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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION
VOLUME XXIV, NUMBER 1
FEBRUARY 2012

Nominations Announced for 2012–2013 Board, Committees



DeRose



Lazzaro



Avolio



Flickinger



Millstein



Noble

The Nominating Committee, comprised of Barbara J. Christner (Chair), Jack L. Bergstein, David S. DeRose, Timothy J. Geary, Karen L. Kiefer, Scott O. Mears, Jr., Michael V. Quatrini, James P. Silvis, Donald J. Snyder, Jr., and Rachel Yantos, met on December 6, 2011, to review applications submitted for openings on the Building Committee, Membership Committee and the Board of Directors. The committee's charge as outlined in the bylaws is to recommend to the Board the names of at least one prospective candidate for each office to be filled at the annual meeting. For the April 2, 2012, Annual Membership Meeting, the openings will be as such:

- One opening on the Board of Directors for Vice President. One-year term.
- One opening on the Membership Committee. Five-year term.

- One opening on the Building Committee. Five-year term.
- Two openings on the Board of Directors. Three-year terms.

The Nominating Committee endorsed five Board of Director candidates to run in the April 2 election. Of those five candidates, three have withdrawn their applications; two candidates remain for the two Board openings.

At the annual meeting, participating members of the WBA will vote to fill each of the openings. As stated in the WBA bylaws, nominations for any of these openings will be accepted from the floor. Currently, the committee's recommended candidates are:

- **Joseph W. Lazzaro**, Vice President
- **Scott E. Avolio**, Membership
- **Richard F. Flickinger**, Building
- **David J. Millstein**, Board of Directors
- **John M. Noble**, Board of Directors

At the conclusion of the annual meeting, **David S. DeRose** will assume the Bar presidency.

JOSEPH W. LAZZARO

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

Joseph W. Lazzaro has been nominated for the position of Vice President. He is completing his third year as a Director on the WBA board.

Joe is a member of the Municipal Law and Unauthorized Practice of Law Committees, as well as the Ned J. Nakles American Inn of Court.

A graduate of Penn State with a B.A. in Journalism, Joe earned his J.D. from the University of Pittsburgh School of Law. He is managing partner with Kratzenberg & Lazzaro in Irwin, and also serves as general

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President's Message

Why Did You Become A Lawyer?

by Michael J. Stewart, Esq.



Dan Ackerman would not have been happy. There would be no preparation time, no rehearsals, for Pupilage Group 4 of the Ned J. Nakles American Inn of

Court. My Pupilage Group partner, Bob Johnston, and I decided to scrap the reenactment of the “Turnpike Killer” case in favor of posing the question, “Why did you become a lawyer?”

to our members. To our delight, the question created its own program. Enthusiastic participation from Inns members “telling their story” made for a rewarding night, one that needs to be repeated annually.

So why did we become lawyers? **Tim Geary** was confronted by a grade-school nun who questioned him regarding his future career goals. Tim was convinced that he would need to supplement his initial response of “fighter pilot” with a profession more acceptable to the good sister. Tim produced on both counts. **Peggy Tremba** was hooked from the first day she was introduced to TV super-lawyer Perry Mason. “The Dame from Dunbar” was destined to become a lawyer and create her own law firm. Strong-willed **Barbara Christner** took a more circuitous path. Barbara was working as a paralegal when it dawned on her that she could do the work her bosses were doing but for the lack of a law degree. Continuing to work as a paralegal, Barbara earned her law degree and never skipped a beat in transitioning from paralegal to lawyer. **Dick Galloway** had no burning desire to become a lawyer. His mother worked for a lawyer and she suggested that Dick should consider law school. Not opposed to postponing full-time

employment, Dick ventured westward to Pittsburgh to attend law school, stumbled upon an internship with one of Pittsburgh’s finest trial lawyers, and discovered his life’s calling. I was influenced by my college fraternity advisor, who promised me a position with his law firm in then-Happy Valley, State College, Pa., upon the completion of law school. That was my dream—practice law in State College and live happily ever after.

Clearly, on that magical night at Inns, none of us regretted our decision to become a lawyer. Yet the evening’s topic begged the question: Would we do it again? Knowing what we know now, would we still choose to enter the legal profession?

