



# Collaborative Law Takes Root in Westmoreland County

by Abby De Blassio, Esq.

In the June issue of *the sidebar*, Bob Johnston wrote on the concept of collaborative law, which has been sweeping the nation as a form of alternate dispute resolution



▲  
Abby De Blassio

for family law and civil cases. The concept of bringing the collaborative law process into Westmoreland County has been in the works for about one year, as it has been taking root in Pennsylvania and as our Family Law Committee and

Alternate Dispute Resolution (ADR) Committee members have been educating themselves as to its benefits, technical requirements, and ethical concerns.

For those unfamiliar with the concept, collaborative law, in general terms, is a process in which the parties agree to use good faith or best efforts to resolve a matter in a non-adversarial manner, without judicial intervention. Both parties sign a collaborative law participation agreement and are represented by lawyers trained in collaborative law, who agree not to represent the parties in any litigation related to the matter, and not to

threaten litigation at any time in the negotiation process. The focus is on cooperative problem-solving to attain a result that is fair and just for both parties, rather than on positioning. Under this model, it is possible for parties to achieve mutually beneficial results that might be unlikely in litigation, at a lower cost, while at the same time maintaining their privacy and dignity, without the emotional casualties that frequently accompany litigation. In the event that either of the parties elects to terminate the collaborative law process and proceed with litigation, both collaborative attorneys must withdraw from representation, and the parties proceed with or without trial counsel.

In July 2009, the National Conference of Commissioners on Uniform State Laws approved the Uniform Collaborative Law Act (UCLA) for enactment in all states. The Act defines the collaborative law process and its related terms, sets forth the requirements for a collaborative law participation agreement, and provides “ground rules” for the conduct of the collaborative process. The UCLA will be reviewed by the American Bar Association (ABA) House of Delegates

in February 2010; their approval must be given before states can adopt the Act. The Act is presently being studied by the Collaborative Law Subcommittee of the Pennsylvania Bar Association (PBA) ADR Committee, the Collaborative Law Association of Southwestern Pennsylvania (CLASP), the Westmoreland Bar Association ADR and Family Law Committees, and like committees of bar associations statewide, to determine whether it should be enacted in Pennsylvania, if approved by the ABA House of

Delegates. The PBA’s Collaborative Law Subcommittee has asked all collaborative law groups in Pennsylvania to review the Act and comment on it.

On Friday, July 24, and Saturday, July 25, 2009, a collaborative law training session,

which was organized as a group endeavor (call it a collaboration) by the leadership of both the WBA Family Law and ADR Committees, was held at the Westmoreland Bar Association. The training was conducted by Suzanne L. Brunsting, Esq., who is a founding member of the Collaborative Law Association of the Rochester Area in Western New York, a fellow in the

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President's Message

# A Look at Laurel Legal

by James R. Antoniono, Esq.

As a bar association, we should be proud of the work being done every day by the attorneys at Laurel Legal Services to help those less fortunate individuals in Westmoreland County.



Laurel Legal Services, Inc., is a non-profit organization headquartered at 306 South Pennsylvania Avenue in Greensburg, that provides free legal representation in civil matters to low-income individuals and

domestic violence victims in six counties: Armstrong, Cambria, Clarion, Indiana, Jefferson, and Westmoreland. In the most recent fiscal year, ending June 30, 2009, the staff of 17 attorneys and 2 paralegals handled a total of 6,204 cases program-wide.

The program is funded by various grants, including the federal Legal Services Corporation, the U.S. Department of Justice Office on Violence Against Women, Pennsylvania Legal Aid Network, Pennsylvania IOLTA, and Westmoreland Area Agency on Aging, as well as donations.

The Greensburg office houses the Executive Director, Cynthia Sheehan, and the fiscal and administrative staff for the program. The Westmoreland County staff are supervised by Managing Attorney Sam Rosenzweig, who also serves as Technology Director for the program and handles cases for senior citizens, primarily in guardianship proceedings. Attorney Kathleen Kemp takes many emergency custody cases and also gives advice and some representation under an Employment Law Project, a Mortgage Foreclosure Prevention Project, and a Fair Housing Project. Attorneys Karen Crow and

James Stois help abuse victims get Protection Orders for themselves and their children, and assist people who have been denied unemployment compensation. Attorney Leeann Pruss works under the Justice Department Violence Against Women Act Grant to also represent abuse victims in Protection From Abuse [PFA] cases and other related issues such as custody, divorce, and support, in a partnership with the Blackburn Center and the Hope Center. Attorney Vera Ducruet assists disabled clients who have been denied SSI and Social Security Disability. Megan Williams, the Public Benefits Paralegal for all six counties, has assisted many individuals in getting needed benefits such as Medical Assistance, services for autistic children, and childcare assistance for working parents.

The Westmoreland County office

represents clients in almost all of the Protection From Abuse actions filed in the county—over 500 per year—and nearly all of the adult guardianships—over 60 per year.

The following represents a sample of cases Laurel Legal Services has undertaken to help individuals who do not have the resources to secure private legal help:

- A client with severe dental abscesses and infections, causing facial swelling, fevers, and pain, could not work and could not obtain dental care to fix the problem. Laurel Legal Services succeeded in finding a federally funded medical clinic willing to do an assessment

necessary to show her condition was disabling, so she could be granted Medicaid. She was then able to have oral surgery, get dentures, and return to work.

