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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION
VOLUME XXIV, NUMBER 5
NOVEMBER 2012

Westmoreland County Row Offices

New Things Under The Sun



Yeah, we all know the row offices. They are, and always have been, those never-changing, immutable, orderly bastions of record keeping and document storing, whose sole function in life is to track the quiet transactions of desperate lives. Even the names hearken back to ancient, pastoral England where the Prothonotary, the Register of Wills, the Sheriff, the Recorder of Deeds, and the Clerk of Courts all first appeared as a civilized alternative to the then-current practice of settling one's affairs by running one's neighbor through with a broadsword.

Ah, but if you think that when it comes to the row offices there is nothing new under the sun, well then, once again, you'd be wrong. The long-term denizens who held those positions year after year after year are gone now, replaced by a new generation of office holders. We thought it might be an appropriate time to inquire of them what changes they have brought to their high office during their stewardship thus far. We also thought we'd share that information with you.



**PROTHONOTARY
CHRISTINA
O'BRIEN**

It's been many years since Harry S. Truman inquired of David L. Lawrence during a parade in Pittsburgh in the 1950s, "What the hell is a prothonotary?" Well, unlike the President of the United States, we all know what a Prothonotary is, that in Westmoreland County the office is currently held by **Christina O'Brien**, and that she is determined to bring new services to the office.

"I've broadened the scope of passport services," she says, "and we now take passport photos in the office. Instead of having to go elsewhere for the photos, passport applicants can get all their passport stuff done in one stop. We're also back-scanning all filed documents, except for divorce files and sealed cases. We're back to 1997 now and have contracted with an outside

firm to finish all the scanning. I've also started an immigration and naturalization book project to make those records available online for people interested in genealogy. The original records are very fragile and this is a way to preserve them.

"In addition, we will soon begin accepting credit cards for filing fees. That should make it easier for attorneys. I also am very interested in setting up e-filing."



**CLERK OF COURTS
BRYAN KLINE**

As Clerk of Courts, **Bryan Kline** has also made some meaningful changes in the way the office functions. The Clerk's office now accepts online payments for fines and restitution. He has been very active in modernizing the office's approach to the collection of fine and restitution payments.

"I've established an administrative hearing procedure for those people who are no longer under court supervision but who still have outstanding fines, restitution payments, and costs owing. We already have one hundred such hearings scheduled in November alone. Our objective is to work out payment plans or proceed with contempt hearings. In the year 2010, we collected almost \$5 million in fines, restitution payments, and costs. And we now proceed with driver's license suspensions for Motor Vehicle Code infractions in which there are unpaid monies."

The Administrative Offices of the Pa. Courts (AOPC) has appointed Bryan to the statewide Restitution Task Force where he works with colleagues from around the state on the intransigent problem of collection.

Bryan is also considering implementing e-filing, even though,

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President's Message

Pride In Membership

by David S. DeRose, Esq.

Over the past months as Bar President, I trust that I have conveyed a message that I am proud to be a Westmoreland Bar Association member. There are a host of reasons why, and I know, of course, that you share my opinion. Sometimes, we all have an "a-ha" moment and the organization's strength and viability manifests itself when you were least expecting it.



In September, I went on the WBA-sponsored trip to the Antietam Battlefield. September 17 of this year marked the 150th anniversary of the bloodiest single day in American military history. Our group, which consisted of about a dozen attorneys and their guests, and several other members of the public, were hosted for the day by our battlefield guides, WBA member Donald Rigone and retired member, Ralph Conrad.

As I boarded the bus that Saturday morning for what would be an all-day tour of the battlefield, I expected to be educated. Let me tell you that this day,



▲ On September 8, 2012, WBA member Don Rigone (at far right of left photo) and retired WBA member Ralph Conrad (at center of right photo) led a daylong tour of Antietam National Battlefield in Sharpsburg, Md., for WBA members and their guests.

in every respect, exceeded any expectations that I may have had.

The pride I feel in our organization is in no small part represented by Don and Ralph's well-researched, informative, insightful, and articulate description of the events of that single-day Antietam battle.

I have been to many Civil War battlefields and taken different types of tours with park rangers and others, and no one in my experience has anything on the Rigone and Conrad Civil War school. You really had the feeling in listening to them that you were actually there, 150 years ago, witnessing the battle. Both were able to relate actual accounts from soldiers who were in the battle; describe the conditions that existed at that time before and after the battle; name the key commanders for the North and the South; chronicle troop movements, numbers of troops, numbers of casualties, and challenges that were faced because of the number of dead and wounded; and the list goes on.

The members of the public who were on this tour were certainly as equally impressed with the presentation as I had been. This is

exactly the type of thing that we, as an Association, need to promote to improve the professional image issue that looms around us. We had two attorneys who are obviously extremely knowledgeable about the events of the American Civil War, but were willing to share their time and talents with us as a group and with members of the public in a most memorable day.

In July 2013, we will commemorate the 150th anniversary of the Battle of Gettysburg. I would hope that we could encourage the Rigone and Conrad Civil War school to go on the road again, but this time it would be wonderful to fill two or three buses with our members, their guests, and members of the public in general. There truly is great talent and capability within our organization, both law-related and non-law-related. It is up to us to harness that talent and utilize it to not only make our WBA membership more valuable and meaningful, but to also help to put to rest the negative opinion of attorneys that exists in the public sector.

Remembering Our Colleagues

Donald R. Hacker

Editor's note: Donald R. Hacker died Thursday, June 7, 2012. He was predeceased by his first wife, Martha F.; a son, John Robert; and his brother, Thomas Hacker. He is survived by his wife, Mary Lou; a daughter, Phyllis Anne Gilland; two sons, David Hacker and Donald R. Hacker Jr.; a grandson, Robert Dustin Hacker; and a sister, Dorothy Hacker.



▲ Donald R. Hacker,
1985 WBA Directory

by Eric Bononi, Esq.

Donald Hacker was a fixture in our legal community for over 50 years. He attended Saint Vincent College and then proceeded on to law school at Georgetown University. Following law school, he completed Officer Training School for the United States Navy. In the Navy, he served as a Lieutenant Colonel during the Korean Conflict.

After his years of service were completed, he set up his legal practice. Don and his first wife, Martha (now deceased), had four children: Robert (now deceased), David and Donald, who both reside locally, and Phyllis Anne, who practices law in Las Vegas. Don is survived by Mary Lou Hacker, his wife of 25 years. In his prime, Don was also an avid fisherman and hunter.

Don served the Mount Pleasant School District as Solicitor for 32 years. In his practice, Don represented many types of clients and participated in many types of proceedings. However, I will remember Don as a man who took action upon any cause or client he believed in.

He often referred to his client as “the little guy,” and though he rarely had high-profile clients, he supported his clients whole-heartedly.

For 53 years, Don was a licensed attorney. Even after he no longer actively handled court cases, he still enjoyed coming to the office, maintaining a practice, and talking to clients.

Attorney Ted Kostoff once pondered, “... then you might think, what kind of monument will I leave? Not one of brick and mortar or stone, but of thought, because only thoughts live.” If this is the case, and I think it is, then Don Hacker’s monument will be in the thoughts of those he served so diligently—all of “the little guys.” 🌿

Timothy J. McCormick

Editor's note: Timothy J. McCormick passed away on Sunday, June 17, 2012, in Charleston, S.C., after a two-year battle against leukemia and other health-related complications. He is survived by his wife of 31 years, Linda (Markle) McCormick; son, David; daughters, Meghan (Mike) Denny and Emily (Samir) Saba; sisters, Mary, Sheila and Joan; brothers, Richard, Patrick, and Jake; a number of nieces and nephews; and his devoted canine companion, Max.

by Michael J. Stewart, Esq.

With all due respect to the man in the TV commercial, Tim McCormick may have been the most interesting man in the world. Tim loved life. He loved his devoted wife, Linda, his children, David, Meghan, and Emily, his extended family, friends, his dogs, the practice of law, politics and specifically the Democratic Party, a fine red wine, a good beer, music, the City of Greensburg, Pawleys Island, S.C., Penn State, Pitt Basketball, Ninja Turtles, political buttons, collectible pins, storytelling, and conversation with just about anyone who would lend an ear. Tim loved laughter and a good time.

We lost our colleague, Timothy J. McCormick on June 17, 2012, at the age of 59 after a two-year battle with leukemia and other complications. It was a trying time for Tim and his greatest champion, caregiver, and loving companion—his wife, Linda—but it was also a time of great celebration as he walked his youngest daughter, Emily, down the aisle at her wedding just a few months before he died. That night we celebrated Emily’s wedding and the devotion of a loving father and mother amongst the McCormick family and friends.