This same issue was addressed in the most recent edition of *The Pennsylvania Lawyer*. Steven Lichtman, an Associate Professor of Political Science and Pre-Law Advisor at Shippensburg University, and Ken Gormley, Dean and Professor of Law at Duquesne University School of Law, went toe-to-toe on whether law school is a reasonable choice for new graduates.

Lichtman stated that he is compelled to steer his students away from law school. He stated that entry-level jobs that existed in the legal profession ten years ago are not there now and aren’t coming back. He further stated that studies on a national level found that there were more than two new bar-exam passers for each entry-level job opening. Lichtman was critical of the legal profession and law schools for failing to address the changing job market.

Dean Gormley was not buying any of Mr. Lichtman’s arguments. He acknowledged that these are challenging economic times. Yet tough economic eras are nothing new. Dean Gormley noted that the legal profession has survived two World Wars, a Depression, numerous recessions, and a host of national crises. Dean Gormley noted, “Yet, in the throes of these challenges, our graduates have helped run major law firms, corporations, government offices, and non-profit entities that have served as the engine of this

region and this Commonwealth. Our graduates have represented hundreds of thousands of clients, insuring that our system of justice works properly. That is a shining example

of professional success.”

Dean Gormley stated that law schools are responding to the ever-changing legal job market and are injecting more skills training in their curriculum in which a host of practical skills, including client development, law office management, and “rainmaking,” are taught by practicing attorneys during the law student’s final year of study. Both Lichtman and Gormley acknowledged that today’s law school graduate needs to develop entrepreneurial skills.

Would you still pursue a legal career? Would you encourage your children to attend law school? So many of us have offspring who have followed us into the legal profession. For some, it was a case of joining the family business. However, I firmly believe the attraction to the legal

“We share a body of knowledge unique to our profession. How we use that knowledge makes all the difference.”

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Remembering Joanne Ross Wilder

Editor's note: Joanne Ross Wilder, an associate member of the WBA and recipient of our 2010 Pro Bono Attorney of the Year award, passed away on November 14, 2011. She is survived by her husband, Bruce Wilder, and their son, Charlie; a brother, David Ross of Charlottesville, Va.; two sisters, Cynthia Ross of Plainfield, Vt., and Diana Henne of Chambersburg, Pa.; and two nieces, Jennifer Ross and Miranda Henne.

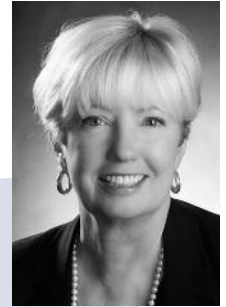
by J. Mahood, Esq.,
Wilder & Mahood, P.C.

Joanne Ross Wilder, a member of the Pennsylvania, Westmoreland, and Allegheny County Bar Associations, died after a brief illness on November 14, 2011, at the age of 68. Joanne had practiced law for over 40 years. After practicing in Maryland and Louisiana, she moved to Pennsylvania in 1972, and began practicing with Neighborhood Legal Services in Pittsburgh. Joanne served as the Managing Attorney in NLSA's Homewood office. In private practice, she served on the NLSA Board of Directors, eventually becoming its

President. Committed to pro bono legal services throughout her career, Joanne was recognized by the Westmoreland Bar Association, receiving its 2010 Pro Bono Attorney of the Year award.

Joanne was nationally recognized as a family law practitioner. She was a Fellow of the American Academy of Matrimonial Lawyers and the International Academy of Matrimonial Lawyers, a Diplomate of the American College of Family Trial Lawyers, and a former President of the Pennsylvania Chapter of the AAML. She also served as Editor-in-Chief of the *Journal of the American Academy of Matrimonial Lawyers*. Joanne was a frequent

lecturer for continuing legal education programs. She taught family law as an adjunct professor at the University of Pittsburgh School of Law for many years and served on the faculty of the Family Law Trial



▲ Joanne Ross Wilder

Institute at the South Texas College of Law in Houston. Joanne wrote extensively on topics in the areas of family law, trial advocacy, and professionalism. She was also the author of *West's Pennsylvania Family Law Practice and Procedure*, a leading treatise on family law in Pennsylvania, now in its seventh edition. Joanne was listed in every edition of *The Best Lawyers in America*.