- In another case, Laurel Legal Services appealed the denial of authorization for Ensure nutritional formula by Medical Assistance for a 75-year-old survivor of throat and esophageal cancer, who had difficulty eating and was unable to maintain a healthy weight. A settlement was reached and the client is now able to meet her nutritional needs with Ensure.
- Laurel Legal Services assisted with a pardon application for a 29-year-old

woman who had mental health problems as a teenager and young adult. Her disorder was not properly diagnosed and treated until after she had incurred several adjudications as a delinquent and

**We should be proud of the work being done every day by the attorneys at Laurel Legal Services.**

some charges as an adult. She was in college when she asked for legal help, and her record was preventing her from getting an externship which she needed to earn her degree and get a job.

All of the advocates also provide telephone advice to clients in landlord-tenant, consumer, family law, and other issues, and community-education sessions, which reached over 500 people last year.

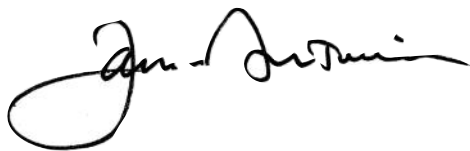
Laurel Legal Services also operates a website with information for clients at [laurellegalservices.org](http://laurellegalservices.org), and contributes to the funding of the Westmoreland Bar Foundation Pro Bono Program.

Laurel Legal Services was founded in 1967 by members of the Westmoreland Bar Association and local community residents who were concerned about the availability of legal services for the poor. Five members of the WBA served on the first Board of Directors: Wayne R. Donahue, George R. Lamproplos, Orlando N. Prosperi, Gilfert M. Mihalich, and David L. Robinson.

Seven seats on the current Board are now regularly appointed from the Westmoreland Bar Association. There are over 42 current members of our Bar, who have either worked for or interned at Laurel Legal Services. In addition, three past Presidents of the Westmoreland Bar Association have worked for Laurel Legal Services, and a future President will soon be added to that list. And finally, a President Judge also passed through the doors of Laurel Legal Services.

In this short synopsis you can see that Laurel Legal Services has been, and will continue to be, an integral part not only of the Westmoreland Bar Association, but of the judicial system in Westmoreland County, as it has been in the past.

If you have an interest in serving on the Board of Laurel Legal Services, please make your interest known to any member of the Board of Directors of the Westmoreland Bar Association. Tax-deductible donations can be made online at [laurellegalservices.org](http://laurellegalservices.org), or by mail to Laurel Legal Services, Inc., 306 South Pennsylvania Avenue, Greensburg, PA 15601. Brochures explaining the services offered and providing some legal information are available at the Greensburg office. 🌸



# Remembering Frank P. Anto

*Editor's note: Frank P. Anto passed away on June 29, 2009, after a short illness. He is survived by his wife of 50 years, Nancy; his sister, Rachael, in Wynnewood, N.J.; two sons, David, in Ligonier, Pa., and Richard, in Lorton, Va.; and four grandchildren.*

Frank Pierre Anto, formerly of West Newton, died June 29, 2009, in Vero Beach, Fla. According to his wife, Nancy, he had a very aggressive malignant inoperable brain tumor and died peacefully at home.

Born in Charleroi, Frank attended McKeesport High School, and went on to graduate from The Citadel and Dickinson College. He served as a 1st Lieutenant in the Army Air Force during World War II, and flew bombing missions as a navigator based in England.

After the war ended, he graduated from Dickinson Law School and practiced law in West Newton for over 40 years. He was a member of the Westmoreland Bar Association and was a life member of the VFW.

He retired from the practice of law in 1993, and he and his wife moved to Cape May Point, N.J., where he served as chairman of the Zoning Board. He enjoyed walking, traveling, playing bridge, and playing the piano. He moved to Vero Beach in 2007, where he continued to enjoy his hobbies.



▲ Frank P. Anto

Bernard S. Shire, of Monessen, remembers Frank as “an excellent lawyer who enriched the Westmoreland Bar with his professionalism and civility. He was a perfect gentleman, who was reliably calm and moderate in his relationships with clients and friends.”

Vincent J. Quatrini, speaking on behalf of all the attorneys of QuatriniRafferty in Greensburg, agrees: “Frank Anto was the quintessential ‘lawyer’s lawyer.’ He was always a gentleman, a professional and a stellar example of what is best about attorneys. He was willing to share his knowledge unhesitatingly. He embraced his clients. And, not insignificantly, he was the best dressed member of the bar!”

Bernie concurs: “He was always well groomed and his attire was always in vogue. In fact, his dapper appearance and gracious manner caused his close friends to refer to him affectionately as ‘Pierre.’”

“We will miss our friend,” said Vince. “Our profession will miss his contributions.” 🌸

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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](mailto:westbar.org@verizon.net). the sidebar welcomes unsolicited submissions from members or non-members. Please submit to the Articles Editor, c/o WBA.

Back issues from 2000 to the present and a comprehensive, searchable index are available online at [www.westbar.org/thesidebar](http://www.westbar.org/thesidebar).

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# Collaborative Law Takes Root in Westmoreland County

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American Academy of Matrimonial Lawyers, a former Board Member of the International Academy of



Collaborative Professionals (IACP), and the past chair of the Monroe County Bar Family Law Section.