Tim was one of eight children born to Beatrice and The Hon. Richard E. McCormick, Sr. He was the brother of The Hon. Richard E. McCormick, Jr. He graduated from Greensburg Central Catholic High School, where he

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▲ Tim McCormick

the sidebar

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Remembering Our Colleagues *continued from page 3*

established lifelong friends; Penn State, where he established lifelong friends; and the University of Pittsburgh School of Law, where he established lifelong friends. Do you see a trend developing? Tim led the league in best friends.

Tim followed in the footsteps of his grandfather and father and developed a broad legal practice focusing on criminal defense. He was admitted to the Bar in Pennsylvania in 1979 and commenced working in the Westmoreland County Public Defender's Office under the tutelage of his great friend and mentor, Dante Bertani. As a Public Defender, Tim didn't just represent his clients, he often befriended them.

Tim's affinity for his clients continued in private practice. Tim loved the underdog. He was a respected member of our law firm, Stewart, McCormick, McArdle and Sorice from 1981 to 2002. As Barney McArdle said



at Tim's memorial service, "Tim's concern for people was evident in his work. In his criminal practice, Tim defended the indefensible and spoke on behalf of those persons who most of us, if we were honest, would never engage in conversation."

Tim was the Solicitor for the City of Greensburg from 1992 until 2012. Suffice it to say that in addition to providing the City with his legal opinion, Tim would offer, at no additional cost, his personal opinion on a multitude of City issues.

Tim was an outstanding attorney and generally regarded as one of

Westmoreland County's finest criminal defense lawyers. He was a member of the Westmoreland County Academy of Trial Lawyers.

Tim McCormick was a DEMOCRAT. A lifetime member of the Democratic Party, Tim was well known as an advocate/activist for the values and issues of importance of his party. He ran for the office of Westmoreland County District Attorney as well as a seat on the Pennsylvania Superior Court. Tim was a delegate to several Democratic National Conventions and his support and advice were sought by Democratic candidates running for local, state, and national offices.

Above all, Tim was a devoted husband, father, and friend. His irreverence, acerbic wit, and entertaining presence will be missed by all.

In the iconic words of James Brown, the Godfather of Soul,

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Tim wanted everyone he touched to celebrate life, to ... "FEEL GOOD." As Tim lay dying, surrounded by his family, a chaplain was sought out in the hallways of a Charleston, S.C., hospital. Sure enough, as script would have it, a preacher was found and Tim's last blessing on earth was offered by ... the Reverend James Brown.

Tim, you made all of us ... FEEL GOOD. Missed, but not forgotten, on behalf of all your friends. 🍷

J. Raymond Ambrose

Editor's note: J. Raymond Ambrose, Jr., unexpectedly passed away on September 27, 2012. Ray is survived by his spouse of over 40 years, the Honorable Donetta W. Ambrose, Federal District Court, Western District of Pennsylvania; his son, J.R. Ambrose, and his wife, Eliza Swann, both attorneys of Brooklyn, N.Y.; and the newest member of the Ambrose family, Ray's grandson, Edward Swann Ambrose.



▲
J. Raymond Ambrose

by David S. DeRose, Esq.

I had the privilege of becoming acquainted with Ray Ambrose more than 35 years ago, largely because of my long-standing friendship and hometown connection (Arnold) to his spouse, Donetta. Ray was raised in neighboring New Kensington and thankfully, a Judge David Weiss divorce master's appointment sparked a beautiful

romance. Donetta and Ray were married in 1972 and shortly thereafter, began practicing law together on Fourth Avenue in New Kensington.

From the start, this was a dynamic legal duo. Donetta first became a great prosecuting attorney and then a Judge of our Court of Common Pleas, with Ray continuing to do what he loved to do and what he did best, that is, being a small-town attorney with big-city capability.

Ray was a very bright man, a quick study, and had great versatility. Ray was far from a one-dimensional lawyer and was not timid about taking on challenges. He could be completing a bankruptcy case and, at the same time, working on a commercial real estate deal, a corporate formation problem, or the administration of an estate. He epitomized a successful general practicing attorney. Further, Ray was always a mentor. He was always willing to extend a helping hand, not only on substantive law issues, but on how to practice law. He helped many young lawyers, including me, grow their practices.

Although Ray was born, raised, and practiced law in New Kensington his entire career, many of us considered

him an Arnold boy at heart. Donetta's childhood friends and their spouses became Ray's great friends and all remained close friends until his passing. It was just as if Ray had been raised on Woodmont Avenue, right in Donetta's neighborhood. There is a special bond that exists amongst this extraordinary group of people that was very apparent at Ray's memorial service—one that many people will never experience.

I had the good fortune of sharing offices with Ray for about seven years in the late 1980s until the mid 1990s. I profited in so many ways from that experience. Ray was like another big brother to me. Ray would always be there to help me with a difficult legal issue or guide me on what he thought might be the proper way to handle a particular matter. He daily demonstrated how he so valued the "people" kind of practice that both of us had. He made clients feel like family. It was nothing for Ray to spend the first part of a consultation simply talking to clients about their families, the community, sports, or some other matter that would make these people feel at home. Often, I would have a client sitting in our common waiting area and before I could get off the telephone or finish with another appointment, Ray would go out into the waiting room, sit with the clients, and exchange the pleasantries of the day or tell one of his great stories. We all, in those days, became a part of Ray's extended family. We warmed to his big smile and hearty laugh.

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Remembering Our Colleagues *continued from page 5*

Ray was a very generous man to so many, on many different levels. That generosity was only magnified by the touching eulogies recited at Ray's memorial service by so many of those same friends I referred to earlier. Ray was a man of many good works, works for which he did not seek credit or a pat on the back. He genuinely loved helping people.

Ray is, and will always be, an unsung hero to me. An example of his personal generosity, which was huge to me at the time, was Ray satisfying certain office expenses for me over a period of four or five months while I was out campaigning for a judgeship, and had a compromised income. Ray didn't tell me what he intended to do or what he in fact did, he just did it. When I confronted Ray about it, he quickly put up his hand and exclaimed to me that, "We are *goombahs!*" With a wry smile, he said, "David, this is what *goombahs* do for one another. You would do the same for me, and I will continue to help you in any way I can." His friends have similar stories.

Ray's passion for the law and knowledge of the law were equaled or surpassed by Ray's passion for golf. Ray was a true golf aficionado. His office and his home are adorned with golf-related paintings, photographs, statues, memorabilia, and everything golf. Ray could tell you the history of golf, the important golf courses of the world, their layouts, who designed them, and something about the challenges that golfers would face on those courses. He knew about the construction and composition of golf clubs, golf balls, and he just loved to play the game. When I think of Ray and golf, I think of the Pittsburgh Penguins and Badger Bob Johnson's refrain—"It's a great day for hockey." In Ray's life, it was always a great day for golf. Ray was a tremendous basketball fan, too, particularly at NCAA tournament time. He had a



▲
Ray Ambrose and The Hon. Donetta Ambrose at the WBA 125th Anniversary Gala, October 2011.

sincere affection for Duke and Pitt basketball. There would be gleam in his eyes if Duke, once again, made the Final Four or finished as national champions.

In addition to Ray's love of law, golf, and other sports, and being such a generous friend to so many, Ray was also a very devoted son. Ray came from a loving mother, Fern, and father, Ray, to whom their son—particularly in their later years—was extremely attentive. Ray would drop whatever he was doing to help his parents in any way possible. He embraced his role as

an only child and, of course, served as a great role model for his own son, J.R.

Ray was an extremely proud father, with good reason, and wasn't shy about proclaiming it! He loved J.R. beyond all measure. What's not to love? As Ray and Donetta have said many times, J.R. has brought them nothing but happiness and has never given them any reason to pause. This is not too difficult to imagine, coming from these two devoted and loving parents.

Where others might have been jealous or envious or unable to accept the successes of their spouse, Ray was always the very supportive husband, supportive friend, and confidant of Donetta. He was her champion in her effort to become our first female judge in the county and Ray always promoted her career. Ray was a loving and devoted husband but, as in many marriages, Ray knew his rank. When we practiced together, Donetta would frequently call the office and Ray would hang up the phone and say affectionately, "That was the General. I need to get moving."