Joanne was committed to professionalism in the practice of law. She served for many years as a member and then Chair of the Ethics Committees of both the Allegheny County and Pennsylvania Bar Associations.

Joanne is survived by her husband of 41 years, Dr. Bruce Lord Wilder, their son, Charlie, and three siblings.

Joanne will be remembered by those who practiced with her or sought her advice as someone who was always available to give counsel, help, and support. She will be remembered, loved, and missed. 🌹

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to remember someone?

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

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



**Please plan on joining us to
remember Joanne Ross Wilder
at the WBA 50th Annual
Memorial Service to be held
at the Courthouse in May 2012.**

the sidebar

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

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counsel to Keystone Municipal Collections.

SCOTT E. AVOLIO

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

Professional Background: Partner, Avolio & Brandstetter, Greensburg; J.D. from Duquesne University; B.S. in Economics from Saint Vincent College

WBA Activities: Member since 2000; Planning Committee; Bench/Bar Committee; Past Young Lawyers Committee Chair (2004–2005)

Other Professional Information: Member, National Italian American Bar Association; Vice-Chair,

Westmoreland County Republican Committee; Adjunct Professor, Saint Vincent College

Reason for Interest: I am pleased to be given the opportunity to apply for the open position on the WBA Membership Committee. I became a member of the Westmoreland Bar Association shortly after obtaining my law degree from Duquesne University in 2000, and the benefits and services provided to me then continue now. Being a member of the WBA has been both professionally and personally rewarding and I would like to stress the importance of joining this organization to all of the young/new lawyers in Westmoreland County.

RICHARD F. FLICKINGER

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

Professional Background: Sole Practitioner, Law Office of Richard F. Flickinger, Ligonier; J.D. from University of Pittsburgh; B.S. in Mechanical Engineering from Lafayette College

WBA Activities: Member since 1965; Real Estate Committee; Planning Committee; Building Committee; Elder Law Committee; Past President (1999–2000)

Other Professional Information: Solicitor, Ligonier Borough Planning Commission and numerous local charitable organizations; Former President and current Director, Valley Players of Ligonier; Former President and Trustee, Fort Ligonier Association

Reason for Interest: I made the motion that the WBA buy the building which has served as our home for 20 years, and have been active on the Building Committee ever since—first, with helping to raise funds to pay for its renovation, and then, with advising on management and various remodeling projects.

With real estate matters constituting part of my law practice, an interest in architecture, an engineering background, and hands-on experience on building a home, I enjoy serving on this committee.

President's Message

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profession goes far beyond “joining the family business.”

We share a body of knowledge unique to our profession. How we use that knowledge makes all the difference. As Dean Gormley stated, “As long as law graduates can use their talents to serve others and bring fairness to our democratic system, obtaining a law degree will always be a worthwhile endeavor for those who can devise a means to accomplish it.” Yes, we need to be creative, we need to develop entrepreneurial skills, and learn how to market our talents. But in the end, we are a service industry placed on earth to assist others.

You may ask what happened to my dream of practicing law in Happy Valley. Shortly after graduating from law school, and six weeks prior to taking the bar exam and moving to State College with my bride, we experienced a family tragedy—a family tragedy with a silver lining. My wife and I elected to stay home

in Greensburg, to raise my deceased brother and sister-in-law's four children among family and friends, while I pursued a legal career in Westmoreland County. Nearly 35 years later, all is well. My wife and I are blessed with seven loving children, and I have grown to love practicing law in my hometown. Yes, I am living the retooled dream.

As my year as President draws to an end, I am excited for my First Lieutenants, David DeRose and John Greiner. We have worked closely throughout this year. David is ready and prepared to take the reins and John is waiting in the wings. I will remain committed to the WBA knowing that there is no better place to practice law, raise a family, and get involved in the community than Westmoreland County, Pa.

Mighty proud.



