREET, GREENSBURG, PA 15601

Solstice is a 50-seat upscale casual restaurant that takes pride in making each dish in their kitchen from scratch with locally sustainable produce. The menu is changed twice a year to reflect the changing seasons. Each week, Chef Gary Klinefelter produces Chef's features that are sure to please your palate. Solstice is also proud to offer 20 wines by the glass, 8 draft microbrewed beers, and other specialty crafted bottled beers from around the world. [www.solsticegbg.com](http://www.solsticegbg.com)

**3 NIGHTS, 3 RESTAURANTS, 3 GREAT MEALS**



# U.S. District Court ADR Update

1 Substantive Credit

— Live —

**Monday,  
November 5, 2012**  
**3:00 pm - 4:00 pm**  
**WBA Headquarters**

**Seminar Fees:**

**PRE-REGISTRATION:**

(Must be prepaid & received at the WBA office by 12 pm November 4, 2012)

CLE Credit

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

**WALK- IN:**

CLE Credit

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

**RECEPTION TO FOLLOW**

Westmoreland Bar Association

129 North Pennsylvania Ave.

Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

www.westbar.org

For refund policy information, or if special arrangements are needed for the disabled, please contact the WBA Office at 724-834-6730, or by email at

westbar.org@westbar.org

**The ADR Program of the U.S. District Court of the Western District of PA was designed to give parties more flexibility to shape the dispute resolution process and outcome, and aid the Court in meeting its mission to preserve and enhance the rule of law while providing an impartial and accessible forum for the just, timely and economical resolution of legal proceedings.**

Discussion will center on what changes have occurred since the inception of the pilot program and will offer attorneys an opportunity to provide feedback on the effectiveness of the ADR program.

**Speakers:**

**The Honorable Nora Barry Fischer**

U.S. District Court for the Western District of Pennsylvania

**Karen Engro, Esquire**

ADR Coordinator, U.S. District Court for the Western District of Pennsylvania

**One (1) SUBSTANTIVE Credit available toward your annual CLE requirements.**

You may pre-register for this seminar by visiting the westbar.org website. You must "LOG IN" to register. OR submit the form below.

**November 5, 2012 U.S. District Court ADR Update**

Name: \_\_\_\_\_

Attorney I.D. # \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

Enclosed is my check made payable to the Westmoreland Bar Association.

Bill my  MasterCard  VISA  DISCOVER for \$ \_\_\_\_\_ (Amount).

Card # \_\_\_\_\_

Expiration Date \_\_\_\_\_

Three digit security code on back of card \_\_\_\_\_

**Pre-Registration Fees**

CLE Credit:

WBA Members - \$30 per credit hour

Non-Members - \$50 per credit hour

Non-Credit:

\$10 Flat Rate

Waived for Young Lawyers (practicing 10 years or less)

Credit Card Billing Address \_\_\_\_\_

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm November 4, 2012.**