



WBA Members Vote “Yes” for Retention of Hathaway, Ober



Editor’s note: Voters in Westmoreland County will be asked on Tuesday, November 6, 2007, whether they wish to retain Common

Pleas Court Judge Rita Donovan Hathaway and

Judge William J. Ober, who will each be completing a ten-year elected term of office in January 2008. Westmoreland County attorneys—in a poll conducted earlier this year by the Westmoreland Bar Association—have already cast their vote. A solid majority voted “Yes, both Judges should be retained.”

THE HON. RITA DONOVAN HATHAWAY

The Hon. Rita Donovan Hathaway was born in 1950 in Boston, Mass. She attended Boston State College, and graduated in 1972. During her high school and college years, she worked as a clerk in a grocery store, and continued in that position while her children were young. After both of her children were enrolled in school, Judge Hathaway took a position as an elementary school teacher at Mother of Sorrows School in Murrysville. Her experiences as a



▲ The Hon. Rita D. Hathaway

teacher and a mother fostered an awareness of issues facing children in our society, and sparked an interest in becoming an advocate for children and other victims of crime. Prompted by the desire to find a way to better serve the needs of abused children, she enrolled at Duquesne Law School, and graduated in 1988. She was hired by then-District Attorney John J. Driscoll as a prosecutor that same year. In her capacity as an Assistant District Attorney, she was the Supervisor of the Sexual Crimes and Child Abuse Unit from 1991 through 1997, as well as Chief Trial Attorney from 1995 through 1997, when she was elected to

the bench. She officially assumed her duties as a Judge in January of 1998.

“I loved my job in the D.A.’s Office,” says Judge Hathaway, “and I would have stayed there had I not been elected [to the bench in 1997]. I sincerely believe that I have been called to public service.”

While on the bench, Judge Hathaway was the Judicial Liaison for the Westmoreland County Children’s Bureau from 2000–2004, and the Administrative Judge of Domestic Relations from 1998–2003. She was a judge in the Family and Juvenile Division from January 1998 until

January 2004, and has been a judge in the Criminal Division since January 2004.

She has been a member of or active in the following professional organizations: American Bar Association; Pennsylvania Bar Association; Ned J. Nakles American Inn of Court; Westmoreland County Multi-Disciplinary Team on Child Abuse and Neglect; Subcommittee of PA Supreme Court Committee on Racial and Gender Bias in the Justice System; Pennsylvania District Attorneys Association; Commissioner for County Probation and Parole Officers’ Firearm Education and Training Commission, and the Duquesne Law Alumni Association.

THE HON. WILLIAM J. OBER

The Hon. William J. Ober was born in 1939 in Derry, Pa., and was educated in the (now) Derry Area School District. He graduated from Dickinson College in 1961 (B.A., Economics) and Dickinson School of Law in 1964. Upon graduation, he began his long career as a trial lawyer



▲ The Hon. William J. Ober

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President's Message

As Time Goes By

by James E. Whelton, Jr., Esq.

It is amazing at how fast time goes by. I know that all of us, from time to time, have some recognition that the clock seems to be moving faster and faster. We wake up one day and, for whatever the reason, find ourselves asking where did the time go?



I had one of those days recently and realized that I am halfway through my term as president. Having had that realization, it occurred to me that something along the lines of a mid-year report might be appropriate.

As everyone is well aware, the continued financial strength of the association is always of paramount concern. Our treasurer, Chris DeDiana, explained at the last annual meeting that most of our revenue is derived from our law journal. With that in mind, the board has been actively developing non-dues related income sources.

We will soon launch our own Affinity Program. This program will provide both savings to our members on products or services that each of us buys and uses, and a new revenue stream of income for the association.

We are thrilled to have successfully teamed up with Staples as a partner in our Affinity Program. Office supplies are certainly something that we all use on a daily basis, and this new program will allow our members to save on every single item that Staples offers. It will also provide easier online ordering and flexibility in billing. We are already enjoying the savings at bar headquarters, and by participating in this program my firm is projected to save (on average) 26% on the cost of quality office supplies.

We have also received commitments from Enterprise Rent-A-Car, ComDoc, Lapels, and Smail Automotive to participate in this new program. As a WBA member, you will enjoy savings on the products or services offered by our partners, and your support of those partners will provide additional income to the Bar. Complete details will be announced soon.

We continue to make significant progress utilizing new technology to provide new and improved member services. Our new web page is nearly ready to launch and soon you will be able to register and pay for CLE seminars online. We will also soon have listservs, exclusive to WBA members, and are considering offering CLE presentations for our members to download to portable devices.

There are, of course, statewide issues that hit close to home. The WBA continues to enjoy a very strong relationship with the PBA leadership, and we have partnered with the PBA on a number of well-conceived, well-executed initiatives.

For instance, the PBA initiated a program to educate voters in advance of the upcoming retention elections. As some of you may be aware, there is one group promoting the idea that every sitting trial and appellate judge should be voted out of office, not retained. As lawyers, we, more than most, know that such a proposal is unwarranted and is nothing more than a knee-jerk reaction. Thanks in large part to the PBA, local media outlets have condemned this outrageous proposal for what it is.

The PBA continues with its commitment to improve the public's perception of our profession with

television advertisements. As I mentioned in a previous message, the WBA is a partner in this effort.

Some changes have also been made with the state bar PAC. More changes are coming and the result will be a much more effective organization to help protect and advance the interests of our profession.

One issue still percolating that will affect all lawyers is the proposal to impose a sales tax on attorneys' fees. This is an issue that, like the legislation intended to eliminating the need for law journal advertising, continues to be revived. The WBA has been very active in opposing both of these efforts in the past by working with and following the lead of the PBA.

The PBA is aware of the current efforts by some legislators to move the tax issue forward and is meeting those efforts head on. It may, however, be necessary that we ask you to become directly involved in helping to

defeat this proposed tax.

All in all, the last six months has been somewhat of a whirlwind, and I really can't believe how the time has gone by. It truly is an honor to serve as president of this association and I thank you for the opportunity. I do not ever forget, however, that it is both the individual and collective efforts of all of you that make this association as strong as it is. There are so many who give so much for the collective good.

In my opening message, I invited you to contact me (or any of the board members) if you have an idea of how we can improve service to our members or increase member benefits. The invitation still stands.



Remembering Leonard Reeves

Editor's note: Leonard R. Reeves, founding partner of Reeves & Ross in Latrobe, passed away on September 2, 2007. In addition to the WBA and PBA, Leonard was a member of the Pennsylvania Trial Lawyers Association, where he served two terms as president, the Christian Legal Society, and the Pennsylvania Defense Institute. He was a deacon, Sunday school teacher, and short-term missionary for the Independent Baptist Church, in Blairsville. Leonard is survived by his wife, Patricia; five children, Kevin Reeves and wife, Colleen, of New Alexandria, Becca Reeves, of Wheaton, Ill., Jennifer Saksa and husband, Steve, of Medina, Ohio, Molly Enos and husband, Keith, of Derry, and Patrick Reeves and wife, Jennifer, of New Alexandria; and nine grandchildren. The following eulogy was given at his funeral on September 6, 2007.

by Dwayne E. Ross, Esq.

I am truly honored to speak to you about my partner, Leonard R. Reeves. Let me be clear—I am not before you to mourn Leonard's death, but to celebrate his life.