Ray's passing has created a tremendous void in so many of our lives and we no longer have a loving, caring, and loyal member of our extended family, this good and decent man, in our midst. Our loss is heaven's gain. If Ray didn't verbalize being a religious man, or even spoke sometimes to the contrary, I am not buying any of it. I am certain that on the day of Ray's passing, Ray met God. Ray probably had a few things he wanted to say, but God extended his right hand and told Ray that actions speak louder than words. Ray's good works, Ray's compassionate and generous nature, Ray's many Christian acts of charity, all contributed to God telling Ray, "Ray, my *goombah*, welcome home. Some brew and Buffalo Bill chicken wings are awaiting you, and your room overlooks the 18th green."

We love you, Ray, and may you rest in peace. 🌹

Donald R. Hacker, Timothy J. McCormick, and J. Raymond Ambrose, Jr., will be remembered at the WBA 51st Annual Memorial Service to be held at the Courthouse in May 2013. Please plan on joining us to honor our colleagues.

Nominating Committee

It's Your Chance To Be A Leader

The Nominating Committee is accepting letters of application for positions on the Board of Directors, Membership Committee, and Building Committee. There are two openings on the Board, one opening on the Membership Committee, and one opening on the Building Committee.



dations to the Board of Directors on matters concerning the upkeep of WBA Headquarters. One five-year term is available.

RESPONSIBILITIES

- The **Board of Directors** ensures that the WBA's mission, services, policies, and programs are carried out. Applicants should have experience in WBA activities such as chairing a committee, attending bar functions, and being active in the bar community. In addition, they must be able to think clearly and creatively, and work well with people, individually and in a group. Interested candidates should know that the responsibilities include

attending each monthly board meeting, the annual board retreat, and planning retreat, all bar association and foundation activities, and serving at the president's request. Two three-year terms are available.

- The **Membership Committee** is the first point of contact that most applicants have with the WBA. Committee members attend monthly meetings to personally interview and educate applicants on the workings of the WBA. One five-year term is available.
- The **Building Committee** is responsible for making recommen-

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.

Any member interested in running for the above positions should submit their petition to the Chair of the Nominating Committee, c/o the WBA by **December 12, 2012**. See the insert in this issue, or download an application from www.westbar.org.

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Duke George



Daniel Joseph

New Things Under The Sun *continued from page 1*



at the moment, there are no Rules of Criminal Procedure providing for it.

March 2013—the first county row office to do so. Michael adds that his predecessor left him with a staff well-trained for the opportunities of the 21st century.



RECORDER OF DEEDS FRANK SCHIEFER

Frank Schiefer, as Recorder of Deeds, prides himself on being a full-time public servant. His primary goal is to improve customer service. To that end, he has extended office hours, reorganized the indexing system, and upgraded all the computers, enabling them to search back to 1850 rather than be limited to 1943 as before. He's also installed a publicly accessible computer on the counter to enable title examiners and attorneys to more easily do the title bringdown at filing. Frank is particularly pleased that he's been able to accomplish all of these beneficial changes without increasing his budget one bit.



SHERIFF JONATHAN HELD

Jonathan Held, in his first year as Sheriff, has implemented many changes. When he took office, he discovered that the firearms issued to his deputies were all old; some didn't work. He was able to secure funding to provide all of his deputies with new firearms. He instituted a new system for receiving, inventorying, and serving warrants. The Sheriff's office now has the ability to accept warrants from Magisterial District Judges by e-mail, and deputies can access them in their cars with mobile computers in their vehicles.

In addition, the Sheriff's office now maintains a "most wanted list" on its website and on Facebook; it's preparing to assume responsibility for registering convicted sex offenders; and it has revived a significant federal grant, providing \$364,600 to be used to upgrade technology for eighteen police departments within this congressional district.



REGISTER OF WILLS MICHAEL GINSBURG

As Register of Wills, Michael Ginsburg is determined to modernize the office by utilizing all of the computer and internet advantages currently available. His office now utilizes Facebook and will soon use Twitter to advertise audits and issue press releases. The office's website offers most forms online and links directly to the Pa. Department of Revenue's website. The office is currently scanning documents to expand that capacity beyond the current 1999, and a kiosk in the office makes these documents more readily accessible for title and genealogy searches.

In what is perhaps its most progressive action, the Register of Wills will start accepting e-filing in

When it comes to the row offices, it is no longer true that the more things change the more they remain the same. The new generation of row officers is ready, willing, and able to deal with the latest technologies and is assuring that procedures in Westmoreland County are streamlined, manageable and user-friendly. It's a good thing, too. That damned broadsword is a lot heavier now than it used to be. 🍷

From the Office of the Court Administrator

*by Paul Kuntz, Esq.,
Court Administrator*

I take this opportunity to update the Bar on two issues of possible interest: the senior judge courtroom and evidence presenters.



SENIOR JUDGE COURTROOM

A twelfth courtroom established for use by senior judges is now open on the fourth floor of the Courthouse Annex. The Senior Judges' Courtroom is situated between the Pro Bono Office and the Attorneys' Lounge. The court administrator's office has been scheduling Westmoreland and visiting judges to hear statutory and summary appeals, protection from abuse cases, and specially assigned matters in that location. Please check your Notice and report to the Senior Judge Courtroom if so indicated.

▲
Court Administrator
Paul Kuntz

EVIDENCE PRESENTERS

The court has ordered evidence presenters and associated equipment to equip eleven courtrooms. This equipment will be installed and made available as soon after delivery as possible. For those of you unfamiliar with this equipment, litigators will be able to project images of documents and other evidence to televisions located throughout the courtroom. 🍷

WBA Launches Civics Education Pilot Program

In response to a national outcry over the lack of understanding that our young people have about how government works, the Westmoreland Bar Association has joined forces with retired Supreme Court Justice Sandra Day O'Connor and leaders within the American Bar Association to expand students' knowledge about civics education. Justice O'Connor believes young people do have a desire to learn civics because "they want to participate in their government, to change things and better their lives. It's not just about learning facts and the processes," she says. "It's about learning how to make a difference in one's community, state, or nation."

That is precisely what thirteen volunteer members of the WBA are charged with doing with a pilot civics education program, which will focus on fifth-grade students. On September 27, recently retired elementary school teacher Diane Persin spent the lunch hour training

"It's not just about learning facts and the processes. It's about learning how to make a difference in one's community, state, or nation."

Retired Supreme Court Justice Sandra Day O'Connor

twelve attorneys and one judge about the way fifth graders learn and what their world looks like in today's America. Mrs. Persin emphasized that these students need to learn how to be good citizens, how and why laws exist, and how they can be part of the bigger democratic process.



▲ On September 27, recently retired elementary school teacher Diane Persin (seated in center) prepared Civics Education Program volunteers to go into fifth grade classrooms to teach students how to be good citizens, how and why laws exist, and how they can be part of the bigger democratic process. The volunteers are, standing from left to right, include: Mike Stewart, The Hon. Michele Bononi, Jim Falcon, Kelly Tua Hammers, Judi Petrush, Mark Shire, David DeRose, and Allen Kukovich; seated, Larissa McGrew, Elizabeth McCall, Sherry Magretti Hamilton, and Diane Landis Bickers.

"Civics education is a road map for students to learn firsthand about the creation and enforcement of rules and laws, and their impact on our daily lives and society as a whole," says Past WBA President and committee member Michael J. Stewart. To that end, the volunteers were paired with participating schools and teachers, and visited their classrooms before Thanksgiving to teach the "No Animals in School" lesson, which focuses on the importance of rules, the need to live within the community, and the idea of democracy. The attorneys will return to the classroom in early Spring to teach a mock trial titled "The Case of the Missing Puppy." Through role-playing, the students will gain a sense about the real workings of the legal and judicial system.

"The WBA board has worked on and off for almost two years to try to get this program launched," says

Executive Director Diane Krivoniak. "We struggled with what grade level to focus on, what schools to include and what kind of lessons to teach. With the help of the PBA and Diane Persin, we feel we are giving this pilot program our best effort."

The WBA board and participating attorneys will evaluate the program after the first year and decide whether to take a more advanced program into the high schools, offer it to all fifth grade classrooms, or abandon it. But the WBA board sees civics ed as a leadership role that the Westmoreland Bar should undertake. "We are glad to see it launched and we will keep the membership informed about our progress," explains Diane Krivoniak.

PARTICIPATING SCHOOLS

- Aquinas Academy
- Hillcrest Elementary
- Laurel Valley Elementary

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Letters to the Judge

Your honor, Sir,
I truly hate to bother you again. I know you must think that my cellmate and I just lie awake at night thinking up foolishness to irritate you, but this, like most of my prior letters, is spurred by facts reported in the paper. We know there is something afoot in Harrisburg to reduce the prison population, of which we are proud members, but it seems like the prosecutors do not necessarily share a similar goal.