LawSpeak

“Mankind censure injustice fearing that they may be the victims of it, and not because they shrink from committing it.”

— Plato, “The Republic”

DAVID J. MILLSTEIN

The Director ensures that the WBA's mission, services, policies, and programs are carried out. Two three-year terms open.

Professional Background: Partner, Millstein and Knupp, Youngwood (1995–present); Sole Practitioner (1980–1994); Partner, Millstein and Hoehler (1973–1980); Associate, Hollinshead and Mendelson (1971–1973); Staff Attorney, Federal Communications Commission (1970–1971); J.D. from Duquesne University; B.S. in Economics from the University of Pennsylvania

WBA Activities: Member since 1973; Chair, Publications Committee, and Editor, *the sidebar* (1992–present); CLE presenter (1995–present); Member, Ned J. Nakles American Inn of Court (2000–present)

Other Professional Information: Member, Allegheny County Bar Association (1971–present); Board Member, Westmoreland Symphony (1976–1982, 1996–1998); American

Civil Liberties Union (1973–present), held various offices including Treasurer, Secretary, Board Member, and, most recently, Chair, Legal Committee (2001–2011); President, Congregation Emanu-El Israel (1979–1981); Adjunct Professor, Duquesne University School of Law (1995–2000, 2002–2007); Founder and Director of Civil Rights Clinic (2000–2006); PBA Editorial Committee (1988–1994); Contributor, *The Pennsylvania Lawyer* (1977–present); PBA Judicial Evaluation Commission (2001–present)

Reason for Interest: I have always been interested and involved in various aspects of the WBA, and I've always enjoyed working with my colleagues on various WBA activities. Until quite recently, my work with the ACLU and my teaching at Duquesne consumed a great deal of my extra time. I no longer teach and I have stepped down as chair of the ACLU legal committee. Now, I have the time to do other things, and since my interest in the

WBA remains high, I want to devote more of my time to those kinds of activities, if not as a board member then in other ways.

JOHN M. NOBLE

The Director ensures that the WBA's mission, services, policies, and programs are carried out. Two three-year terms open.

Professional Background: Principal, noblemediation, LLC (2009–present); Meyer Darragh Buckler Bebenek & Eck, PLLC (1979–2009), Equity Partner (1991–2009), Management Committee/Marketing Director, Managing Partner, Greensburg office; J.D. from Duquesne University; B.A. from Washington & Jefferson College

WBA Activities: Member since 1983; Westmoreland Academy of Trial Lawyers; Past Chair, ADR Committee; Bench/Bar Committee; Mock Trials


Other Professional Information: Member, Allegheny County Bar Association (1982–present);

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G

GEORGE AND JOSEPH

ATTORNEYS AT LAW



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Daniel Joseph

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Mediator/Arbitrator/Early Neutral Evaluator, District Court of the Western District of Pennsylvania (2006–present); PBA Professional Liability Committee Malpractice Avoidance Program; Contributing author, *The Pennsylvania Lawyer* (2007–2008)

Reason for Interest: I moved to Westmoreland County in 1983 with not one client and not knowing a single lawyer. Having just passed the Bar exam, I spent most of my time at and around the courthouse and was educated by some of the most incredible lawyers and judges I have ever known. I doubt any of these many mentors ever realized just how much they taught me and how, in no small way, I continue to carry their collective personal and professional influence with me even now, nearly 30 years later.

More recently, given the evolving times (and shrinking trial lists), I changed course professionally and “reinvented” myself, developing a full-time mediation/arbitration practice, which has taken me throughout Pennsylvania working with lawyers from all over the country—sharing “one-on-one” experiences with


thousands of attorneys—while witnessing firsthand the wide variety of the many bar association “cultures” throughout Pennsylvania.