As he would often recognize in his prayers of thanks when we would have lunch together, Leonard understood that he was a blessed man. He was successful in every aspect of his life, but that is not what made him unique. His uniqueness was in his genuine humility with these successes. He realized that it all came from God.

He was a material success, but he did not flaunt it. I remember when I first met the Reeves family. His daughter, Jennifer, and I were attending the same Christian school. I would see the Reeves family driving in this little Chevy Chevette and think, "Why is he driving that tin can? He's an attorney. Why isn't he driving a Mercedes or Lexus?"

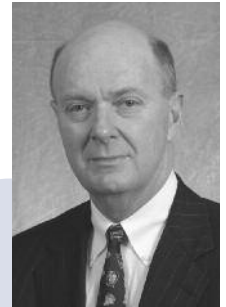
He was not about show. If you saw Leonard's wallet, you would see that it had duct tape on it. He liked that wallet and did not think that he needed a new one. (By the way, I do not know who he has left that wallet to in his Will, but I trust that his children will not fight over this family heirloom.)

He never tried to make a name for himself. In fact, he never did any advertising, nor even had a business card, until I became his partner. He relied on God to supply.

I believe the impact of a man is often seen in the void he has left and the lives he has touched. To say Leonard has touched hundreds—if not thousands—of lives would not be an overstatement.

- He had an impact upon lives globally in his mission trips to Bolivia, Mexico, Japan, Guyana, and China. There is no way of knowing how many lives have been touched with the Gospel of Jesus Christ through his labor and efforts.
- He had an impact upon lives of hundreds as a zealous advocate in our courts of law.
- He had an impact on the lives of his many colleagues, at the same time being a consummate gentleman and a worthy adversary.
- He had an impact on the lives of his few friends as an avid hunter and fisherman. With story after story—from getting caught in a typhoon on Kodiak Island to his seaplane taking in water as it taxied off—he always had an interesting experience to tell about.

- He had an impact on the lives of the nine precious ones to whom he was known as "PaPa." I know some of them only as Daisy, LuLu, Nellie, Kicker, and Bitsy. I do not know their real names.
- He had an impact on the lives of the five to whom he was known as "Dad": Kevin, Becca, Jennifer, Molly, and Patrick.
- He had an impact on the life of one very special person to whom he was known as "husband"—his bride of 51 years, Patty.



▲ Leonard Reeves

I am in this group of people upon whose lives Leonard had an impact. You see, Leonard was more than a partner.

- He was a mentor. Sixteen years ago he took a chance when he hired a young man who took the bar exam but had not yet received his results. He showed me in both word and example the highest degree of professionalism. He exhibited how you can be honest and still successful in this profession.
- He was an English professor. In the early years of my career, he would take what was, in my opinion, a well-written brief and mark it with pencil. I learned that splitting infinitives was not a physics process.
- He was a father figure. With my father having passed away 20 years ago, he became someone I could seek advice from on various issues, someone I looked up to and respected. I especially respected the close relationship he had with his

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the sidebar

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

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

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WBA Members Vote “Yes” *continued from page 1*

in private practice in Westmoreland County with the law firm of Scales & Shaw in Greensburg.

“Henry Shaw, who at the time was the only lawyer in Derry, was

a prominent community figure when I was growing up,” explains Judge Ober. “I respected him, and that respect—coupled with the encouragement of my mother—influenced my decision to become a lawyer.”

While in private practice, he was involved in the litigation of several noteworthy cases. He was one of the first to try an “air rights” case involving low-flying aircraft; he represented Pennsylvania farmers in an action which ultimately resulted in the return of \$7.5 million in real estate taxes; he tried cases involving damage caused to livestock by stray voltage; he litigated a heart valve failure case in federal court; and he tried one of the first Title 7 (sex discrimination) cases in the 1970s when a woman was unfairly forced to quit her job when she reached her fifth month of pregnancy.

In addition, he served as the solicitor for the Municipal Authority of the Borough of Derry, the Derry Township Supervisors, the Westmoreland County Agricultural Fair & Recreation Association, the Westmoreland Farmland Preservation Board, and the Westmoreland County Republican Party.

After 33 years in private practice in Greensburg, he was appointed by Governor Ridge to fill a vacancy on the bench in June of 1997, and then won the election in November of that same year.

Shortly after Judge Ober was elected, he was reminded by a former classmate that he had said in high school, “All I ever want to be in life is an honest judge.” Having achieved

that objective, he was a judge in the Family and Juvenile Division from 1997–1999, in the Criminal Division from 2000–2004, and has presided in the Civil and Orphans’ Court Division since 2004.

Judge Ober has been a member of and/or held a leadership position in many professional organizations: the Pennsylvania Bar Association (Sustaining Member, Bill of Rights, Bicentennial Committee, Agricultural Law Committee); Westmoreland Bar Association; Westmoreland Academy of Trial Lawyers (Member 1973–1997, Secretary 1986–1987, President 1988–1989); Western Pennsylvania Trial Lawyers Association (President); Pennsylvania Trial Lawyers Association (Board of Directors 1981–1985); Ned J. Nakles American Inn of Court (Barrister 1995 to present); and National Board of Trial Advocacy (Past Candidate).

His church and community activities include Pennwest Conference (United Church of Christ, past Vice Moderator, Church and Ministry

Committee); Trinity United Church of Christ, Greensburg (Deacon, Elder); Mt. Pleasant Lions Club; Westmoreland County/Penn State Cooperative Extension Association (Executive Board and President); Westmoreland County 4-H Board of Directors; Westmoreland County Historical Society (Board of Directors); Westmoreland County Agricultural Fair & Recreation Association (Member, Vice-President, Treasurer); Pennsylvania Farm Bureau; Westmoreland County Mental Health and Mental Retardation Advisory Board; Slovak-American Beneficial and Sportsmen’s Club, Hecla; Heifer Project International (Mid-Atlantic Advisory Committee); Pennsylvania Sheep and Wool Growers Association; and Philanthropy Lodge No. 225, F. & A.M.

Judge Ober resides on a farm in Mt. Pleasant Township with his wife of 43 years, Carol (Zehr), where they raise purebred Southdown sheep. They have two sons, John and William, and four grandchildren.



Leonard Reeves *continued from page 3*

wife, his children, and his grandchildren.

- He was a friend. He was always concerned about my family and about how I was doing personally. He made it possible for me to purchase the business when I was unable to do so on my own.
- Most importantly, he was my brother in Christ. Leonard and I would often speak of our Saviour, and His love letter he has left to us—God’s Word. We would discuss what was happening in our respective churches and what we were teaching, because we both taught adult Sunday School class.

Several years ago, before he took his first mission trip, he went to a mutual

missionary friend of ours and said, “I have given monies to missions these many years, but I want to give more.” So he gave of himself.

Because of the relationship that I had with Leonard, while I sorrow for his departure and our loss, I sorrow not as those with no hope. I know that I will see him again one day in Heaven, not because of any religion or denomination, but because of his faith in Jesus Christ as Saviour.

So I do not say “goodbye” to my partner, but “so long” until we meet on the other side, and “thank you” for your impact on my life as mentor, as father figure, as friend, and as counselor.

Alternative Dispute Resolution in the Western District Court

Everything You Need to Know ... But Were Afraid to Ask!

by Karen Engro, Esq., and
The Hon. Lisa Pupo Lenihan

On June 1, 2006, the United States District Court for the Western District of Pennsylvania initiated a pilot Alternative Dispute Resolution (“ADR”) Program. The purpose of the program was to abide by the congressional mandate that the federal courts explore ADR¹ and to fulfill the mission of the Court, which included “providing an impartial and accessible forum for the *timely and economical* resolution of legal proceedings...”² (emphasis added).