Now understand, I am in no way critical of our local ADAs, who are an upstanding bunch. In fact I hold a lasting admiration for the skills of the young woman who worked so hard to put me here. But, your honor, there is always the danger that they might be influenced by national trends to prosecute people who had no thought of doing any harm. Jeeter, my cellmate, says there used to be a thing called “Man’s Ray” which meant that they couldn’t put you in jail unless the jury found you to be some form of S.O.B., but now statutes are starting to omit such a requirement.

It’s crowded enough in here without adding people who had no intention to harm anyone. Case-in-point: It was reported that a California marine biologist and whale watch boat owner found herself defending multiple criminal charges arising out of an incident when one

of her crew whistled at a humpback whale hoping that just such a musical discharge of breath might entice the creature to linger a bit while happy vacationers snapped its picture. But some, obsessed with the power of the law, thought that puckering and blowing air across the ocean in an audible manner was nothing more than blatant “harassment” of a marine animal, which I’m sure your honor knows is a federal crime. The article says she is indebted to the tune of \$100,000 in legal fees and it’s still not resolved.

On the very same news day, the paper ran this: “Airboat Captain Who Lost Hand to Alligator Charged.” It seems that the 63-year-old Florida captain dangled a dead fish over the side of his boat to entice a lazy gator to come a bit closer to the nearsighted tourists he was hauling around the swamp, and, well, you know what happened. He was charged with feeding alligators, a second-degree misdemeanor.

Jeeter says the purpose of the criminal law is to say to people, “Don’t do that.” He thinks the prosecution might be unnecessary since the chances of the captain offering his remaining hand to another gator are somewhat slim. What do you think?

Your friend,
Ricky H. Benbow, Sr. 🐾

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WBA Launches Pilot Program

continued from page 9

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- Ramsay Elementary
- Rostraver Elementary

PARTICIPATING ATTORNEYS

- Diane Landis Bickers
- The Hon. Michele Bononi
- Jim Falcon
- Sherry Magretti Hamilton
- Kelly Tua Hammers
- Allen Kukovich
- Elizabeth McCall
- Larissa McGrew
- Judi Petrush
- Mark Shire
- Mike Stewart
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September 2012 Civil Trial Term

Jury Trial Verdicts

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

Of twenty-four cases listed for the September 2012 Civil Jury Trial Term, four settled and nineteen were continued. Although two jury trials were held, one ended without a verdict. Both are summarized below.

EDENFIELD TRANSIT, INC.
V.
JASON BRINK AND
AMY SOLOMON
NO. 7639 OF 2008

*Cause of Action: Personal Injury—
 Property Damage—Auto Accident—
 Negligence*

On December 17, 2007, at 7:24 a.m., Defendant Solomon was operating a transit bus, which was stopped at a traffic light in the left turning lane on Route 56, waiting to turn onto Hyde Park Road in Allegheny Township. The bus was owned by the Plaintiff, Edenfield Transit. At that same time, Defendant Brink was travelling west on Route 56, in the opposite direction in a 1999 Ford Escort, when his vehicle collided with Solomon's bus as she turned left onto Hyde Park Road.

The left-turn lane that was occupied by Defendant Solomon was controlled by a green arrow, yellow arrow, and red traffic light. Believing that the light had turned green, Solomon proceeded to make the left turn from a stopped position. Believing that he had the green light, Defendant Brink proceeded to travel straight through the intersection. Because his view of the entire intersection was blocked by other buses in his left-turning lane, he was unable to swerve out of the way or stop in order to avoid impact upon seeing Solomon in his path. The front of Brink's vehicle struck the passenger's side of the bus, near the door.



The parties stipulated to damages and the only issue presented to the jury was one of negligence.

Plaintiff's Counsel: Paul S. Guarnieri, Wexford

Defendant Brink's Counsel: Scott Mears, Jr., Gbg.

Additional Defendant's Counsel: John Bryan, Pgh.

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

Result: Verdict for the Defendant Jason Brink.

DOLORES J. DUDLEY,
PERSONAL REPRESENTATIVE
OF THE ESTATE OF WILBUR
DUDLEY, AND DOLORES DUDLEY,
IN HER OWN RIGHT
V.
RAMALINGAM RAVISHANKAR, M.D.
NO. 3730 OF 2006

*Cause of Action: Medical
 Malpractice—Negligence*

Plaintiff's husband, Wilbur Dudley, went to the emergency room of Mercy Jeannette Hospital on August 15, 2004, with back pain and pain in his sacrum, after falling twice at his home earlier in August of 2004. Various X-rays and an MRI were performed. He was admitted on August 19, 2004, and the Defendant was one of the physicians providing

health care to him. During his stay in the hospital, Plaintiff's husband developed a left foot drop. Subsequently, on October 22, 2004, he underwent back surgery. For reasons unrelated to this case, he died in March of 2011, at the age of 84.

Plaintiff has alleged that Defendant departed from the applicable standard of medical care in failing to diagnose and treat a transverse sacral fracture at S1 and S2. Plaintiff further alleges that Defendant failed to treat her husband, despite his changing neurological status and increasing pain during his stay at Mercy Jeannette rehabilitation. As a result, Plaintiff argued that he suffered from cauda equine syndrome and had permanent neurological injuries that continued through the rest of his life. Plaintiff was seeking monetary damages.

Defendant contends that he met the applicable standard of care at all times; and that Plaintiff's husband had a known history of back pain and lumbar issues of spondylolisthesis with a concomitant spinal stenosis at the L4-L5 level. Defendant further contends that his condition was chronic and long-standing and evaluations failed to identify any acute changes. Initial findings were most consistent with a sacral fracture, which, while painful, are generally clinically stable. Additionally, Defendant contended that the MRI of August 23, 2004, and X-rays of August 25, 2004, revealed stable fracture sites.

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

Defendant's Counsel: Ronald M. Puntill, Jr., Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: The case concluded after two days of testimony without the necessity for the jury to reach a verdict. 🍀

New Member Sketches

SUZANNE M. BASH has been admitted as a participating member of the WBA. She earned a B.A. in Communications from the University of Pittsburgh, and her J.D. from the Thomas M. Cooley Law School. Suzanne is an associate with Jeffrey S. Golembiewski in Greensburg and resides in Ligonier.

NELSON D. BERARDINELLI has joined the WBA as a participating member. Nelson earned both his undergraduate degree in Information Science/Administration of Justice, and his juris doctor degree from the University of Pittsburgh. He is a sole practitioner, living and working in Murrysville.

HOLLY DEIHL was admitted to the WBA as an associate member. She earned a B.S. in Criminal Justice from Penn State Altoona, and earned her J.D. from Duquesne University. Holly is an associate with Goldberg, Persky & White in Pittsburgh. She and her husband, Luke, live with their children, Keegan and Eli, in Sewickley.

TRENT A. ECHARD has been admitted as an associate member of the WBA. He earned a B.S. in

Mechanical/Biomedical Engineering from Carnegie Mellon University, and his J.D. from Case Western Reserve University. Trent is an associate with Strassburger McKenna Gutnick & Gefsky in Pittsburgh. He and his wife, Heather, reside in Pittsburgh.

MICHAEL D. LAZZARO has joined the WBA as a participating member. Michael attended Wittenburg University and Seton Hill University, earning an undergraduate degree in Marketing. He earned his J.D. from the Thomas M. Cooley Law School. He currently resides in Pittsburgh.

ERIN M. LEONARD-SALAS was admitted to the WBA as a participating member. She earned a degree in History from Saint Vincent College, and earned her J.D. from Duquesne University. Erin is a sole practitioner in Delmont, where she lives with her husband, David, and their children, Isabella and Dylan.

MICHAEL L. NESTICO has been admitted as a participating member of the WBA. He earned his undergrad

degree in Criminal Justice from Penn State, and his J.D. from Western New England University. Michael is the Solicitor for the Westmoreland County Register of Wills and works part-time with Avolio Law in Greensburg. He resides in Jeannette and has a son, Gabriel.

ROLF LOUIS PATBERG has joined the WBA as an associate member. Rolf earned his undergrad degree in Management/Marketing from Gannon University, and attended Akron Law School and the University of Pittsburgh to earn his juris doctor. He is a founding partner of Patberg, Carmody & Ging in Murrysville. He and his wife, Sharon, live in Murrysville and have four children, Megan, Matthew, Shannon, and Alexa.