Twenty-eight participants, including family law

and civil practitioners, a psychologist and financial advisor from New York, and financial advisors and mental health providers from throughout Pennsylvania and as far away as Seattle, Wash., attended the training session.

The training focused on the development of collaborative law practice skills and ethical considerations, and involved breakout sessions and role-playing engaging the participants. On Friday evening, the training was capped off with a retreat to WBA member Peg Tremba's swimming pool, where all enjoyed libations and great food. (Thank you, Peg, for your hospitality, and thanks to Bob Johnston, our "grill-master!")

On August 18, 2009, a joint meeting of the WBA's ADR and Family Law Committees was held to advance the development and marketing of collaborative law practice in Westmoreland County. Although the committees previously considered the possibility of forming a Westmoreland County

collaborative law association similar to CLASP, the consensus now is to develop a county presence within CLASP. By going this route, our members can take advantage of the organizational support and materials offered by CLASP, become part of a larger network of collaborative professionals, keep abreast of the developments in this practice area both regionally and statewide, and develop a local "sub-group" to assist our members in developing their skills and promoting collaborative law locally.

From this joint committee meeting, a collaborative law subcommittee was born, and, as of the date of submission of this article, ten WBA members have joined CLASP—Carol Bucci, Abby De Blassio, David DeRose, Doug Farrell, Rebecca Fenoglietto, Bob Johnston, Phil McCalister,

Joyce Novotny-Prettiman, Mark Sorice, and Mike Stewart—and are welcoming referrals of clients wishing to engage in the collaborative law process. Additional WBA members have indicated their intention to join CLASP in the near future.

Previously, CLASP consisted solely of attorneys whose primary offices are located in Allegheny and Washington Counties. As of the end of August 2009, CLASP has 46 members, including the new members from Westmoreland County.

The WBA collaborative law subcommittee is presently planning to offer additional training—including a 30-40 hour mediation course (which may include Federal mediation training)—at the WBA headquarters in early 2010, so our members can obtain additional credits toward meeting the 45 required to reach

the minimum standards for collaborative law practitioners adopted by the International Academy of Collaborative Professionals.

As we continue to branch out, our hope is that collaborative law practice will refine, transform, and improve family law and civil law practice in Westmoreland County. We welcome and encourage all to become educated in this manner of dispute resolution, as we wholeheartedly believe that we have a professional responsibility to offer this option to our clients.

Thanks to David Miller, Carol Bucci, Becky Fenoglietto, Bob Johnston, Joyce Novotny-Prettiman, and Debra Cantor, for their contributions to this article. 🌱

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# WBA Members Vote “Yes” for Retention of Judge Bell, Judge Marsili



Voters in Westmoreland County will be asked on Tuesday, November 3, 2009, whether they wish to retain Common Pleas Court Judge Alfred B. Bell and



▲ *The Hon. Alfred B. Bell*

Judge Anthony G. Marsili, who will each be completing a ten-year elected term of office in January 2010. Westmoreland County attorneys—in a poll conducted earlier this year by the Westmoreland Bar Association—have already cast their vote: the membership

overwhelmingly endorsed the retention of both judges.

Pursuant to WBA policy, a referendum of the membership by secret ballot was taken in April in order to determine the position of the members on the question of the retention of Judges Bell and Marsili.

The ballots were counted and certified by Rebecca A. Brammell and Diane E. Murphy. 🌸



▲ *The Hon. Anthony G. Marsili*

## Notice to Defend Amended

Pursuant to Westmoreland County Rule of Civil Procedure W1018.1, all “Notice to Defend” correspondence for Westmoreland County, Pa., should read as follows, effective August 17, 2009.

LAWYER REFERRAL SERVICE  
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P.O. BOX 565  
GREENSBURG, PA 15601  
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The rule was amended to add the website for Westmoreland County’s Lawyer Referral Service (<http://lrs.westbar.org>).

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# if not you, who?

If you haven't served on the Westmoreland Bar Association Board of Directors, Membership, or Building Committees, you are missing a golden opportunity to help your profession, your community, and your bar association.

Yes, there is work involved, but it really isn't that formidable: you are required to attend the monthly meetings; you should contribute ideas, suggestions, and solutions on a regular basis; and, you are expected to be an example to the rest of the members as a leadership role model.

There are benefits, too: you get to socialize with a group of attorneys who care about this association; you get to interact with a wonderful, but modest, staff; it looks great on your résumé; and, you can make a difference and help mold the future of the WBA.

Service, by its very nature, means a genuine commitment. If you look at the WBA's past officers and directors, you will recognize many familiar names who enjoyed their tenure and appreciated the "big picture" perspective it provided them. All contributed their own special talents, were generous with their time, and felt they took part in a building process that continues today. You can, too.



The Nominating Committee is accepting letters of application for positions on the Board of Directors, Membership Committee, and Building Committee. Any member interested in running for these positions should submit their petition to the Chair of the Nominating Committee, c/o the WBA, by **November 6, 2009**. See the insert in this issue, or download an application from [www.westbar.org](http://www.westbar.org). If you know of a qualified candidate who is willing to serve, you may nominate that member in the same fashion.

The positions will be filled at the Annual Meeting of the association to be held in April 2010.