¹ Civil Justice Reform Act of 1990, 28 U.S.C. §471 et. seq., and the Alternate Dispute Resolution Act of 1998, 28 U.S.C. §651.

Four district court judges³ volunteered to participate in the pilot program, the purpose of which was to test a proposed ADR program protocol to see if the experiences of the parties in our courthouse were actually enhanced by the experience. The Court adopted revised Local Rule 16.2 for application to cases which are filed on or after June 1, 2006, and are assigned to any of the pilot program judges (hereinafter referred to as “pilot

² The Mission of the United States District Court for the Western District of Pennsylvania is 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 within the Court’s jurisdiction, so as to protect individual rights and liberties, promote public trust and confidence in the judicial system, and to maintain judicial independence.

judges”). The more detailed policies and procedures applicable to the program were published on the Court’s web site, www.pawd.uscourts.gov. The purpose of this was to provide the Court with the flexibility to enhance the policies and procedures as the pilot program progressed.

In every case filed in this district, the parties are required to conduct an initial “Meet and Confer” conference pursuant to Local Rule 26(f). Cases in the pilot program are required to include some additional items of


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³ The original participating judges were Chief Judge Donetta Ambrose, and Judges David Cercone, Thomas Hardiman and Arthur Schwab. Following Judge Hardiman’s elevation to the Third Circuit Court of Appeals, Judge Nora Barry Fischer took his place in the pilot program.

RELUCTANT TO PROCEED INTO UNCERTAIN TERRITORY?

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Everything You Need to Know ... *continued from page 5*

discussion and proposed ruling in their Rule 26(f) report. These additional items are a choice of ADR process and choice of a Neutral. If the parties cannot agree, the designation is left to the judicial officer at the subsequent Rule 16 conference.

All cases in the pilot program are given 150 days to complete discovery. It is expected, unless agreed to by the parties and the court that the ADR process, if mediation or early neutral evaluation, will take place within the first 60 days of this discovery period. If the chosen ADR process is arbitration, the time period will be 90 days. Certain limited discovery can take place prior to the ADR process but the goal of the Court is to keep expenditures to a minimum and only to allow that discovery which is necessary to any potential resolution decision. If the case does not reach a resolution, the case will proceed in accordance with the case management order, which may include the filing of dispositive motions and eventual trial.

After fourteen months⁴, 263 cases have been referred to ADR pursuant

to the pilot program. Mediation has been the most commonly used form of ADR since the program's inception. As of the date of this article, 184 cases, 70%, have been referred to mediation. That is likely because it is the form that is best understood by the parties and counsel.


Mediation refers to a process in which an impartial neutral, selected by the parties, facilitates negotiations between the parties to help reach a mutually acceptable agreement. The process is nonadjudicative and involves an impartial neutral person, who can be an attorney or a non-attorney. If an agreement is reached, it is one that is mutually agreeable to all parties. The primary function of the mediator should be the enhancement of the parties' communication. The role of the mediator is not to evaluate the case or to force either party to agree to something it is not comfortable with. It is for this reason that a mediator need not be schooled in the particular law of a case. Rather, it is more important that the mediator be educated and/or trained in methods of facilitation. This further explains why non-lawyer mediators may be a good

choice in some cases⁵. It is, of course, entirely possible that the parties may believe that someone educated in a particular area of the law, or a former judge, would be more effective in helping the parties reach resolution. This choice is left to the parties.

The second, and less used option, is early neutral evaluation ("ENE"). Thus far, 52 cases, or 20%, have chosen this option. The Court suspects that the reason for the more moderated use of ENE is that many parties and lawyers do not truly understand it. ENE is a process wherein an impartial attorney with subject matter expertise, selected by the parties, provides a nonbinding evaluation of the case and is then available to assist the parties in reaching agreement if they so choose. ENE is a good choice when one or both parties truly believe that the case cannot be settled, or needs to proceed through dispositive motions.

In the common ENE process, the parties and their counsel, in a confidential session, make compact presentations of their claims and defenses, including key evidence as developed at that juncture. The parties submit a written statement of their case in advance of the session. With all parties and counsel present, the evaluator will then provide a nonbinding evaluation of the case. A written evaluation can also be requested. If the parties and counsel so desire, the neutral may assist with settlement or mediation discussions. We have been advised that this process is also particularly useful when a lawyer or client is overestimating either the value, or defense, of a case. The evaluator may help identify areas of agreement, assess strengths or weaknesses, and suggest possible resolutions. This ADR method works best when the parties or counsel want

⁴ As of July 27, 2007.



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Considering Mediation or Arbitration?

Please keep me in mind.

UM/UIM, PI, Estate or Partnership Disputes, Professional Liability, Custody

Bob Johnston

Appointed to Federal Court Mediation and Arbitration Program

**BELDEN
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⁵ The Court's neutral list currently has more than a dozen non-attorney mediators with a variety of backgrounds including medicine and psychology.

guidance or direction toward settlement based upon the applicable law, industry practice or technology and the evaluator has the requisite training and experience.

The final court-suggested process is arbitration. This is nonbinding unless the parties agree otherwise, is usually handled through the court, and is at no cost to the parties.⁶ Arbitration has been chosen in seven cases, or 3%. A single arbitrator or panel of arbitrators (3) can be used. The Court may encourage a single arbitrator simply for ease of scheduling, but this is not mandatory. Arbitration is an expedited, adversarial hearing and under the program procedures, the arbitrators are not to become involved in settlement discussions. In addition to court-sponsored arbitration, litigants are always free to choose private arbitration at their own expense.

In order to assist in utilizing the ADR process, the court has developed a pool of potential neutrals, each listed with a short biography on the court's web site under the ADR heading. Each of these neutrals has been preliminarily screened by the ADR Coordinator and a judicial panel. Minimum qualifications for attorney mediators are seven years in practice, substantial experience in civil litigation in federal court, and 40 hours of mediation training with at least 16 hours of simulation experience.⁷ Non-attorney mediators must hold appropriate credentials in another discipline, have 40 hours of mediation training, and experience mediating a minimum of five cases.

Early neutral evaluators must have been active in the practice of law for a minimum of 15 years, and have substantial expertise in the subject matter of the cases assigned to them. Both mediators and evaluators are required to have the temperament and

training to listen well, and to facilitate communications across party lines as well as the ability to assist the parties with settlement negotiations. Rates for mediators and evaluators are determined by the individual neutral.

Arbitrators, who are paid by the Court, are required to have been admitted to the practice for a minimum of ten years, have committed 50% or more of their practice for the last five years to litigation or have substantial experience in serving as a neutral.

It is important to note that the list of neutrals is provided as a courtesy to litigants. There is, however, no requirement that the parties choose someone from the Court's list. If the parties agree on a neutral that is not on the list, they are to simply provide their name and information to the Court at the Rule 16 conference and/or in the Rule 26(f) report so that an appropriate referral order can be entered.

All civil actions filed with the four pilot judges are presumed to be part of the ADR process, with the exception of social security appeals and prisoner civil rights cases. Exemptions are granted on a case-by-case basis by a showing of good cause to the judge at the case management conference and/or by motion. Thus far, there have been 20 cases exempted from the process, across a variety of case types.⁸

To date, 696 cases have participated in the ADR pilot. Of these, 446 have closed, 327 resolved before the initial case management conference, and 72 settled after the ADR conference. An additional 47 settled after a court order referring the case to an ADR process but without the filing of a neutral report. Therefore, there is no ability to track whether the ADR process actually took place. The number of

cases that remain pending is 93. Of the 250 neutrals available, 73 different ones have been utilized.