CANDICE J. RAYMOND has rejoined the WBA as a participating member. She earned a B.A. in Criminology from Indiana University of Pennsylvania, and earned her J.D. from Ohio Northern University. Candice is an associate with Prostko & Santillan, LLC, in their Greensburg office. She and her husband, Michael, live with their daughter, Caylin, in Mount Pleasant.

MAURA S. SPILLANE has joined the WBA as a participating member. Maura earned both her undergraduate degree in Political Science, and her juris doctor degree from the University of Pittsburgh. An associate with Abby De Blassio in Greensburg, she resides in Pittsburgh.

EMILY K. TRISOLINE has rejoined the WBA as a participating member. She earned a bachelor's degree in History from Edinboro University of Pennsylvania, and earned her J.D. from Duquesne University. Emily maintains an office in New Kensington, where she lives with her husband, Jason. 🍷



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

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



To-Wit: The Sound of Silence

by S. Sponte, Esq.

I just hate this. I'm sitting here alone in the dark, shivering and shaking, blanketed against all light and sound and relentlessly aware that I am now by contract bereft of tongue, in cheek or otherwise. For a guy who has spent the better part of his adult life gushing words like a fountain of couth, this is intolerable.

It is essential for me now to avoid all human contact. I can't even allow my dog in the room, for we all know of the vaunted and uncanny intelligence of golden retrievers and their abrading inability to keep their mouths shut.

This abysmal torment started soon after I ended the most difficult and contentious case of my career. "Ended" is the only word I can come up with that implies nothing about whether the result favored my plaintiff, and it is

of necessity that I use it; the strict confidentiality agreement demanded by the defendant completely prohibits me from gloating.

From the get-go, the case was a vicious, knock-down, drag-out fight,

“The answers that we can't get for ourselves we can sometimes get from others, be they lawyers or people.”

with no quarter asked and none given; well, none given until it was over. Then there were plenty of quarters.

At first, I thought maintaining confidentiality would be no big deal. Now though, several weeks later, the case still haunts me, lingering around

like old smoke, and I can feel the discipline of silence slowly, inexorably slipping away.

All lawyers talk about their cases; its endemic, and I'm no different. We deal with so many staggering vagaries that every case, no matter how it's resolved, leaves in its wake unanswered questions: How was my closing? Was my trial strategy sound? Should I have been a dentist?

Talking about it is the way we sort out our insecurities. The answers that we can't get for ourselves we can sometimes get from others, be they lawyers or people.

But the way this most difficult case "ended," with no verdict to

continued on page 14



Lindsay Turchetta,
AWMA

Lindsay Turchetta is a Financial Advisor with Waddell & Reed and she holds the Accredited Wealth Management Advisor designation. Her practice emphasizes financial planning, investment planning, deferred compensation, insurance and employee benefit plans. Lindsay has been helping her clients since 2006 and is here to help you today!!

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To-Wit: The Sound of Silence *continued from page 13*

provide formal acknowledgement of superiority, and saddled by this ungodly prohibition against talking, I have precious little way to satisfy myself that I did a good job.

You know, professional fighters are really the lucky ones. No, not the part where they get their noses broken or their eyes split open or their skulls cracked. That's not very lucky. I mean the part where they do that to their opponents, then stand over those bleeding, broken carcasses in clear triumph; or the part where the referee raises their arm at the end of a fight to signify for all to plainly see who's the mightiest of them all.

We need a system like that. I'm not suggesting we settle disputes by engaging in fisticuffs with opposing counsel. That's not civilized and many of them are bigger than me. No, I had something else in mind: pie.

Yes, pie. Here's what I propose. In any case that "ends" short of a verdict, let's have the trial judge review the record and decide who did the better job. Then let's have the judge call counsel into open court, step down off the bench and hand the winner a banana cream pie.

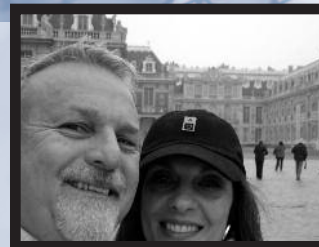
You know what comes next, don't you? Oh, and it will be glorious. I do so love the sound of meringue hitting skin at speed. If you record it and play it back slowly, you can almost hear the word "loser." It's either that or "Paul is dead." I've never been sure which.

And we need to implement this plan soon, oh please. I don't know how much more of this preternatural taciturnity I can endure, and I really, really, really miss that dog. 🐕

© 2012, S. Sponte, Esq.

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

where in the world IS THE WBA MEMBER?



Phil McCalister and his wife, Maria, visited the Palace of Versailles during their trip to Paris, France, this April. The palace has 2,153 windows, 2,300 rooms, and 67 staircases in more than 720,000 sq. ft. of space, and houses over 30,000 works of art.

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foundation focus

National Pro Bono Week Celebrated, Volunteers Thanked



In recognition of National Pro Bono Week, which was observed October 21–27, 2012, the WBA thanks the attorney volunteers of the Westmoreland Bar Foundation Pro Bono program for their outstanding work throughout the year. Over 400 indigent clients are represented each year through our local pro bono program in areas including: custody, divorce, landlord/tenant disputes, employment issues, credit problems, and other civil areas of law.

In a recent video interview, participating pro bono lawyers were asked “what is your pro bono?” You can view their responses online at www.westbar.org or on YouTube: <http://www.youtube.com/watch?v=Vh2xYm1TJY8>

Thanks to you, the WBF Pro Bono volunteers!

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- Ron Zera 🐾



BRIEFLY SPEAKING



Raymond W. Bitar was inducted into the Slippery Rock Men’s Soccer Ring of Honor at an awards banquet held on Friday, October 12. The award recognizes his outstanding accomplishments for Slippery Rock Soccer and his career after graduation. Ray earned a B.S. in education from SRU in 1963, where he was a leading scorer on the varsity soccer squad and captain of the 1963 team, receiving numerous All-American nominations. After graduating from SRU, Ray taught mathematics at several area high schools, while continuing his own education, earning his Master’s of Education in math from Indiana University of Pennsylvania, and his J.D. from Duquesne. He and his son, Scott, are partners at Bitar & Bitar in New Kensington.



From left to right: SRU Varsity Soccer Coach Lou Egli, and Captains Ray Bitar, Herb Lauffer, and Tom O’Connor, circa 1963.



Lee R. Demosky was named an Alumni of Distinction by Saint Vincent College at a reception and dinner on Friday, October 5. The awards are given by the SVC Alumni Association in recognition of meritorious service and commitment to Saint Vincent. Lee graduated with high honors in 1992 with a B.S. in political science and minors in public administration and history. At SVC he was a member of the scholar program, and was named best orator in the SVC Mock Trial Competition. A partner with Meyer Daragh Buckler Bebenek & Eck in Greensburg, Lee serves on the WBA board of directors and is a member of the Westmoreland County Academy of Trial Lawyers.

who's who@ THE COURTHOUSE

BY AMY DEMATT, ESQ.

It is easy to see why, when Judge Richard E. McCormick, Jr., took the bench in 1990, he re-hired his former secretary from private practice, **LAURA RICHARDSON**. Laura is the embodiment of contagious energy.

She first began working for Judge McCormick the month after her graduation from business school in 1981, when the Judge was in private practice. She worked for him until 1982, when she left the law offices of Stewart, McCormick and McArdle to begin her career with Westmoreland County—first with the Children's Bureau, then as a secretary for Judge Charles E. Marker.



▲
Laura Richardson

Laura always knew she wanted to work in an administrative role, because she loves interacting with people. She is most proud of working for a great judge, whom people admire and respect, and takes seriously the idea that in her dealings with the public, it may be necessary to “go the extra mile” to help people get their goals accomplished through the courts. She sees her role as a reflection of the Judge,

and therefore incorporates her personal philosophy—to treat others as she would prefer to be treated—into her work ethic. Laura often hears out-of-county lawyers say that “it’s such a pleasure to practice in a county such as ours in which people are so friendly and accommodating.”

Laura’s personal life seems to be as spirited and busy as is her work life. She and her husband, County Detective Mike Richardson, recently celebrated Laura’s 50th birthday with a trip that took them to Denver, Colo., to watch the Broncos crush the Pittsburgh Steelers in their season opener. After

the game, they flew to Las Vegas, rented a car and drove to Williams, Ariz., where they hopped on a train to the South Rim of the Grand Canyon. Visits to the Hoover Dam and Red Rock Canyon rounded out the trip.