Nominees must be active, participating members of the WBA. The responsibilities for each position are as follows:

## board of directors

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. One three-year term is available. The Director will:

- Attend all board and appropriate committee meetings and special events.
- Serve on committees and offer to take on special assignments.
- Inform others about the WBA and its activities and functions.
- Assist the board in carrying out its fiduciary responsibilities, such as reviewing the organization's annual financial statements.

- Take responsibility and follow through on given assignments.
- Contribute personal and financial resources in a generous way according to circumstances.
- Open doors in the community.

## membership

The Membership Committee is the first point of contact that most applicants have with the WBA. One five-year term is available. The Membership Committee member will:

- Attend monthly committee meetings.
- Personally interview and educate applicants on the workings of the WBA, including committee assignments, staff responsibilities, and new lawyer opportunities

such as the mentor program, the Young Lawyers, and Pro Bono.

- Make recommendations for membership eligibility with specific recommendation for membership class.

## building

The Building Committee is responsible for maintaining the management and upkeep of Bar Headquarters. One five-year term is available. The Building Committee member will:

- Attend quarterly committee meetings.
- Be knowledgeable about the utilization of Bar Headquarters for business and social functions.
- Help to develop annual budget for operation of building.
- Make recommendations to Board of Directors on matters of concern in building upkeep. 🛠️



## practice tips

# Conflicts of Interest in Simultaneous Representations

by Sherry Magretti Hamilton, Esq./MBA

As lawyers, we know that conflicts of interests are a violation of professional ethics and a possible cause for a malpractice claim. However, conflicts may not always be blatantly recognizable. For instance, preparing simple estate-planning documents and facilitating a sale of a small business could technically create a conflict of interest. The guiding section of the Pennsylvania Rules of Professional Conduct is Rule 1.7 and its comments:

**“Rule 1.7 Conflicts of Interest: Current Clients**

- (a) Except as provided in paragraph (b), a lawyer shall not represent a

client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- (1) the representation of one client will be directly adverse to another client; or  
 (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide

competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent.”

Conflicts of interests can exist in the obvious litigation matter, where representation of both plaintiff and defendant is clearly a conflict and prohibited by Rule 1.7 (b)(3) above, but may also be created in non-litigation transactional scenarios. A conflict of

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**Daniel Joseph**

# Conflicts of Interest *continued from page 7*

interest may be created when representing a client in the sale of a small business while simultaneously representing the buyer of that business and his wife in an unrelated estate planning matter. As clients, each is owed a duty of confidentiality and the lawyer should offer advice that's in the best interest of each client.

Consider the following example, Mr. A is selling a small business to Mr. B. Lawyer is representing Mr. A in this transaction. Mr. A and Mr. B are acquaintances and the scenario is a friendly transaction. Mr. B and his wife simultaneously hire Lawyer to draft their wills and other estate planning documents. Thus, Lawyer represents Mr. A in the business transaction and Mr. and Mrs. B in the estate planning matter; both of these representations are occurring simultaneously. Technically this creates a potential conflict of interest that should be addressed pursuant to Rule 1.7 (a)(2) above. Mr. B, as buyer of the business, is the opposing party of this transaction and should be considered the adverse party in this situation. As previously mentioned Mr. B is also a client of Lawyer. Thus, Mr. B sits in

the position as an adverse party and a client with respect to Lawyer's representations. Even though these transactions are unrelated and friendly, a situation could arise whereby the Lawyer's duties to his clients could be compromised as prohibited by Rule 1.7 (a)(2). The friendly sale of the business could result in a dispute for a number of reasons and may or may not result in litigation; thus, putting Lawyer in the position of negotiating with Mr. B who is also a client.

The fact that the matters above are on their face unrelated does not in and of itself eliminate the potential for a conflict of interest in this simultaneous representation of Mr. A and Mr. B. A precautionary measure could help the attorney avoid potentially costly conflicts of interest like that described above. Providing that the lawyer believes that he/she can adequately and competently represent both Mr. A in the business transaction and Mr. B in the estate planning matter, Rule 1.7 (b)(4) allows for this conflict to be

waived by "informed consent" from both parties. The attorney should seek a waiver of the potential conflict of interest from each client (Mr. A and Mr. B) prior to commencing representation. This statement could include a specific clause that each party has been informed of possible conflicts of interest, that each party waives these potential conflicts and consents to the

attorney representing both of them simultaneously in these unrelated matters. The waiver should also carve out the specific parameters of the

representation of each client to avoid any question as to the extent of Lawyer's representation. The attorney should also advise that each client consult independent counsel to review the waiver prior to signing it.

Thus these types of conflicts of interest can be managed by requiring that the parties involved provide their consent to the representation and thereby waive any potential conflicts of interest that may arise. Of course, at any time should the Lawyer become unable to provide "competent and diligent representation," as required by Rule 1.7 (b)(1), the Lawyer should withdraw from the representation. 🐼

*Sherry Magretti Hamilton has been an associate member of the WBA since 2004, and resides in Hempfield Township.*

## practice tips

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— Abraham Lincoln



# To-Wit: An Upchuck of Jurors

by S. Sponte, Esq.