What does this all mean? The Court believes that the statistics show the program is working. Nationwide statistics indicate that 98.2% of all cases filed in federal courts do not go to verdict. In the Western District, this number is 97.5%. The Western District's ADR program shifts this paradigm away from the courthouse steps, leading to an earlier, and presumably more fair and less expensive resolution. It is the Court's hope that this will result in happier litigants, and therefore, happier clients. Undoubtedly, if a case is resolved through this process, it provides the litigants with more control over their disputes and the eventual solutions.

The Court is continuing to evaluate the program and sincerely wants feedback, either via the evaluation forms for those who have participated, or via e-mails to the ADR Coordinator⁹ at pawd_adrcoordinator@pawd.uscourts.gov. The policies and procedures, posted on the Court's web site, are open to revision, and comments and suggestions on these are greatly appreciated as well. The Court has been engaged in an outreach to the legal community, speaking to groups of neutrals, various organizations within the bar, frequent users of the program and individual firms. Your opinions and suggestions are needed and your support and understanding of the program is crucial if it is to be a success.

⁹ Karen Engro, the co-author, is serving as the ADR coordinator for the Western District Court.

⁶ The rates paid by the Court to the arbitrator(s) were set by the Judicial Conference in 1991 and remain at \$250 per single arbitrator and \$100 per arbitrator for a panel of three.

⁷ This requirement has been extended to December 31, 2007, for completion.

⁸ Types of exempted cases were ERISA, bankruptcy, interpleader, personal injury, tax, withdrawal of reference, ADA, other statutory, civil rights, contract and exoneration/limitation of liability.

LawSpeak

"There are many mysteries; but incompetence is not one of them."

— Ernest Hemingway,
"Death in the Afternoon"
(Charles Scribner & Sons,
New York, 1932, page 54)

“Help Yourself” at the Law Library

by Betty Ward, Westmoreland County
Law Librarian

In an attempt to make local court opinions, ordinances, and other local information more accessible to the public, the law library has created in-house databases and guides to assist our users with their research.

WESTMORELAND COUNTY COURT OF COMMON PLEAS OPINIONS

A database of the opinions of the judges of the Westmoreland County Court of Common Pleas has been created to enable you to search for a published opinion by citation, keyword, party, date, judge or attorney. This is a work in progress and is not yet complete, but it can be used to locate many older published court of common pleas opinions that appear in the Westmoreland Law Journal, the District and County Reports and the Fiduciary Reporter. In addition the Law Library subscribes to an online service, palawlibrary.com,

which includes more recent common pleas court decisions from all Pennsylvania counties, including Westmoreland County.

LOCAL ORDINANCES

A “keyword” searchable database and a directory have been compiled, beginning with proposed ordinances that have been submitted to the Law Library since 1999. Prior ordinances and codes may be searched manually and are categorized alphabetically by municipality.

In addition, Allegheny Township, the City of Greensburg, Hempfield Township, Ligonier Township, the Municipality of Murrysville, Penn Township, Rostraver Township, and the Borough of Trafford have their codes available online for free at www.generalcode.com.

PATHFINDERS

You may remember using Pathfinders in your college libraries—one-page

guides intended to help get you started doing research on a particular topic. Our list of 30 frequently requested topics—such as Advance Directives for Health Care, Limited Liability Companies, Oil and Gas Rights, Will Contests, etc.—include material from the Pennsylvania Bar Institute, online information, and pertinent chapters and sections from various reference sets located in our law library. All the material listed is available at our law library. Pathfinders are located at the circulation desk near the check out area.

Cindy Woods, Library Assistant, does a great job of updating the various databases and guides on a regular basis. If you have any questions concerning this information or would like help in using any of this material, please contact either Cindy Woods at 724-830-3266, or Betty Ward, Law Librarian, at 724-830-3267. We look forward to hearing from you to help with any of your research needs.

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Interviewed by Beth Orbison, Esq.

Q I RECENTLY LEARNED THAT IN AUGUST OF THIS YEAR YOU REACHED A BENCHMARK—YOU HAVE BEEN AN ATTORNEY IN WESTMORELAND COUNTY FOR 50 YEARS. ALTHOUGH I KNOW THAT THERE ARE MANY STORIES TO TELL ABOUT THOSE 50 YEARS OF PRACTICING LAW, I HEAR THAT YOU ARE AN AVID HUNTER AND FISHERMAN, AND I AM INTERESTED IN LEARNING MORE ABOUT THAT. WHEN DID YOUR INTEREST IN HUNTING BEGIN?

A I was born, raised and went to school in Export. My father wasn't a hunter, but my friends got me interested in the sport. As boys, we'd hunt pheasants, rabbits and deer. That was when there were still pheasants to hunt in western Pennsylvania.

Q WHEN DID YOU BEGIN TRAVELING TO LOCATIONS OUTSIDE OF WESTERN PENNSYLVANIA TO PURSUE YOUR INTEREST IN HUNTING?

A In 1967, Leonard Reeves stopped me in the Courthouse and said that he needed \$50. Wanting to help him out, I pulled \$50 out of my wallet and handed it to him. He said, "You just made a down payment on a trip to James Bay in Canada where we're going goose hunting." That was the beginning of what would be 30 years of hunting in James Bay in the southern part of the Hudson Bay.

Q BUT I HAVE HEARD THAT YOUR ADVENTURES ARE NOT LIMITED TO HUNTING SMALL GAME AND BIRDS.

A That's right. The next year—in 1968—Leonard and I went to Kodiak Island,



▲ Above: Earnie Long (center) with his packer, guide, and quarry. Photo by Leonard Reeves.

At right: Earnie Long



Alaska, to hunt bear. We walked in hip boots through the snow in October, following bear tracks into an alder patch. When you can't see any tracks coming back out, you know that the bear is in there. That's how you get them.

Then in 1970, Leonard and I took my son, Wesley, who was only 14 years old at the time, to the Brooks Mountain Range in Alaska, way above the Arctic Range. There, we hunted dall sheep, caribou, and moose. We would bring back the heads and have them mounted, but Alaskan law requires you to use the meat for human consumption—you can't use it for animal feed or waste it. So the meat was taken by the guide and distributed to people for food.

Q YOUR ANNUAL GAME DINNER AT THE MOOSE CLUB IN EXPORT IS LEGENDARY. WHEN DID YOU BEGIN TO HOST THAT?

A In 1969, we hosted the first annual game dinner on the first Saturday of February. That year we came back from hunting with 60 to 80 geese and decided to have a dinner because we didn't know what else to do with all of it. We hired two women to cook and about 25 to 30 men attended that first dinner. Over the years it has expanded considerably—people bring all kinds of game to the dinner and now a couple hundred people show up for the annual feast.

Q DO YOU CONTINUE TO HUNT AS MUCH AS YOU USED TO?

A I don't hunt anymore, but I continue to enjoy fishing. My wife and I have gone six of the last seven years to Great Bear Lake inside the Arctic Circle in the Northwest Territories. We fly to Winnipeg, Manitoba, and then board a jet that takes you to the lodge on the lake. The jet is a 737 that lands on a gravel airstrip. There is nothing there except the lodge, and that is only open

continued on page 10

The gods do not deduct from man's allotted span the hours spent in fishing.