Even though her husband almost stepped on a rattlesnake during one of his travels west, Laura seems game to try any adventuresome activity. She enjoys biking, fishing with her husband, and traveling. Her trips have taken her to the Caribbean—where she had a “dream-come-true” wedding in the Bahamas two years ago—and hiking in Yellowstone National Park, the Rocky Mountains, the Grand Tetons, and Arches National Park in Utah. Ireland is next on her bucket list.

Laura loves the outdoors. She maintains a flower garden, which she describes as “good therapy.” She loves animals, in particular her miniature poodle, which she adores and refers to as “our four-legged daughter.” She also plans to take up piano lessons again, having taken lessons for three-and-a-half years when she was younger.

Above all, Laura values her family and thanks her parents for the person she is today. She loves entertaining family—from organizing family reunions to planning an upcoming surprise birthday party for her mom who turns 85. Laura also feels that Judge McCormick’s staff is like family to her. “When you work together, you become very close,” she remarks, noting that she will particularly miss Janice Weimer, the court assistant, who retired in September. 🐾

on the move?

Don't forget! Pa.R.D.E. Rule 219(d)(1)(ii) requires that every attorney shall provide his or her current office and residence address, each of which shall be an actual street address or rural box number, to the Disciplinary Board. All changes in address must be reported to the Attorney Registrar within thirty (30) days after such change.

Be sure to inform the WBA as well, so you don't miss any important mail or e-mail communications.

FAST FACT

According to the Pa. Board of Law Examiners, of the 2,077 applicants who took the bar examination in July 2012, 1,606 passed, for an overall pass rate of 77.32%.

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Westmoreland Revisited

The Shooting of Henry Clay Frick

by *The Hon. Daniel J. Ackerman*

Enclosed by polished hardwood paneling and window glass, the revolver's report must have sounded to the three men in the room more like the detonation of an anarchist's bomb rather than the first of two pistol shots, but the motivation behind it was the same: political terror.



▲
The Hon. Daniel J. Ackerman

An unexpected visitor had appeared that Saturday afternoon, which was just another workday at Henry Clay Frick's second floor Fifth Avenue office. The date was July 23, 1892.

A porter took a calling card from a slender, but robust, 22-year-old man, who politely requested to see Mr. Frick. The caller, using the name Simon Backman, had been to the office a day or two before, falsely introducing himself as an employment agent offering to provide substitute laborers at the mill, but did not get an audience with the chairman of Carnegie Steel.

The porter would have judged him a foreigner from his appearance and manner, but the eyes behind the wire-rimmed spectacles evidenced sophistication and intelligence. So, with equal courtesy, the porter returned the calling card, expressing his regret that Mr. Frick was engaged (he was meeting with the company's vice president, John G. Leishman) and could not see him. The visitor—whose real name was Alexander Berkman—turned as if to leave, but then pivoted, and following in the wake of the porter, pushed him aside and burst into Mr. Frick's chamber.



▲
Alexander Berkman's attempt to assassinate Henry Clay Frick, as illustrated by W. P. Snyder in 1892, originally published in Harper's Weekly.

The man whose sanctuary Berkman was entering was 42 years old, with a bearded face which dared opposition. In addition to being chairman of the board, he was also general manager of the company's new, state-of-the-art Homestead works.

He had been born in West Overton and raised near Mount Pleasant on his parent's farm. His family was not particularly well-to-do, notwithstanding the fact that his maternal grandfather was the distiller, Andrew Overholt. However, by the age of 21, young Henry Clay Frick had formed a partnership with his cousins that would distill coke from coal in 200 beehive ovens that dotted the county—a process which produced a far more lucrative product than grandfather's "Old Overholt."

In 1880, he borrowed funds from Judge Thomas Mellon to buy out his cousins and create the firm of

H.C. Frick & Company which would eventually employ 1,000 workers and control 80% of Pennsylvania's coal production.

Now in middle age, he had bound himself to Andrew Carnegie and steel, and his timing and positioning were propitious, for before the turn of the century, Pittsburgh's iron and steel production alone would equal that of England and would account for half of all production in America. Carnegie Steel would be the giant of the industry. He was on track to becoming one of the richest men in the country; and then his office door burst open.

Frick started to rise from behind his conference table, but before he was erect, the first shot was fired. Likely he saw the gun, but the face of the intruder was unrecognizable. Who was this?

continued on page 18

The Shooting of Henry Clay Frick *continued from page 17*

THE WOULD-BE ASSASSIN

Among his friends—here, and in Russia, which he had left four years before—the unforeseen caller was known as Sasha, the Russian diminutive for Alexander. There is some irony in the fact that Sasha's childhood was more privileged and comfortable than that of the man he had come to kill.

Born in Lithuania, then a part of the Russian Empire, his family soon moved to St. Petersburg. His father was a prosperous shoe wholesaler, and the Berkman family was tended by household servants and found relaxation in a country summer home.

Then, in 1881, a bomb exploded outside Sasha's school, killing Tsar Alexander II. Sasha, moved by the event and encouraged by the political leanings of a brother, immersed himself in Russian radicalism to the point where his resulting rebelliousness and insubordination led to his expulsion from school.

Following the death of his parents, he left St. Petersburg for New York in 1888, where he joined the *Pioneers of Liberty*—a group of anarchists who were then protesting the convictions and death sentences of like-minded radicals charged with participating in the Haymarket Riot in Chicago. *(On May 4, 1886, a bomb exploded among the ranks of 180 policemen gathered in Haymarket Square to control sympathizers who were attending a rally in support of strikers seeking an eight-hour day at the McCormick Harvesting Machine Company. Eight police officers were killed and sixty-seven were wounded.)*

After New York, he took up residence in Worcester, Mass., where he became one of a series of lovers to Emma Goldman, a well-known social reformer and anarchist, who herself was a recent immigrant from Russia.

Now he had come to Pittsburgh by a long train ride, during which he had tried to enjoy the sight of the passing



▲
Alexander Berkman

countryside, notwithstanding his hot, stuffy, and smoke-filled accommodations. But he was not a tourist: the purpose of this pilgrimage was solely to play the role of the avenging angel for the workers killed in the Homestead Riot, though he would have thought such a metaphor incompatible with his atheists' beliefs.

In his mind, *"The removal of a tyrant is not only justifiable; it is the highest duty of every true revolutionist."* In his wallet he carried a paper with some "precious addresses," and a newspaper lithograph of Frick. As the train arrived in Pittsburgh, his first impression of the city was that *"the smell was nauseating."*

THE HOMESTEAD RIOT

Apart from Braddock's defeat, the warfare at Homestead was the bloodiest armed conflict in the history of western Pennsylvania. The underlying dispute involved the wage scale. Carnegie Steel sought to impose a sliding scale that would cause wages to rise or fall with the price of steel, but the company and the union, the Amalgamated Association of Iron and Steel Workers, could not agree to a bottom number below which wages

would not fall. The Homestead works, which opened in 1881, with its four open-hearth furnaces was the nation's leading producer of rolled steel. By the early summer of 1892, the company and its close to 4,000 workers knew that a strike or lockout was eminent.

With Andrew Carnegie on an extended holiday at his manor in Scotland, the company's preparation for the anticipated strike was placed in the hands of Henry Clay Frick. A military mindset developed on both sides of the dispute, with the workers organizing into regiments and companies, and the company's building of what was quickly dubbed "Fort Frick."

The "fort" was the encasement of the works' 600-acre complex in a three-mile-long wooden fence topped with barbed wire. The fence enclosed three sides of the complex. The fourth side of the rectangle was the Monongahela River. The fence was built with portholes through which rifles might be fired, dotted with observation towers, and was illuminated by electric lights.

Negotiations broke down on June 23, with the company announcing that from then on it would only deal with individual workers, and not the union. Work ceased on the first of July. It was a lockout rather than a strike, but the press—and therefore the public—would refer to the workers as strikers.

Correctly anticipating that the sheriff would find it politically unpalatable to honor his request to supply deputies to protect company property from a threat, which at that point was purely hypothetical, Frick employed the services of the Pinkerton Detective Agency, an enterprise which had made a name for itself by forcibly quelling union protests. Some 300 Pinkertons had already assembled on the banks of the Ohio River on the Ohio side of the state line, where two barges and the tugboat "Little Bill"

were moored, awaiting instructions. The instructions arrived on July 6.

Union lookouts first saw the flotilla of Pinkertons, who were armed with 300 pistols and 250 Winchester repeating rifles, as it passed under the Smithfield Street Bridge, and the alarm from a steam whistle was sounded.