Quietly I joined him at counsel's table but he didn't seem to notice. The jury had already been discharged with the thanks of the court and had filed out. What few spectators there were had cycled on to the next courtroom hoping for a rape or a murder. He remained motionless in his seat, the almost imperceptible table-ward sinking of his head the only clue to his despair.

He was a former law student of mine and this had been his first jury trial. I had offered my help, but he was ambitious and eager to master his craft and had politely declined. As I eased myself into the seat next to him he acknowledged my presence with a sallow smile.

"I couldn't have put on a better case," he said. "I'm going to talk to the jurors; there still must be an

assemblage of them out there in the hall."

"Upchuck," I said.

"Maybe later," he replied. "First I need to talk to the jurors."

"No," I said, "not 'assemblage,' 'upchuck.' Like a pride of lions or a gaggle of geese, it's an upchuck of jurors. That's the correct word for it. And don't ever talk to them post mortem, it only makes it worse."

"I had every detail covered," he moaned, shaking his head. "I even bought my client a new suit for trial so he would look distinguished and presentable. I am going to talk to them," he said, and with that, he headed out the courtroom door.

He knew nothing yet of Schtunk's Constant, but he was about to find out. Those of you who try cases are no doubt intimately familiar with the groundbreaking work of that great Russian psychophysicist Yura Schtunk who demonstrated in 1927 that every

juror added to an upchuck reduces its mean IQ by an exact and constant factor of .33176. When he did the math, he found that a typical upchuck has a collective IQ less than that of a hamster.



I learned about Schtunk's Constant the hard way almost forty years ago when I was defending a businessman from a plaintiff who claimed he had timely notified my client of the exercise of an option to purchase his real estate at a very advantageous price. The fact that there was no evidence he had timely exercised the option did not prevent the jury from finding for him anyway.

"Your file was very thick," a juror told me post mortem. "Somewhere

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# To Wit: An Upchuck of Jurors

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in there you had to have a notice.”

You see, it isn't the sorting out of the real facts that throws an upchuck into Never Never Land, no. Rather it's their tendency to fix upon the extraneous stuff, the non-facts, that, just like the hamster's wheel, provides them with much to do but precious little to show for their efforts.

He was back in less than ten minutes, looking even greener than when he had left. “They told me they found for the defendant because ...,” and here he paused for a moment as if to try one more time to swallow the disbelief irretrievably lodged in his throat, “... because my client was dressed so nicely it just didn't seem like he needed any more money.

“An upchuck,” he said, nodding sagaciously.

“An upchuck,” I said, nodding back.

“No,” he replied, “it's really an upchuck. I'm going to be sick.” And with that he gagged once, bolted for the door, and was gone. 🐸

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# Red Mass Celebrated at Saint Vincent



▲ The Hon. Joseph A. Hudock (left) and WBA President James R. Antoniono (right) were among the attendees of the 42nd annual Red Mass held at Saint Vincent Archabbey on Friday, September 18. Sponsored by the Diocese of Greensburg and Saint Vincent Archabbey, College and Seminary, the Red Mass Address was given by Kevin Passarello, Esq. (center), a 1983 graduate of Saint Vincent College, and a co-founder of Bedford Falls Capital in Middleburg, Va.—a private equity management and advisory firm. In his remarks, Passarello said that real justice must be rooted in faith: “We should become students of faith, the way we are students of the law.” A reception and luncheon were held at the Fred M. Rogers Center following the service. 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. 🐸


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July 2009 Civil Trial Terms

# Jury Trial Verdicts

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

Of 23 cases listed for the July 2009 Civil Jury Trial Term, 10 settled, 8 were continued, one was transferred to arbitration, one was a non-jury verdict, one verdict was entered and two were held over to the next trial term. In addition to the jury verdict entered in the July trial term, a jury verdict rendered in a specially set August jury trial is also summarized below.

**MICHAEL ZVARA AND  
PAULA C. ZVARA, HIS WIFE  
V.  
KRISHNA JETTI, M.D. AND  
MERCY JEANNETTE HOSPITAL  
NO. 6975 OF 2007**

*Cause of Action: Professional  
Negligence—Medical Malpractice*

On May 5, 2006, ten days after a colonoscopy and the removal of a rectal polyp, Plaintiff Michael Zvara experienced a rectal bleed and presented to Defendant Mercy Jeannette Hospital's Emergency Department. In an attempt to locate the source of the bleeding, Defendant Dr. Krishna Jetti—who did not perform the original colonoscopy and polyp removal—performed exploratory surgery that included a division of the mid-sigmoid colon, a bowel resection employing a primary anastomosis, an appendectomy, and a cecopexy. Mr. Zvara experienced post-operative complications, including feculent peritonitis from a leak at the anastomosis site, adhesions, and an incisional hernia.

Mr. Zvara's medical expert testified that given the recent history of a colonoscopy and removal of a polyp, the only possible explanation for the source of the bleeding was the polyp site. Mr. Zvara alleged that Dr. Jetti



was negligent for failing to ascertain the location of his post-polypectomy bleed prior to performing the exploratory surgery. Mr. Zvara alleged the exploratory surgery unnecessarily exposed him to the risks of surgery. Dr. Jetti presented expert medical testimony that the care and treatment he provided Plaintiff was within the applicable standard of medical care.

*Plaintiff's Counsel:* Scott D. Glassmith, Gismondi & Associates, Pgh.