— Babylonian proverb

Candid Camera: Courthouse Centennial Gala

Try as she might, Annaliese cannot hide her mirth that, yes, Becky was wearing white and, yes, it was after Labor Day.



“To get to the other side! How much more of an explanation do you need?”

And so, Barbara smiles bravely for the camera while Len once again warbles his best impression of the bald-headed whippoorwill’s mating call.

“And now, for the pièce de résistance of our Date-A-Judge event, shall we start the bidding at, say, two bits?”

Alter Ego: B. Earnest Long *continued from page 9*

in the months of July and August because Great Bear Lake, the fourth largest lake in North America, is frozen the rest of the year. Typically there are only about 30 guests in the main lodge.

Q DESCRIBE A TYPICAL DAY OF FISHING AT GREAT BEAR LAKE.

A Usually, two fishermen and a guide will go out in an 18-foot boat, but there are also float planes that will fly to various coves around the lake. The temperature in August could be 70 degrees or 50 degrees, you never know, so you have to be prepared with warm gear. And the lake is so large that sometimes you can’t fish because of the 6- to 10-foot-high waves.

We are fishing for grayling or lake trout. The lake trout can grow to 73 pounds—the biggest one I ever caught was 45 pounds, and my wife has caught a 32-pound trout. To catch a lake trout you troll with a fishing rod and reel using a frozen herring or lures for bait. We use a sinker to get it down to 20 feet or so, and use barbless fishhooks so the fish aren’t injured. All of the fishing is “catch and release,” with one exception—early in the day the guide will keep one for a shore lunch. For lunch, the guide will prepare the day’s catch and some canned vegetables on a grate supported by rocks over an open fire. The lake trout has pink flesh like salmon and unlike the flesh of most trout caught in a stream. The guides are great and the food is excellent.

Q WHERE ELSE HAVE YOU OR DO YOU GO FISHING?

A I usually take two fishing trips a year, one to Great Bear Lake and another in May or June in Quebec. I have gone deep-sea fishing in Acapulco, too, where my wife once caught a big sailfish. I enjoy traveling, so I don’t even have a Pennsylvania fishing license anymore.

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To-Wit: Found in Translation

by S. Sponte, Esq.

I knew something was on her mind because she brought the letter in for me to sign and just stood there tapping her foot. “Yes?” I queried, looking up at her over the top of those damned reading glasses Father Time has gifted me.

“Well, I typed it the way you dictated it,” she said, “and now I’m just waiting for your changes.”

“If there are changes I’ll let you know,” I snapped with a modicum of irritation, and she turned to go. But by the time she’d taken no more than two steps, I’d read through the entire salutation and I bade her stop. “I can’t say this,” I said, and, as always, she smirked.

This is our ritual and over our more than thirty years together we have reenacted it perhaps a thousand times—a year. She always knows when I can’t send out a letter to opposing

counsel the way I dictated it. It’s the plethora of hyphenated adjectives that clues her in.

The letter was gloriously merciless. In terms of the vituperative quality of the phrases and the artful, elegant way they were strung together, it was a

Now I don’t dictate these kinds of letters to opposing counsel simply because I’m irked. I’m always irked.

work of art. I had broken new ground and probably a few new laws as well.

Now I don’t dictate these kinds of letters to opposing counsel simply because I’m irked. I’m always irked.

No, it usually takes something pretty significant to warrant such stylish excoriation, and on this occasion—but in no other in his career of which I am aware—opposing counsel had been successful.

Yet though I often dictate such letters with scorching earnestness, I almost always edit them with arctic prudence. When depositing such things in the US mail, there are issues of professional courtesy to consider. There are also those pesky federal obscenity laws. So I cleaned up the letter, removing all but a few veiled references to lineage, and off it went, bearing precious little resemblance to the document of original intent.

continued on page 12



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To-Wit: Found in Translation *continued from page 11*

It would be a mistake for you to conclude from this that my epistles to opposing counsel always go out whisk broom clean. Oh no, I am not nearly that genteel—or professional. I have, over the years, developed a series of words and phrases which, although seemingly harmless on the surface, nonetheless give sufficient vent to my ire-laden spleen. You just have to know how to translate them, and now, just because I love you, that’s what I intend to do.

So if you and I have locked horns over the last four decades, this might be a keen time for you to dig out some of those old files, pull out the correspondence and follow along. I do not intend to embarrass, annoy or anger. Rather I intend this as a paean to the subtlety of the English language. I know you will take this in the spirit with which it is intended.

“NO OTHER LAWYER I KNOW COULD GET THIS KIND OF OFFER FROM ME”—“Only a clown like you would take this offer seriously.”

“YOU DID A MARVELOUS JOB ON THIS CASE”—“Thanks so much, I couldn’t have won this case if you weren’t so inept.”

“PERHAPS YOU MIGHT WISH TO RETHINK YOUR POSITION”—“Even the trial court would find it laughable.”

“SURELY THIS CASE CAN BE RESOLVED AMICABLY”—“No decent lawyer would make me do any real work on this pissant case.”

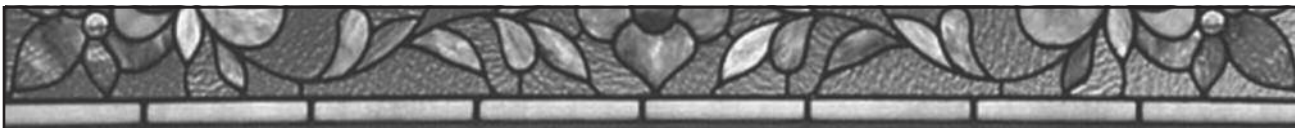
“I KNOW YOU WILL TAKE THIS IN THE SPIRIT WITH WHICH IT IS INTENDED”—“Thank God there is no chance you could ever understand what I’m really up to.”

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July 2007 Civil Trial Term

Jury Trial Verdicts

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

Of thirty-three cases listed for the July 2007 Civil Jury Trial Term, eight settled, eleven were continued, one non pros was entered, one was scheduled for a non-jury trial, four verdicts were rendered and eight were held to the next trial term. The jury verdicts for the July trial term are summarized below.

PAUL E. GROSE AND ESTELLA GROSE, HUSBAND AND WIFE

V.

**GEOFFREY J. BISIGNANI, M.D., AN ADULT INDIVIDUAL AND G.U. INC., A PENNSYLVANIA CORPORATION
NO. 2790 OF 2005**

Cause of Action: Professional Negligence—Medical Malpractice

Husband-Plaintiff, Paul E. Grose, age 78, went to the office of the Defendant-Physician to have a prostate procedure performed. The procedure was successful and Husband-Plaintiff left the office. He waited outside the building under a covered entranceway while his wife, who accompanied him, went to get the car. When his wife brought the car, she saw him fall backwards onto the pavement, where he struck his head. Eventually, it was determined that he suffered a permanent brain injury, which has caused some cognitive impairment. In the action against Defendants for negligent discharge, Plaintiffs contend that Husband-Plaintiff fainted prior to falling and that Defendant-Physician was negligent in failing to monitor his vital signs by checking his blood pressure and pulse before he left the office and by failing to provide an escort.

The Defendants' contention was that the prescriptions used relative to the procedure would not have caused Husband-Plaintiff to faint or cause a decrease in blood pressure, and that he was in good health when he left the



office in the company of his wife. Further, Defendants maintained that it is not necessary to check vital signs of a patient prior to discharge after this type of procedure.