Workers broke through the fence at the river's edge and positioned themselves to forcibly repel the Pinkertons' amphibious landing at the company docks. As the barges were brought to the docks, there was an exchange of demands and threats. Each side claimed that the other was the first to open fire, but it really didn't matter: both sides had put themselves in a position where violence was inevitable.

The sound of gunfire rolled across the river toward Braddock, and continued for several hours. The workers even brought a cannon to bear, a memento of the Civil War that was borrowed from the Wilkesburg chapter of the Grand Army of the Republic; but the workers were not

gunners and the use of the gun was abandoned when the first shot killed one of their own.

At the end of the long skirmish, six workers were dead and seventeen wounded. Only two Pinkertons died, but about 200 were wounded, most from running a gauntlet of workers after they had surrendered. Four days later, on July 10, Governor Robert E. Pattison belatedly mobilized the 8,200-member Pennsylvania National Guard and sent it to Homestead to ensure order.

THE ASSASSINATION ATTEMPT

The reports from Berkman's revolver, almost two weeks after the arrival of the National Guard, were the last violent echoes of the Homestead riot. Frick dropped to his knees and slumped against his chair. He coughed out the words "murder" and "help" as he crawled on his hands and knees in the direction of the door. Berkman took aim at the center of the back of the man, who was now below him, and squeezed the trigger, but at the

same moment, John Leishman, who had been conferring with Frick, shoved Berkman's arm aside, and the bullet went astray.

Turning on Leishman, Berkman pushed him aside, pointed the gun at Frick's raised head, and pulled the trigger for the third time. The sound was a metallic click—a misfire—and in an instant, the melee unexpectedly ended. A hammer ruthlessly crashed down on the back of Berkman's head, wielded by a carpenter who had been working down the hall—a working man, like one of the many Berkman sought to liberate from "the enemies of the people," such as Frick.

For the reader who thirsts for more action and heroism, there is more to add if all sources are to be believed. Some say that Berkman was not rendered helpless by the blow and stabbed Frick several times in the leg with a dagger, or the sharpened end of a rat-tailed file (which one source suggests was dipped in poison); that Frick, though wounded, overpowered

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Intellectual Property Law

Patents, Trademarks, Copyrights

NILS H. LJUNGMAN, JR.
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- Over 30 years of practice before the U.S. Patent and Trademark Office
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- 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

The Shooting of Henry Clay Frick *continued from page 19*

his assailant; that workmen who restrained Berkman pried open his mouth and removed an explosive capsule of fulminate of mercury which would have killed all those present if Berkman had bit down on it; and finally, that Berkman had originally intended to kill Frick with a suicide bomb, but that the prototype he made failed to detonate upon testing.

Such assertions are scattered among various written accounts, including James Howard Bridge's "The Inside Story of the Carnegie Steel Company" (1903); George Harvey's privately printed authorized biography, "Henry Clay Frick the Man" (1936); and memoirs by both Berkman and Emma Goldman. These assertions, generally uncorroborated, may well be fact, but caution is called for since they were written in the hyperbolic style of the times, by those who could well have had motivation to propagandize a particular point of view.

THE AFTERMATH

Frick was transported to Mercy Hospital where he was treated and promptly discharged to recuperate at Clayton, his Point Breeze estate, where, in the bedroom next to his, his wife, Adelaide, was recovering from the premature birth of a son.

The infant, Frick's namesake, would die eleven days later. Frick improved to the point that he was able to attend the funeral and a mere two weeks after the shooting, he boarded a trolley headed downtown to resume the business of his office where he left off.

At the Allegheny County Jail, Berkman later related, in an effort to procure the names of his co-conspirators (there were none, though several local anarchists were arrested and released), he was fed salty food and deprived of water for three days before the interrogation was abandoned. He then started to receive letters from a "striker" who wanted to blow up the mills, requesting the



▲
Henry Clay Frick

names of his friends who might know how to make effective explosives. These he wisely ignored, sensing that they were a ploy by his prosecutors to ensnare other anarchists.

What he seemed to have found even more irritating was the attitude of his fellow prisoners who didn't understand his motives. They had no more use for anarchists than they did for Frick, and since he was not from Pittsburgh, they thought he must have been crazy to come here and do such a thing. When Berkman discovered that Frick had survived the assault, he felt distraught and humiliated, deeming himself a failure, while fellow prisoners and guards jibed him with insulting remarks: "Bad shot, ain't you?" He second-guessed himself, wishing he had gone to Frick's home instead of his office, but the house

was guarded, and he had to act quickly because the morning paper stated that his quarry was about to leave on a trip to New York.

He consoled himself with thoughts that Frick's death was insignificant, for after all, hadn't he accomplished his intended purpose, which was simply to strike terror into the soul of those in Frick's class? On the other hand, fellow prisoners assured him that Frick's survival eliminated the possibility that he would be hung—crushing his hopes of becoming a martyr. Instead of dying for his cause, "now," he thought, "they were going to bury me alive."

THE TRIAL

Declining offers of legal representation, Berkman decided to represent himself, for, "Lawyers are all in the capitalist camp. ... The Law! It is the arch-crime of the centuries. The path of Man is soaked with the blood it has shed." He would offer no defense, but rather an "explanation." Nor would the jury understand him, for they, too, belonged to the capitalist class. "I will use my trial to talk to the People."

When Henry Hobson Richardson designed the newly completed Allegheny County Courthouse, he created an interior courtyard which would allow natural light to enter almost every room. While the design drew praise from the public and the architectural establishment, when Alexander Berkman was brought there for trial, he recalled, "The stained windows cast sickly rays into the silent chamber ... Everywhere cold eyes met my gaze."

The true bill returned by the grand jury charged him with felonious assault upon H. C. Frick with intent to kill; felonious assault on John Leishman; feloniously entering the offices of Carnegie Steel on three occasions (each a separate indictment); and unlawfully carrying concealed weapons.

LawSpeak

"Laws are a dead letter without courts to expound and define their true meaning and operation."

— Alexander Hamilton

The trial judge offered to appoint counsel, but Berkman declined the offer. The jury box was already filled with jurors when he entered the room. He was told he was entitled to four challenges to the seated jurors, and he selected four at random from the printed list; four new jurors took their places.

The Commonwealth called their witnesses: a police officer, two Frick employees, a detective, a physician, who testified that Frick's wounds may have been fatal, and finally Henry Clay Frick, himself. Berkman did not cross-examine any of them. His only reaction was shouting, "That's a lie," when Leishman testified that the defendant tried to kill him.

When the prosecution rested its case, the judge informed him that he may call witnesses, but he called none; nor would he testify himself. Instead, he informed the court that he wished to read a statement, and the judge allowed him to proceed. The courtroom was still as the defendant who had said that he would make his case to "the People," rose with a sheaf of papers in his hands, and began to read.

It was in German! The district attorney rose and objected: if the defendant wishes to make a statement it must be in English. The accommodating judge called a recess so that an interpreter might be engaged. With an interpreter, Berkman started reading again.

"I address myself to the People. Some may wonder why I have declined a legal defense. My reasons are twofold. In the first place, I am an Anarchist: I do not believe

in man-made law, designed to enslave and oppress humanity. Secondly ... a lawyer would try to defend, or palliate, my act from the stand point of the law. Yet the real question is not a defense of myself; but an explanation of the deed. It is a mistake to believe me on trial. The actual defendant is society—the system of injustice, of the organized exploitation of the People."

Berkman was becoming irritated and cast angry glances toward the interpreter, who was translating each word as it was said in a halting manner, destroying the rhythm he had worked so hard to achieve. He made his displeasure known and in exasperation asked the interpreter to look onto the manuscript with him and interpret whole sentences at a time. The interpreter turned to him, seemingly unable to comprehend the request, and then Berkman suddenly understood. The man was blind!

At this point the judge suggested that the jury had heard enough, but Berkman, who argued that he was without counsel and had not yet read one-third of his manifesto, pled for more time. The judge gave him five minutes.

Both the trial and sentencing were completed in the same day. Back in his cell, the warden remarked, "The judge was easy on you. Twenty-two years! Pretty stiff, eh?"

EPILOGUE

Western Penitentiary would not have Alexander Berkman for the full duration of his sentence; he was paroled in 1906, after serving 14 years. His active opposition, along with Emma Goldman, to the draft during the First World War resulted in their deportation. In 1936, while living in France, depressed by a long illness, he picked up a revolver once again and took the life he once sought to give up as a martyr.

Business disputes between Frick and Carnegie were taken personally, especially by Frick, which led to litigation and a settlement in 1900 that would permanently sever their long business relationship and friendship.