*Counsel for Defendant Jetti:* Daniel P. Carroll, Davies, McFarland & Carroll, P.C., Pgh.

*Counsel for Defendant Mercy Jeannette Hospital:* Gayle L. Godfrey, Pietragallo, Bosick & Gordon, LLP, Pgh.

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

*Result:* Molded verdict in favor of Defendants. The jury found that Dr. Jetti was negligent, but his negligence was not a factual cause of Mr. Zvara's injuries.

**DEBRA ROGERS, EXECUTRIX OF  
THE ESTATE OF MICHAEL A.  
ROGERS, DECEASED  
V.  
RONALD L. PERRIN, M.D.  
NO. 7909 OF 2006**

*Cause of Action: Medical Malpractice—  
Wrongful Death and Survival*

On September 8, 2004, Michael A. Rogers (Decedent) underwent a chest X-ray, which was performed by Main Medical, a diagnostic imaging company. Main Medical referred the X-ray for interpretation to Ronald L. Perrin, M.D. (Defendant), who determined that the X-ray was normal. Main Medical had previously performed a chest X-ray of Decedent in February of 2002. However, when it referred the 2004 X-ray to Defendant, Main Medical did not provide Defendant with the 2002 X-ray. A comparison of the 2002 and 2004 X-rays would have revealed that Decedent's heart and aorta had enlarged since 2002.

On November 13, 2004, Decedent died as a result of a ruptured aorta. This wrongful death and survival action alleged that Defendant negligently interpreted Decedent's chest X-ray and thereby caused his death. At trial, Plaintiff argued that Defendant breached the standard of care because he never reviewed the 2002 X-ray, and because he negligently determined that the 2004 X-ray was normal. Defendant argued that he correctly interpreted the 2004 X-ray and that the 2002 X-ray was not available for review.

*Plaintiff's Counsel:* James R. Moyles, The Moyles Law Firm, Pgh.

*Defendant's Counsel:* Thomas B. Anderson, Thomson, Rhodes & Cowie, P.C., Pgh.

*Trial Judge:* The Hon. William J. Ober

*Result:* Verdict in favor of Defendant. 🍀



# foundation focus

## WBF Scholarships Awarded at Ceremony



▲ Five scholarships were awarded to law school students and mock trial participants during a ceremony held in August at the Westmoreland County Courthouse. From left to right: The Hon. John E. Blahovec, President Judge; Meghan McClincy; Jennifer Paul; Kayla Trybus; Timothy J. Geary, WBF Trustee; and The Hon. Daniel J. Ackerman, WBF Chair. Eric Harbison and Avery Sell were unable to attend.

The Westmoreland Bar Foundation awarded three law school scholarships and two college scholarships to Westmoreland County residents at a ceremony held August 5, 2009, at the Westmoreland County Courthouse.

### LAW SCHOOL



▲ Wayne R. Donahue

#### The Wayne R. Donahue Memorial Scholarship

Meghan McClincy, of Greensburg, is the recipient of the \$2,100 Wayne R. Donahue Memorial Scholarship. A graduate of Greensburg Central Catholic High School and Kenyon College in Ohio,

Meghan is a first-year law school student at Pennsylvania State University Dickinson School of Law.

The scholarship is named for Wayne R. Donahue, a sole practitioner from New Kensington, who was a

lifelong resident of western Pennsylvania and an alumnus of Duquesne University and Duquesne University School of Law.

#### The Donald Laird Hankey Memorial Scholarship

This year's Donald Laird Hankey Memorial Scholarship, in the amount of \$2,500, was awarded to Jennifer Paul from Irwin. A first-year student at Harvard Law School, Jennifer is a graduate of Penn Trafford High School and Boston College.

The scholarship is named for Donald Laird Hankey, a sole practitioner in New Kensington and a member of the Westmoreland Bar Association for more than 65 years. A lifelong resident of Westmoreland County, Donald Laird Hankey was an



▲ Donald Laird Hankey



alumnus of Westminster College and the University of Pittsburgh School of Law.

#### The Honorable David H. Weiss Memorial Scholarship

Once again, The Honorable David H. Weiss Memorial Scholarship has been awarded to Eric Harbison. Eric, who also received the award in 2008, earned his undergraduate degree in economics from Bucknell University and is a third-year law student at the University of Pittsburgh School of Law. This is the third year that Eric has been awarded one of the Westmoreland Bar Foundation law school scholarships: he was awarded the Donald Laird Hankey Memorial Scholarship in 2007.

The Honorable David H. Weiss Memorial Scholarship is named for the former President Judge of the Court of Common Pleas in Westmoreland County who was an alumnus of the University of Pittsburgh School of Law.



▲ The Hon. David H. Weiss

### MOCK TRIAL

Mock Trial Scholarships are made possible through the generous donations of members of the Westmoreland Bar Association, appropriately titled the Founding Fellows. Over \$60,000 was raised by this group to assure that two \$1,000 college scholarships could be awarded each year to deserving mock trial participants.

This year's Mock Trial Scholarship winners are Kayla Trybus and Avery Sell.

Kayla Trybus is a 2009 graduate of Mt. Pleasant High School. Kayla is attending Penn State University, Harrisburg Extension, pursuing a degree in Elementary Education.