Plaintiffs' Counsel: Douglas L. Price, Harry S. Cohen & Associates, PC, Pgh.

Defendants' Counsel: Bernard R. Rizza, Matis Baum Rizza O'Connor, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict in favor of Defendant. The jury found that Defendant-Physician was not negligent in the manner he discharged the Plaintiff.

**MELISSA A. TORRANCE
V.
ANDREW HEROLD AND
JOYCE E. HEROLD
NO. 4180 OF 2004**

*Cause of Action: Negligence—
Motor Vehicle Accident*

On June 15, 2002, Plaintiff Melissa A. Torrance was stopped in her vehicle at a traffic light, when a vehicle driven by Defendant Andrew Herold struck her from behind. The impact caused Plaintiff's vehicle to move forward and strike the vehicle in front of her. Thereafter, Plaintiff filed a complaint alleging that, as a result of Defendant's negligence, she sustained various injuries including a torn rotator cuff, herniated cervical discs, and neck pain and spasms. Plaintiff also indicated in the complaint that she had selected limited tort insurance coverage and was seeking non-economic damages on the theory that she sustained serious bodily injuries.

At trial, Plaintiff testified with regard to the circumstances of the vehicle accident, her medical history and treatment, and the physical problems that she experiences. Plaintiff presented medical evidence indicating that she sustained cervical disc injuries and radiculopathy as a result of the June 15, 2002, accident. She underwent surgery to treat her cervical condition in April of 2003, and additional surgery is recommended.

Defendants admitted liability for the accident, but disputed causation and damages. Defendants presented medical evidence showing that Plaintiff's complaints are unrelated to the June 15, 2002, accident. The evidence demonstrated that, prior to the accident, Plaintiff had complaints of neck pain, and that she suffered from pre-existing degenerative cervical

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Jury Trial Verdicts *continued from page 13*

spondylitic disease and degenerative discogenic disease. The evidence also revealed that Plaintiff had a remarkable medical history and was suffering from a host of serious medical conditions.

Plaintiff's Counsel: Thomas D. Hall, Woomey & Hall, L.L.P., Pgh.

Defendants' Counsel: Mark J. Golen, Summers, McDonnell, Hudock, Guthrie & Skeel, Pgh.

Trial Judge: The Hon. William J. Ober

Result: Verdict in favor of Defendants.

**ORBIN SWISSHELM AND
KAY SWISSHELM, HIS WIFE
V.
EDS DESIGN, INC.
NO. 9413 OF 2005**

*Cause of Action: Breach of Contract—
Arbitration Appeal*

On or about June 20, 2005, the parties entered into a contract for Defendant to install a custom kitchen and new floor. The contract was subsequently amended to include the installation of a medallion in the front hallway, a new dining room floor, a new front door, and all of the window

treatments in the Plaintiffs' residence. Plaintiffs paid Defendant approximately one-half of the total price. Defendant began working on the kitchen and building cabinets but did not complete the contract. Plaintiffs asserted that Defendant failed to perform the job in a good and workmanlike manner and, as a result, Plaintiffs were required to hire other contractors to complete the work. Plaintiffs maintained they suffered losses in the amount of \$21,450.00, as well as the loss of the use of the kitchen and other areas of their home.

Defendant argued it performed in a proper and workmanlike manner in accordance with the contract, Plaintiffs failed and/or refused to permit the Defendant to complete the job, Plaintiffs failed and/or refused to cooperate in making various selections required to complete the job, and Plaintiffs otherwise breached the contract. Defendant filed a counterclaim asserting it was owed the sum of \$20,774.19 pursuant to the contract, as amended.

Plaintiffs' Counsel: David J. Eckle, Monroeville

Defendants' Counsel: Bernard P. Matthews, Jr., Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: A nonsuit was granted as to Plaintiffs' claim. As to the counterclaim, a verdict was entered in favor of Counterclaim Plaintiff and against Counterclaim Defendants, but no monetary damages were awarded (the jury found that both parties breached the contract).

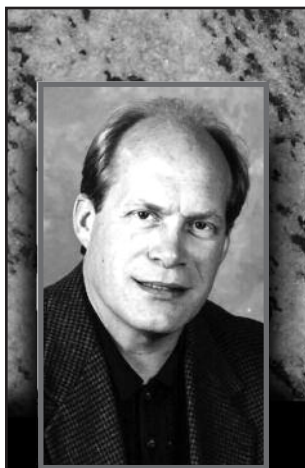
**MICHAEL J. LEGGENS
V.
JOAN PETRAS
NO. 8327 OF 2004**

*Cause of Action: Negligence—
Motor Vehicle Accident*

On June 6, 2003, Plaintiff was operating his vehicle in New Kensington, Westmoreland County, traveling north on Tarentum Bridge Road. Defendant was operating her vehicle traveling east on Carl Avenue. At the four-way intersection of Tarentum Bridge Road and Carl Avenue, the front of Plaintiff's vehicle collided with the passenger's side of Defendant's vehicle. Plaintiff maintained that Defendant was operating her vehicle in a careless and negligent manner and, as a direct and proximate result of the accident, Plaintiff sustained serious bodily injuries, including injuries to the spine, shoulder, wrist, and knees. Plaintiff sought recovery for unpaid medical expenses, lost wages, and damages for pain and suffering.

Defendant averred that Plaintiff had not suffered a serious injury as defined in the Pennsylvania Motor Vehicle Financial Responsibility Law. At trial, Defendant contested causation, arguing that Plaintiff had numerous pre-existing conditions and a history of treatment for injuries that he claimed resulted from the accident.

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Westmoreland Revisited

JFK: In Praise of One of Our Own

by The Hon. Daniel J. Ackerman

In 1957, John F. Kennedy was not a household name, though he was a United States Senator. A year earlier he sought the vice-presidential nomination at the Democratic Convention but did not receive it. And some knew that he had written a popular history titled “Profiles in



▲
The Hon. Daniel J. Ackerman

Courage.” The book, as you are likely aware, was an anthology of vignettes about great Americans who, in defense of principle, dared to risk their political reputations.

He was forty years old when he appeared in Easton, Pa., on October 30, 1957, to address a Democratic political gathering. Not surprisingly, political courage was his chosen theme. To make his point, he told the audience about another senator, a Republican senator who served in the upper chamber almost a hundred years before, whose courage Kennedy admired. The man was Edgar Cowan, the only person from Westmoreland County ever elected to the United States Senate, and a Westmoreland County lawyer.

The following is an excerpt from Senator Kennedy’s speech:

It was here in Pennsylvania that the Senate first decided in 1794 to open its sessions to the public by providing galleries for spectators. “Some of the younger members,” Vice President Adams warned, “may descend from their dignity so far, perhaps, as to court popularity at the expense of justice, truth and wisdom, by flattering the prejudices of the audience, but I think they will lose more esteem than they will acquire by such means.”