While it would certainly be a much easier path to leave the task to others, my hope now is to “give back,” primarily in grateful thanks to all of those who preceded me through the WBA. My kids are now grown and the nature of my practice provides me with the time and financial resources to devote the necessary effort to this organization since, very frankly, I would not be where I am today without the WBA. If elected, it remains my sincere hope to help this very unique bar association continue to positively evolve with the changing times—reinventing itself where necessary—and share my professional experiences with our Bar leaders toward constructing the future. 🌱

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QA

A Conversation with John N. Scales, 2011 Recipient of the Yale Medal

Westmoreland County Attorney John N. Scales was one of five individuals who were selected by the Association of Yale Alumni to receive the Yale Medal at a ceremony on November 17, 2011, in New Haven, Conn. Since its inauguration in 1952, the Medal has been presented to 282 individuals, all of whom showed “extraordinary devotion to the ideals of the University,” and demonstrated their support of Yale through extensive and exemplary service.¹

Q WHAT CHARACTERISTICS DO ALL OF THE RECIPIENTS OF THE YALE MEDAL HAVE IN COMMON?

A First of all, you have to go to New Haven to receive it! It’s awarded at a dinner during the annual meeting of the Association of Yale Alumni, which is on the weekend of the last home football game of the season. The Yale Medal doesn’t discriminate: it’s awarded to the famous, as well as the unknown. Major financial donors count among its numbers, but that’s not a prerequisite. What all of the recipients have in common is their dedication to community service, their interest in advancing Yale University, and an interest in helping alumni with job placement. I thought that many of my fellow alumni, who congratulated me on receiving this honor, were as equally deserving of the honor themselves. Hundreds have done what I’ve done.



Q SINCE GRADUATION IN 1954, HOW DID YOU CONTINUE TO BE INVOLVED AS A YALE ALUMNUS?

A I was out of school for about 20 years before getting involved in the local Pittsburgh Yale Club.² The first activity I became involved with in the local club was to interview student applicants for admission to the university. It’s an informal interview, one-on-one, and grades and SAT scores are rarely discussed. We look for more intangible personal qualities and character traits, like leadership potential and creativity. I like to ask questions like, “What was the most satisfying experience in your life?”

because the answer can reveal so much about the person.

I interview five to ten prospective students a year. As it was for me, this program is a good way to get alumni involved in other alumni activities.

Q IN WHAT WAY WAS COMMUNITY SERVICE A FACTOR IN YOUR RECEIVING THIS MEDAL?

A My involvement with the Yale Annual Day of Service is another way that I’ve contributed. One Saturday in May, all over the world, Yale alumni engage in some act of community service. In Pittsburgh, we have an arrangement with the Greater Pittsburgh Food Bank in Braddock.³ On that day, over 25 volunteers, some with their children, assist in providing over 600 people with food. And we do

² There are 180 Yale Clubs around the world, and six in Pennsylvania.

³ John’s daughter, Lisa Scales, is a lawyer and is the Deputy Director of the Greater Pittsburgh Food Bank.

the same thing on a second day each year in December.

Q WHAT HAVE YOU DONE ON AN INDIVIDUAL LEVEL?

A Several years ago, I started going to local schools, where I would meet with students who are at the top of their class, and talk to them and encourage them to go to college.

Every year, I give the “Annual Yale Book Award” to one student at Greensburg Salem High School. A school administrator will pick an exceptional student to receive the award. After finding out what the student is interested in or has a passion for, I buy the student a book on that topic and present it to him or her as an acknowledgement of the student’s scholarship.

Q WHAT IS YOUR MOST MEMORABLE ACCOMPLISHMENT FROM THE THREE-YEAR TERM YOU SERVED WITH THE ALUMNI ASSOCIATION IN NEW HAVEN?

A Yale’s founder was Elihu Yale, an English businessman who never came to the United States, but who planted the seed for the University with a gift of thirty-two books to the library. In 2001, I was serving my last year of the three-year term with the Alumni Association, and 2001 marked the 300th anniversary of the founding of Yale. As Chairman of the Club Committee, I came up with the idea of commemorating Yale’s 300th birthday with a gift of thirty-two books to each of several local school and community libraries. As I selected the books, I looked for a



▲ John N. Scales

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¹ From “Yale University Class of 1964,” *Class News*, 22 Aug. 2011; <http://alumninet.yale.edu/classes/yc1964/news/holcombe.htm>.

Q&A: John N. Scales

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Yale connection. For example, I included books by author David McCullough, a western Pennsylvanian who graduated from Yale.