Avery Sell is 2009 graduate of Greensburg-Salem High School, and

was a member of the winning county Mock Trial team. Avery is attending Pennsylvania University to study landscape architecture. 🌿

## WBF Board of Trustees Report

The following transpired at the June 2, 2009, quarterly meeting of the Westmoreland Bar Foundation (WBF):

- Welcomed Peter Saxman, First Commonwealth Bank Trust Officer, to WBF Board of Trustees as newest community member.
- Learned that IOLTA grant for July 2009–June 2010 cycle is \$25,600—\$2,900 less than last year.
- Accepted revised 2009 budget.
- Agreed to require that year-end auditor's review be available for trustees to review by June Trustee meeting.
- Learned that all foundation insurance policies were reviewed with following adjustments:
  - Purchased negligent referral insurance for pro bono, reduced fee, and custody cases referred through Pro Bono program.
  - Added Westmoreland Bar Foundation to named insureds for Directors & Officers insurance.
  - Voted to establish new policy requiring all Pro Bono attorneys to carry malpractice insurance, and to provide a copy of their dec sheet to Pro Bono office before any Pro Bono referrals are made.
- Agreed to establish policy that Executive Director's signature be required on all checks, with other signature coming from a trustee.
- Learned that two \$1000 mock trial scholarships were awarded to high school participants; award ceremony will be scheduled for August in Judge Blahovec's courtroom.
- Voted to use money in short-term funds to award 2009 law school scholarships in the amount recommended by financial advisor.
- Agreed to use money raised through December 2009 silent auction to cover loss of IOLTA grant money, and to advertise event as such.
- Accepted recommendation of outreach committee to approach WBA board with request to hold

fund-raiser event to benefit foundation, and to try this for one year to gauge level of participation and funds raised.

- Mrs. Munk reported that 61 attorneys, 28 schools and 3,000 students participated in 2009 Law Day program.
- Agreed to send opt-out letter to solicit funds from attorneys who do not participate in Pro Bono, but wish to support the program.
- Voted to appoint Shannon Reiter to fill unexpired term of Carrie Loperfito on Board of Trustees.
- Trustees were asked to submit recommendations for one remaining opening on the board.
- Agreed to hold planning session in June at Community Foundation suites. 🌿

## Volunteers for Justice

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

- |                    |                    |
|--------------------|--------------------|
| • Maria Altobelli  | • Melissa Guidy    |
| • Tim Andrews      | • Debra Henry      |
| • Marla Blum       | • Maureen Kroll    |
| • Michael Bogush   | • Irene Lubin      |
| • Brian Cavanaugh  | • Shirley Makuta   |
| • Eric Dee         | • Paul Miller, Jr. |
| • Michael DeMatt   | • Debra Nicholson  |
| • Scott Fatur      | • Bradley Ophaug   |
| • Rebecca Fenoglio | • Dennis Persin    |
| • Maegan Susa Filo | • William Wiker    |
| • Mark Galper      | • Joanne Wilder    |
|                    | • Ron Zera         |

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

*Looking for a special way to remember someone?*

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

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

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



# Actions of the Board

## JULY 21, 2009

- Approved Membership Committee recommendations as follows: Gerald Schoone, associate; William Brandstetter, participating.
- Appointed Robert Johnston to one-year term on PBA House of Delegates.
- Agreed to invite medical society to WBA Fall Gathering.
- Agreed to include widows and widowers of WBA members on WBA mailing list for some WBA correspondence including the sidebar and social events.
- Agreed to proceed with “Wills for Heroes” program offered through PBA without local help, and to turn this project over to Young Lawyers to pursue.
- Agreed to forgo yellow page block advertising for LRS program in any phone book, but to seek advertising and marketing opportunities through other sources.
- Learned that Young Lawyers are holding a fund-raiser for CASA at The Headkeeper in Greensburg on September 30 from 5 to 8 p.m. YL Chair asked that a “save the date”

## And Baby Makes ...

DeAnn McCoy and her husband, Bradley, welcomed their son, Alexander Carbon McCoy, into the world on September 18, 2009 (almost two weeks overdue). Alexander weighed 7 lb 15 ounces, and was 20¼ in long. He joins big sister, Elise, at home.

Amanda and Matthew Faher are the proud parents of identical triplet boys born on September 30, 2009. Matthew Aaron, Nathan Brady, and Michael Christopher weighed 5 lb 4 ounces, 5 lb 5 ounces, and 5 lb 1 ounce, respectively. Amanda and Matthew are both with Geary Loperfido and Faher in Vandergrift.



e-mail be sent to bar members through the Constant Contact e-newsletter.