There is no denying the fact that the Senate since that day in Philadelphia has contained members—not all of them young—who courted popularity at the expense of justice, truth, and wisdom. But it is also true that such Senators have in the end enjoyed less esteem than those who chose, in Webster’s words, to push their “skiff from the shore alone” into a hostile and turbulent sea. One such courageous Senator was a little-known man from Pennsylvania, Edgar Cowan. Senator Cowan was one of those whose conscience led him to break with his party and state in the bitter days that followed the outbreak of the Civil War. A very able lawyer from Westmoreland County in the western part of your state, he was elected to the Senate in 1861 at the age of 45 as one of Pennsylvania’s most prominent Republicans. But he could not agree with the more radical leaders of his party that the purpose of the war was the conquest of the southern states—instead of the suppression of a rebellion. He refused to support his party’s confiscation act, legal tender act, national bank act and attempted expulsion of Senator Bright of



▲
This portrait of Senator Edgar Cowan hangs on the back wall of Courtroom 5 in the Westmoreland County Courthouse.

Indiana. As a result, he was bitterly denounced by his state and party. Senate Republican leader Ben Wade called Cowan the “watchdog of slavery.” The Republicans of Allegheny County officially censured him at their annual convention.

But Edgar Cowan stood firm in his adherence to the Constitution and his own ideals—and, in the turbulent reconstruction period that followed the end of hostilities, he refused to follow those Senate Republican leaders who wanted Andrew Johnson to administer the downtrodden southern states as conquered provinces which had forfeited their rights under the Constitution. Believing instead that a charitable and Constitutional approach to reconstruction had been desired by his idol Abraham Lincoln—for whom he had been an elector in 1860—Edgar Cowan attended a national unity convention in Philadelphia in 1866 and served as chairman of its committee on

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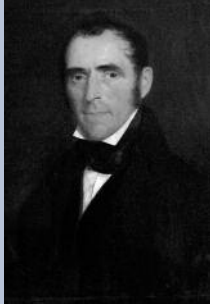
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A Sketch of Other Portraits in Courtroom 5



JUDGE THOMAS WHITE, whose portrait hangs behind the jury box, was a native of Indiana County, which was a part of the Tenth Judicial District when he was appointed president judge on December 13, 1836. He presided in the court until 1847. During the Civil War he was designated a commissioner in what was called the “Peace Convention” which met in Washington. He was active in the Indiana Agricultural Society.

JUDGE JEREMIAH MURRY BURRELL

appears twice; one portrait hangs on the back wall and the other is painted in the center circle high above the jury box. Born in Murrysville, he attended Jefferson College.

He was admitted to the bar in 1835 and in 1839 he became the owner and editor of the Pennsylvania Argus, and later a member of the General Assembly. He was appointed to the bench and served one year,

1847 to 1848; and then again from 1851 to 1855. In 1855 President Pierce appointed him judge of the Territorial District of Kansas during the tumultuous period when the slavery issue turned Kansas and Nebraska into a battleground. In 1856, at age 41 he contracted malaria and returned home to Greensburg to die on October 21 of that year.



HENRY D. FOSTER, ESQ., whose portrait occupies the space to the left of that of Judge Burrell’s above the jury box, was admitted to practice in 1829. He was considered one of the most skilled real

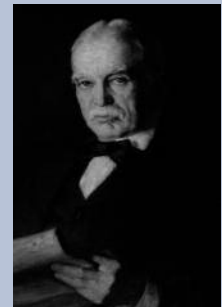
estate lawyers in the state, but was best known as a politician. He served three terms in the United States Congress with terms beginning in 1842, 1844, and 1870. During the hiatus in his congressional service he served in the Pennsylvania Legislature during the 1857 and 1858 sessions, and in 1860 was the Democratic candidate for governor.

JUDGE JOSEPH BUFFINGTON, whose portrait is in the place to the right of that of Judge Burrell’s, who he would eventually succeed on the bench, was a resident of Kittanning, Armstrong County, which was then included in the Tenth

Judicial District. He was elected to Congress as a Whig candidate in 1843. In 1849, he was appointed president judge of the Eighteenth Judicial District, composed of the counties of Clarion, Elk, Jefferson and Venango. President Fillmore appointed him Chief Justice of Utah Territory but he declined the honor. When Judge Burrell resigned from our court in 1855, he was appointed as president judge, a position he held until 1871, a year before his death.



JUDGE ALEXANDER MCCONNELL’s portrait, painted by B. F. Ward, hangs on the courtroom’s Pittsburgh Street wall. He served on our court from 1895 to his death in 1921. He and Judge Lucian Doty were subject to a rigorous public examination concerning the plans to build the present courthouse; the original plans were rejected in 1887 and subsequent plans were approved in 1901. He hailed the new courthouse as “Worthy of the past history of our county, adequate for its present use and provident for its future growth.”



SOURCES:

- George Dallas Albert, History of Westmoreland County, L. H. Everts & Co., 1882
- Tribune-Review, Focus, May 29, 1983

JFK: In Praise of One of Our Own *continued from page 15*

resolutions. As the reward for his courage, Pennsylvania denied Edgar Cowen reelection to the Senate, and when Andrew Johnson nominated him to be Minister to Austria, his own former colleagues in Washington—caught up in the maelstrom of what Claude Bowers aptly termed an age of hate—refused to confirm his nomination. But before Edgar Cowan died in 1865[sic], both the wisdom and the courage of his course were recognized in Washington and Pennsylvania alike.

The date of Edgar Cowan's death in Kennedy's speech is incorrect. He died August 31, 1885, and is interred in Greensburg's St. Clair Cemetery.

His life began in Sewickley Township on September 19, 1815. He studied Latin at the Greensburg Academy and graduated from Franklin College (Ohio) in 1839. Cowan read law with a local lawyer, General Henry

D. Foster, was admitted to the bar in 1842, and established a practice in Greensburg. His early years were somewhat reminiscent of Lincoln's, in that he combined a desire for education with a capacity for rugged work. He was engaged in carpentry, boat building, coal mining, ran a keelboat on the Youghiogheny River carrying produce and merchandise, and was a schoolteacher in West Newton. He appears somewhat Lincolnesque in his portraits and both were six foot four inches tall.

He married Lucy Oliver of West Newton the same year he was admitted to the bar and eight years later moved the family residence to West Pittsburgh Street in Greensburg. The family included three children, one of whom, Frank, became a lawyer and physician (see *the sidebar*, July-August 2006 at 15). From 1850 to his appointment to the United States Senate in 1861 by the state legislature

he was one of the county's most prolific trial lawyers. (The Seventeenth Amendment providing for the direct election of United States Senators did not become a part of the Constitution until 1913.)

It appears that he became politically active when he attached himself to John C. Frémont's campaign for president in 1856. Apart from his term in the senate (1861–1867) the only office he held was that of Greensburg school director. During his term in the senate he served as chairman of the Committee on Patents and the Patent Office. And, as a bit of minutiae that could only be of interest to Civil War buffs, he authored the \$300 clause in the conscription law.

Many nineteenth century lawyers were steeped in the classics but Edgar Cowan stood out among them. A war correspondent for the London Telegraph assigned to cover

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JFK: In Praise of One of Our Own *continued from page 17*

Washington wrote, "Senator Cowan was the ablest Shakespearian scholar I ever met in America." Yet as a lawyer he had a common touch. There is a story about a juror on one of his cases telling a friend after a verdict in favor of Cowan's client that Mr. Cowan must be an ignorant man like himself because he did not use any big words in court, but nonetheless he found his argument most persuasive.

The painted portraits that grace our courtrooms are all of nineteenth century judges, with the exception of three, those of Arthur St. Clair, Henry D. Foster and Edgar Cowan. Cowan's portrait was unveiled in the law library of the courthouse on November 6, 1931. John N. Boucher, historian and member of the bar, speaking on that occasion gave us a glimpse of Cowan's later years.