About the same time, Carnegie, seeking to lay down the reins of business, sold Carnegie Steel to interests led by J. P. Morgan for \$450 million. On closing the deal, Morgan offered his congratulations to Carnegie on "becoming the richest man in the world"—a statement which was not intended as hyperbole.

Frick, however, didn't lag far behind. The transaction led to the creation of United States Steel Corporation, the first corporation capitalized at more than \$1 billion, with Frick on its board, holding \$61 million of its stock. He also ventured into banking (the Union Trust Company), and invested heavily in a number of railroads. At one time, he was the largest land owner in Pittsburgh, and the builder of the 26-story Frick Building and the William Penn Hotel.

Frick's passion—apart from his continuing hatred of Carnegie, which became an obsession—was his art collection, which was and is one of the finest in the nation.

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The Shooting of Henry Clay Frick

continued from page 21

He and Adelaide traveled widely in search of suitable works of art. Africa and Europe were on their itinerary in 1912 when they had to cancel their return voyage to New York because Adelaide sprained her ankle. The *Titanic* sailed without them. In 1914, Frick moved his family and his art into a 60-room palace which he had constructed in New York City.

His private side was not on display. After the death of his infant son, he and Adelaide were devastated by the death of their six-year-old daughter, Martha, a loss they would mourn for the rest of their days, notwithstanding the presence of their two surviving children, Childs (1883-1965) and Helen (1888-1984). Helen, throughout her long life, would be the faithful defender of her father's reputation, for his death did not end the hatred that many felt for him because of his actions at Homestead.

Andrew Carnegie died on August 11, 1919. Again, Frick was not far behind him. For some time, he had suffered from inflammatory rheumatism. In November, he contracted a lingering cold, followed by ptomaine poisoning from eating what was believed to be tainted lobster, and his heart gave out on December 2.

FRICK'S LEGACY

"His death removes a figure intimately connected with the industrial upbuilding of America," the New York Times reported the next day. Of his \$145 million estate, \$117 million went to public institutions and charities. Adelaide, who would live until 1931, received a life estate in the New York mansion, with his will providing that after her death it and its art would be open to the public. It would simply be known as The Frick.

In Pittsburgh, land devised to the city would become a park bearing his name. And Clayton, upon the death of his daughter, became the nucleus for the Frick Art and Historical Center, one of the city's most pleasant and informative attractions.

Apart from the ruffians of the Wild West, whose legends were often created through the penny press and dime novels, Henry Clay Frick—this eastern businessman and art collector—was the most notorious public figure of his time. His drive, determination, and skill were major factors as the United States grew, by reason of its industrial capacity, into a twentieth century world power. 🐾

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WESTMORELAND BAR FOUNDATION ASSISTANCE FUND

We'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. 🐾

Actions of the Board

JULY 18, 2012

- Membership Committee report accepted as submitted: Maura Spillane and Candice Raymond, participating.
- Learned that the 2012 Bench/Bar Conference netted the WBA an unexpected surplus due to the comped rooms, suites, etc., from Bedford Springs.
- Agreed to provide compensation to Architect Barry Morris for his years of professional advice to the WBA on building matters.
- Civics Education pilot project is ready to move forward; agreed to send out press releases after teachers and attorneys are in place and ready to proceed.
- Plumber confirmed that we do not have crushed pipes under the first floor of the building; he recommends that we do not dig up and replace any existing pipes.
- Young Lawyers are arranging for a golf outing in September for all members, with free golf at Cherry Creek.
- Agreed to mail golf invitation along with the pool party invitation.
- Learned that Nuremburg film CLE/community event scheduled for October 4 is cancelled due to speaker unavailability.

AUGUST 15, 2012

- Membership Committee report accepted as submitted: Suzanne Bash, Nelson Berardinelli, and Michael Lazzaro, participating.
- Agreed to invite PBA Executive Director Barry Simpson to the September 12 board meeting to discuss state dues increases and state bar benefits.
- Agreed to meet with Marketing Coach Skip Glenn on September 27.

45th Annual Red Mass Celebrated



Prolific Catholic writer and theologian George Weigel (far left) was the keynote speaker at the 45th annual Red Mass held on Monday, September 10, at the Bishop William G. Connare Center in Greensburg. The Red Mass dates back to the 13th century when it marked the official opening of the new term for courts in most European countries, and was introduced in the Diocese of Greensburg in 1968.

Sponsored by the Diocese of Greensburg, the Saint Thomas More Society, and Saint Vincent Archabbey, College and Seminary, in Latrobe, the Mass was concelebrated by Bishop Lawrence E. Brandt and Benedictine Archabbot Douglas R. Nowicki (center). Also in attendance were WBA member and President of the Saint Thomas More Society Shirley Makuta (second from left), WBA President David S. DeRose (second from right), and Saint Thomas More Society Chaplain Fr. Timothy Kruthaupt (far right).

Podcasts of Mr. Weigel's remarks and Bishop Brandt's homily can be heard in the Media Center at www.dioceseofgreensburg.org. 🎧

- Agreed to partner with Community Foundation for next year's croquet event and encourage more WBA members—not just YL members—to participate.
- Reviewed results from the four outreach lunches. A common request from our members was to market local attorneys better to county residents.
- Approved the Disciplinary Board request to use first floor rooms for storage of files for Westmoreland County conservatorship.
- Learned that Diane Persin agreed to kick off the Civics Education program in late September. Twelve attorneys have agreed to participate.
- Learned that the statewide legal journal website is in development; cost is to be distributed among all legal journals. Approved \$600 for this expenditure.
- Confirmed that a CLE with Federal Court Judge Nora Barry Fischer has been finalized for September 18 at 3 p.m.
- Heard request from Laurel Legal Services director that LLS could use a board member with strong accounting-type background.
- Learned that pro se program with Pitt Law School is ready to be launched as soon as a local supervisory lawyer is located.
- Discussed a possible fund-raiser with LLS to help with their funding and their visibility.
- Allocated \$300 for UPG anniversary events in appreciation of free use of their facilities for WBA events. 🎧



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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 for more information about activities and CLE courses, or to **register online**.*

DECEMBER

- | | |
|---|---|
| <p>1 WBA Holiday Dinner Dance & WBF Silent Auction, 6 p.m., Greensburg Country Club</p> <p>5 [CLE] Discovery of Electronically Stored Information, Noon to 1:45 p.m.</p> <p>6 Children's Dinner Party with Santa, 5:30 to 7 p.m. Dine Around: Solstice, Greensburg, 6:30 p.m.</p> <p>11 [CLE] Bridge the Gap, 9 a.m. to 1:15 p.m.</p> <p>12 Business Law Committee, Noon [CLE] Dependency Potpourri, Noon to 1:45 p.m.</p> | <p>13 Membership Committee, Noon Ned J. Nakles American Inn of Court, 5 p.m.</p> <p>14 [CLE] Compliance Period Seminar, 9 a.m. to 3:45 p.m.</p> <p>25 Courthouse closed in observance of Christmas</p> |
|---|---|

JANUARY

- 1** Courthouse closed in observance of New Year's Day
- 9** Real Estate Committee, Noon
- 15** Family Law Committee, Noon
- 17** Elder Law & Orphans' Court Committees, Noon
- 21** Courthouse closed in observance of Martin Luther King Jr., Day

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.



www.facebook.com/westbar

CANDIDATE INFORMATION FORM

Application should be returned to the Westmoreland Bar Association by December 12, 2012.

I am interested in serving a leadership role with the WBA for the 2013 election and would like the Nominating Committee to consider me for candidacy. I understand that, if elected, I am expected to attend all committee meetings and will be expected to accept and fulfill designated responsibilities.

I wish to run for the position of:

- Director (3 yr.)
- Membership Committee (5 yr.)
- Building Committee (5 yr.)

Nominating Committee Members:

If you have any questions, please contact them.

Barbara J. Christner, Chair

Michael J. Stewart

John K. Greiner

Kerri Ann Shimborske-Abel

Samuel R. Coury

Terrance C. Ferguson

Annaliese P. Masser

Please complete the following information. **Attach** additional background information that you feel would be helpful for the committee to know.

Name: _____

Firm: _____

Address: _____

Phone: _____ Year admitted to practice: _____

Law School: _____ Year joined WBA: _____

Activities with the Westmoreland Bar Association (limit of 3):

1) _____

2) _____

3) _____

Other professional information (limit of 3):

1) _____

2) _____

3) _____

Signature: _____ Date: _____