Q IN THE LAST FIVE YEARS, YOU HAVE DONE QUITE A BIT OF TRAVELLING IN CONNECTION WITH YOUR SERVICE TO YALE. TELL US ABOUT THAT.

A The Yale GALE—Global Alumni Leadership Exchange—is a project that enables us to exchange ideas about what alumni around the world can do to promote and support their colleges and universities.

For two weeks each summer for the last five years, 50 to 60 of us met abroad—in places like Australia, Japan, Turkey, and China—visiting universities and participating in lectures and seminars to address current issues faced by university alumni, like the role of community service, athletics, admissions, employment, research and women's issues.

We visit foreign universities and we exchange ideas, both formally and informally. This cultural exchange is a fascinating and enriching experience, and so rewarding.

Q WHAT IS IT ABOUT YALE UNIVERSITY THAT HAS RESULTED IN THIS LIFELONG LOVE AFFAIR?

A I grew up in the small town of Trafford in western Pennsylvania. There were only 50 students in my high school class. I had not even heard the word “calculus” until I was in college. So when I arrived at Yale, I felt as though I had to work hard to catch up.

I enjoyed the experience so much. The atmosphere in New Haven was exhilarating. Other than my family, nothing has given me more joy. 🐾

Puppy Love

Letters to the Judge

Your honor, Sir,
It's my sincere hope that the holidays brought you joy and a renewed commitment to think kindly toward those who are brought before you or those who you may have previously encountered.

Jeeter, my cellmate, received a sheath of three pair of Gold Toe socks as a Christmas present from his mother, which I view as somewhat remarkable since they haven't spoken for a couple of years. But despite the silence, she won't forget her boy at Christmas.

The rift occurred a few Thanksgivings back, when Jeeter and Ernie, his mother's live-in boyfriend, were sharing a couch in front of the TV and Ernie made some disparaging and crude remark about the Eat 'n Park girl, not knowing that Jeeter held a platonic admiration for her. Jeeter thought that maybe a half-dozen stitches across Ernie's forehead would be justified in defense of her honor, and that, plus three more, was exactly what the emergency room physician put in.

Anyhow, the socks were wrapped in a page from the *Post-Gazette*, and Jeeter, notwithstanding his general ignorance, is a voracious reader. He pressed that wrapping paper flat and started in on it, and in a few moments he was chuckling, pointing with his finger, and saying, “Lookey here.”

The page was dated December 4th, and what he was poking his finger at was an article titled, “Law Schools Try to Ease Stress by Bringing in Puppies.” Allow me to quote from the opening paragraphs so your honor will get a genuine feel for the important points raised in this piece.

“The stress of looming exams at George Mason University School of Law in suburban Washington, D.C., lifted for a couple of hours last week, thanks to the arrival of 15 homeless and adoptable puppies with velvety ears, soul-searching eyes, and names like Doughboy, Sugar, and Sue.

“Especially at this time of year, law school seems to ruin your life’ said Alison Tisdale, 24, a third-year student from Texas who didn’t go home for Thanksgiving because she had to study.

Holding a squirming puppy, she said, ‘you get to be human again.’

“After the Yale Law Library added a ‘therapy dog’ named Monty to its collection in the spring, a number of other law schools have used the gentle yapping of puppies to break the stifling pressure that blankets their campuses.”

Your honor, Jeeter and I think this here concept just might have broader application. Jeeter recalls that his jurors showed not only a degree of stress, but their faces betrayed what he thought bordered on outright hostility, which might have softened if they had a puppy to pass about during the district attorney's closing.

And just think, your honor, how humanizing and stress-relieving it might be if you had a perky Lhasa Apso sitting on your lap peeking across the top of the bench. Jeeter conjured up the possibility that in such a situation, some of your two-to-fours might just slacken to eleven-and-a-half-to-twenty-threes.

However you accomplish it, your honor, I hope 2012 is a tension-free year for you.

Your Friend,
Ricky H. Benbow, Sr. 🐾



To-Wit: The First Goodbye

by S. Sponte, Esq.