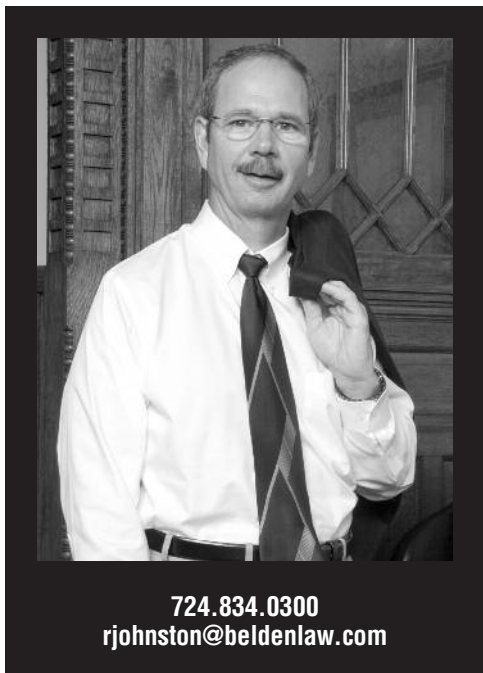
- Learned that WBA website is up and running and members have the option to register online for committees, CLEs, and other events.
- Asked Executive Director to continue to work with Chamber of Commerce for sponsorship of the fall candidates’ event and to attempt to include if possible the live broadcast on WCNS.
- Voted to support Seton Hill Center opening with a financial donation.
- Authorized Executive Director to sign contract with Seven Springs for 2010 Bench/Bar Conference to be held on same dates as this year. 🐾

## New Member Sketches

William A. Brandstetter, II, has been admitted as a participating member of the WBA. Bill graduated from Washington & Jefferson College with a degree in Political Science and Secondary Education, and earned his juris doctor degree from Duquesne University School of Law. He is a partner with Avolio Bolkovac & Brandstetter in Greensburg, and resides in Pittsburgh with his wife, Laurel, and their son, Rider.



Kevin G. Henderson has joined the WBA as a participating member. Kevin earned his undergraduate degree in Economics from the University of Pittsburgh, and his juris doctor degree from the University of Tulsa. He is a sole practitioner in Scottsdale, where he lives with his wife, Stacy, and their children, Matthew, Leah, and Cole. 🐾



### 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

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rjohnston@beldenlaw.com





# Young Lawyers Host CASA Fund-Raiser

There are some incredibly important causes out there, and the Court Appointed Special Advocates program (CASA) of Westmoreland County is one of them. The Court Appointed Special Advocates program provides training and support to volunteers who serve as a voice in court for the best interests of abused and/or neglected children through the jurisdiction of the Family Court.

To help CASA raise much-needed operational funds the Young Lawyers of the Westmoreland Bar Association hosted a Fall Event on Wednesday September 30 at The Headkeeper in Greensburg. Fifty-five guests were in attendance and the event raised \$2,200 for CASA.

“The Young Lawyers were pleased to provide awareness and financial funding to this most worthy program,” says YL Chair Anthony Bompiani. “The difference that CASA makes in the lives of underprivileged children is appreciated by our Bar Association, and the Young Lawyers

thought this was a great way to assist them.”

“I think everyone there had a great time and it was a fun way to get more recognition for CASA! I am really appreciative to the WBA for hosting this event,” explained CASA Director Mandy Welty.

The next event for CASA is their costume party scheduled for October 30 from 7 to 11 p.m. at Lakeview Lounge in Greensburg. Reservation forms can be downloaded at <http://www.co.westmoreland.pa.us/casa>.



▲ YL Chair Anthony Bompiani, CASA Director Mandy Welty, and Michael Quatrini



▲ Chris DeDiana, Jim Silvis, Mike Stewart, and Don Snyder.



▲ James P., Mary Louise, and James R. Silvis



◀ The fund-raiser at The Headkeeper was well attended by employees of the county's Children's Bureau.





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## CALENDAR OF EVENTS

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

### OCTOBER 2009

**20** Family Law Committee, Noon  
 Board Meeting, 4 p.m.

**21** A CLE Event: "Law Firm  
 Internet Marketing from  
 Web Design to Ethical  
 Considerations," Noon to 1:15  
 p.m., 1 optional ethics credit

**22** Social Security Committee  
 Startup Meeting, Noon  
 WBF Trustees Planning Session,  
 4 to 6 p.m., Community  
 Foundation Suites

### NOVEMBER 2009

**2** PBA Malpractice CLEs, 10 a.m.  
 and 1:30 p.m.

**3** Election Day

**4** Bankruptcy Committee, Noon

**10** A CLE Event: "Disabilities:  
 There's More to Know Than the

Law," Noon to 1:15 p.m., 1  
 optional substantive credit

**11** Courthouse closed in observance  
 of Veterans Day

**12** Membership Committee, Noon  
 A CLE Event: "The Legal  
 Implications of Online Social  
 Networking," Noon to 1:15 p.m.,  
 1 optional substantive credit

**17** Family Law Committee, Noon  
 Board Meeting, 4 p.m.

**18** Ned J. Nakles American Inn of  
 Court, 5 p.m.

**19** Elder Law & Orphans' Court  
 Committees, Noon  
 A CLE Event: "Federal False  
 Claims Act," Noon to 1:15 p.m.,  
 1 optional substantive credit

**26-** Courthouse closed in observance  
**27** of Thanksgiving

## LAWYERS CONCERNED FOR LAWYERS CORNER

- The 12-step recovery meeting, exclusively for lawyers and judges, is in downtown Pittsburgh every Thursday at 5:15 p.m. For the exact location, call Pennsylvania Lawyers Concerned for Lawyers at **1-800-335-2572**.
- LCL has a new website at [www.lclpa.org](http://www.lclpa.org). Attorneys and judges will find information on how LCL can help them, a member of their family or a colleague who may be in distress. It is confidential and easy to navigate. Visit it today.
- Lawyers Confidential Help Line: **1-888-999-1941**. Operates 24 hours a day.