When he returned from Washington he resumed the practice of the law, and was soon busy in Court. For the next fifteen years he appeared in nearly all of the important trials of that day and often in important cases in Pittsburgh. In the early eighties, however, his eyesight failed and he retired gradually from the duties of his profession. This he did joyfully for his life had been a success; he had triumphed over difficulties which would have overwhelmed most young men; he had gathered the brightest laurels both in the bar and in the Senate, and he was

looking forward to a few years of ease and comfort, which a life of unusual industry had warranted and made possible. He spent his days mostly in having someone to read to him; in looking after his somewhat extensive property and in social engagements becoming an elderly gentleman of his disposition and attainments. Occasionally he assisted in trials when he could see neither a witness nor juror, and frequently made the final argument. Without notes he could quote the testimony unerringly and could apparently talk as eloquently and forcefully as ever. He also made a few public addresses and they were as fresh, as witty and interesting as though they were the product of a young man in the heyday of his life.

His portrait hangs on the back wall of Courtroom 5, now occupied by me, and of recent memory by Judge Loughran, and Judge Sculco before him.

SOURCES:

- John F. Kennedy Presidential Library and Museum
- George Dallas Albert, History of the County of Westmoreland, L. H. Everts & Co., 1882
- Wikipedia
- John N. Boucher, Address at the Westmoreland County Law Library, November 6, 1931, Westmoreland County Historical Association

CLE Costs to Increase Effective January 2008

The cost to attend Continuing Legal Education seminars at the Westmoreland Bar Association will be increasing effective January 1, 2008. WBA members who pre-register for classes will receive a discount of \$10 per credit hour as compared to those who walk in on the day of the seminar. Attendees who do not want CLE credit will pay a flat fee.

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CLE Credit:

- WBA Members: \$30 per credit hour
- Non-Members: \$50 per credit hour

Non-Credit:

- \$10 flat fee (*Waived for Young Lawyers attending but not wanting any credit*)

WALK-IN FEES

CLE Credit:

- WBA Members: \$40 per credit hour
- Non-Members: \$50 per credit hour

Non-Credit:

- \$20 flat fee

Actions of the Board

JULY 17, 2007

- Accepted Membership Committee recommendation: Kerrin Rector, associate.
- Investment Advisory Committee reported that bar association investments are performing higher than the S&P 500.

ATTENTION ATTORNEYS, PARALEGALS AND LEGAL SECRETARIES

Looking to hire or be hired? The Westmoreland Bar Association operates an informal placement service for paralegals, legal secretaries and attorneys by collecting résumés and forwarding them to potential employers at no cost. Contact Bar Headquarters at 724-834-6730 or e-mail westbar.org@verizon.net for more information.

wba

- Treasurer DeDiana and Mrs. Krivoniak met with Irwin Bank reps; WBA can use its investments as collateral for an emergency line of credit and Irwin can lend \$100,000 for prime +1%.
- President Whelton met with E-Filing Committee Co-Chairs Jim Horchak and Jayson Lawson; next step is to meet with surrounding bar association reps to discuss cooperative venture in e-filing.
- Agreed that a representative of the WBA board should be at every funeral service of a WBA member.
- President Whelton reported that John Hauser will attend the PBA new admittee ceremony as WBA's representative; YL Chair DeAnn McCoy will attend as established in reimbursement policy.
- President Whelton reported an increase in 2008 PBA dues in the amount of \$15.
- Mrs. Krivoniak e-mailed press releases from WBA retention balloting to the PBA for uploading on the pavotesmart.com website.
- Reviewed spreadsheet on CLE seminar attendance which showed that attorneys don't pre-register for seminars.
- Agreed to review suggested CLE pricing changes which would charge attorneys who are walk-ins an additional fee.
- Mrs. Krivoniak is meeting with Computer Connections to discuss possibility of establishing remote CLE viewing area on first floor. It is hoped that the WBA can apply for grant money to cover these costs.
- YL Chair DeAnn McCoy reported that the first Lunch and Learn took place at end of June and a July YL party was a success.
- Agreed to ask medical society to join the bar association for the Fall Gathering.
- Fee Dispute Committee advised that there is a need for non-lawyers to serve on its panels; Board members

were asked to make suggestions to fill these openings.

- Approved request from Lawyers Assistance Committee for permission to place LCL fliers in issues of *the sidebar* to talk about the availability of help for attorneys in need.

AUGUST 21, 2007

- Accepted Membership Committee recommendation: April Knizner, associate.
- Voted to accept the commitment from Irwin Bank for a line of credit.
- E-Filing Committee organized by the courts met on August 21; WBA reps on this committee include Jim Horchak, Jayson Lawson, and Charlie Jelley.
- Voted to pass on the PBA dues increase (current and future) to the WBA membership and spread out the \$35 from previous PBA dues increase over the next four years (\$10/year for three years; \$5 for last year).
- Agreed to be the gold sponsor for 40th anniversary of Laurel Legal Services at a cost of \$2500.
- Ellen Freedman is booked for the fall quarterly meeting at Greensburg Civic Center on Thursday October 25. ComDoc agreed to be a sponsor and will bring its copiers for bar members to view.

- Voted to charge attendees at the quarterly meeting a flat rate of \$20.
- Reviewed the proposed changes in the CLE costs for members and non-members and for those who pre-register and walk-ins; agreed to review and vote via e-mail.

Jury Trial Verdicts

continued from page 14

Defendant presented testimony of a medical expert, who opined that the unreimbursed medical bills in question were not related to the subject accident and, additionally, that none of the claimed lost wages or unreimbursed chiropractic bills were reasonable or necessary.

Plaintiff's Counsel: Robert Paul Vincler, Robert Vincler & Associates, Pgh.

Defendant's Counsel: Scott O. Mears, Jr., Mears, Smith, Houser & Boyle, P.C., Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Verdict in favor of Defendant.

Lawyers Abstract Company of Westmoreland County

35 WEST OTTERMAN STREET
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CALENDAR OF EVENTS

NOVEMBER

- 2** CLE: Beginning Westlaw, Noon to 1:15 p.m.
- 6** Election Day
- 7** CLE: Oil and Gas Leases, 11 a.m. to 2:15 p.m.
- 12** Courthouse closed in observance of Veterans Day
- 13** U.S. Supreme Court Swearing-In Ceremony, Washington, D.C.
- 14** Real Estate, Noon
Membership, Noon
Bankruptcy, Noon
Ned J. Nakles American Inn of Court, 5 p.m.
- 20** Family Law, Noon
Board, 4 p.m.
- 22** Courthouse closed in observance of Thanksgiving
- 23** Courthouse closed in observance of Thanksgiving

- 27** CLE: The Law and Consequences of a Life on Drugs, The Reality Tour® Drug Prevention Experience, 6 to 8:30 p.m., Westmoreland County Courthouse

DECEMBER

- 4** CLE: Bridge the Gap, 9 a.m. to 1:15 p.m.
- 5** Women in the Profession, Noon
- 6** Ned J. Nakles American Inn of Court, 5 p.m.
- 13** CLE: Video Compliance, 9 a.m. to 4:15 p.m.
- 14** CLE: Overview of Key Civil Rights Cases Decided by SCOTUS During 2006, Noon to 1:15 p.m.
- 17** CLE: Divorce and Bankruptcy, Noon to 1:15 p.m.
- 25** Courthouse closed in observance of Christmas

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.



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