She came into my office and sat down in the chair that faces my desk, same as she has done tens of thousands of times before. This time though, she carried no mail, no notepad, no files. She said nothing at first, but she didn't need to.

So many years together create significant prescience in such matters. I knew what she had to say and I had little desire to hear it.

"It's time," she finally managed to utter.

"When?" I answered back.

"Soon."

I nodded in acknowledgment but said nothing else. I mean, what else is there to say to a secretary dead set on abandoning me after thirty-five years together? "Sonofabitch" came to mind but traveled no further. Instead, we just looked at each other for a few

moments, trying to smile. Then she got up and went back to her desk.

Pat—her name is Pat—has been discussing retirement for some time now. Though the conversations always upset me, I've coped with them,

“What else is there to say to a secretary dead set on abandoning me after thirty-five years together?”

provided you regard the jamming of one's fingers into one's ears while humming "na na na na" as coping. Now stunned, I just sat there at my desk, trying to face a reality that all the foreknowledge in the world could never have prepared me for.

From the moment I first hired her, I knew how lucky I was. Smart, efficient, talented, and brutally loyal, she has always done everything with consummate professional skill and care. No one asks for a raise with greater tact than she does, and no one accepts "no" with greater aplomb.

If I had to recall just one incident which demonstrates her worth, it would be the afternoon, long before the advent of word processors, that I returned to the office after lunch and first read her tickler note reminding me that I had an appellate court brief due that very day. "What?" I screamed amiably.

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To-Wit: The First Goodbye

continued from page 9

“You ignored all the earlier reminders,” she replied unfazed, and even though my own faze had just darted off to hell in a hand basket, we wrote, printed, bound, and mailed off that brief and reproduced record before the five p.m. postmark deadline. That we were able to accomplish this Herculean feat was due mostly to her superior secretarial skills, not the least of which was her uncanny ability to set back the timestamp on the postage meter. That kind of talent is priceless—and timeless.

She manages my calendar, bills my clients, pays both my professional and personal bills, gets my coffee, takes my dogs to the vet, never complains, and has been the inspiration for more of my literary forays into the world of lawyering than anyone else. She has covered my behind more times than my mother, making me look far less soiled in the process. She knows all

of my dirty, little secrets, and trust me on this one, they are far safer with her than they are with me.

Friends like this don’t come along often. She cannot be replaced, not now, not next month, not next year, not ever, and I will miss her sorely.

And of course there’s another almost unbearable poignancy to all of this. We’ve worked together more than half our lives, and together we’ve gotten both old and wizened. I know all too well that with her departure, mine cannot be far behind.

For now, though, I must learn to wend my way through the unremitting chaos of a law practice without her. In truth, though, I am only moderately terrified. Come what may, I still have her phone number and I know where she lives. 🐾

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

**where in
the world
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MEMBER?**



Have a vacation photo and story you would like to share with your colleagues? E-mail your photo and the who-what-when-where-why to susan.zellner@westbar.org for consideration in a future issue of the sidebar.

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in Westmoreland County
Philadelphia Magazine: Top Attorneys
in Pennsylvania

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

January 2012 Civil Trial Term

Jury Trial Verdicts

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

Of twenty-nine cases listed for the January 2012 Civil Jury Trial Term, eight settled, fourteen were continued, and two non-jury trials were scheduled. There were three civil jury trials, one summary jury trial, and one non-jury verdict during the January 2012 civil trial term.

**DENISE KRISTOPAITIS AND
LARRY KRISTOPAITIS**

V.

**SHANNON MAY
NO. 4116 OF 2008**

*Cause of Action: Negligence—
Motor Vehicle Accident*

On March 22, 2007, Plaintiff Denise Kristopaitis was traveling southbound on Old State Route 119 in East Huntingdon Township, Westmoreland County. Defendant Shannon May was traveling north on Route 119 in her vehicle. As Plaintiff attempted a left-hand turn into the parking lot of Commonwealth Medical Plaza off of Route 119, her vehicle collided with Defendant's vehicle. The impact occurred in Defendant's northbound lane of travel with the front left portion of Defendant's vehicle colliding with the front right portion of Plaintiff's vehicle. As a result of injuries sustained in the accident, Plaintiff claimed damages for medical expenses, loss of enjoyment of life, disfigurement, impairment of earning capacity, and pain and suffering. Plaintiff's husband claimed loss of consortium.

Plaintiff maintained Defendant was operating her vehicle in an unsafe manner and at an excessive rate of speed. Defendant argued she was lawfully traveling in her lane of travel when Plaintiff made a left-hand turn directly in front of her, thereby causing the collision.



Plaintiffs' Counsel: Robin S. Wertkin, Ainsman Levine & Drexler, LLC, Pgh.

Defendant's Counsel: Kenneth Ficerai, Mears, Smith, Houser, & Boyle, P.C., Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of Defendant and against Plaintiff.

**GERALDINE HALL AND
ROBERT HALL, HER HUSBAND**

V.

**DAVID KENNEY, M.D., AND
SURGICAL ASSOCIATES, LTD.,
A PENNSYLVANIA
PROFESSIONAL CORPORATION
NO. 8616 OF 2007**

*Cause of Action: Negligence—
Medical Malpractice*

Plaintiffs brought this medical malpractice action, alleging that Plaintiff Geraldine Hall began seeing Defendant Dr. Kenney in July 2006 for treatment of a non-healing ulcer on her left great toe. Defendant is a vascular surgeon. Plaintiffs allege that because of Defendant's failure to treat the wound appropriately and

adequately, and by failing to perform proper procedures, Plaintiff had to have her left forefoot amputated.

Plaintiffs sought monetary damages, and reimbursement of certain medical expenses from Defendants. The Defendants denied the allegations and alleged that the doctor's care of the Plaintiff was within the required standard of care.

Plaintiffs' Counsel: Richard Levine and David Ainsman, Ainsman Levine & Drexler, LLC, Pgh.

Defendants' Counsel: Alan S. Baum and R. Kent Hornbrook, Matis Baum O'Connor, Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Defendants.

**JOHN LEONARD AND
KATHY LEONARD**

V.

**GERALD J. MOSCHETTI, T/D/B/A
MOSCHETTI INSURANCE AGENCY
NO. 8356 OF 2006**

*Cause of Action: Negligence—
Property Insurance*

This negligence action concerns Plaintiffs' request for personal property insurance coverage. At the time of the incident, Plaintiffs lived in Apollo, Westmoreland County, and operated a business called Fox Run Equine Center. Plaintiffs had previously obtained insurance from the Defendants for their business and commercial automobiles.

In January 2004, Plaintiffs requested an insurance policy and coverage for personal property. Plaintiffs allege that Defendants were negligent in failing to provide personal property insurance coverage at that time or during any previous time period. When a fire occurred in

continued on page 12

Jury Trial Verdicts *continued from page 11*

September 2004, Plaintiffs' various items of personal property, including, but not limited to, a coin collection, a gun collection, and jewelry, were destroyed with no insurance coverage in place to compensate them.

Accordingly, Plaintiffs requested monetary damages from Defendants. Defendants denied the allegations and alleged that Plaintiffs were fully aware of the extent of their insurance coverage, and were negligent in failing to properly request or obtain adequate personal property insurance.

Plaintiffs' Counsel: David A. Neely, Pgh.

Defendant's Counsel: Sheila Burke, Burns White, LLC, Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: Unanimous verdict in favor of Defendants.

CHARLES HELA AND MARTHA HELA, HIS WIFE

V.

EXCELA HEALTH, FRICK HOSPITAL, AND EXCELA HEALTH FRICK HOSPITAL, T/D/B/A FRICK HOSPITAL NO. 399 OF 2010

Cause of Action: Negligence—Medical Malpractice

In 2009, Plaintiff Charles Helá was 83 years old and had various medical conditions. His primary care physician

scheduled a colonoscopy at Frick Hospital in Mt. Pleasant on May 13, 2009. After the procedure, Plaintiff was taken to a recovery room. After being discharged, but while still in the recovery room, Plaintiff stood up and attempted to dress, but then fell over, landing on his back and left ankle.

Plaintiff alleged that as a result of the fall, he was diagnosed with a non-displaced type 2 odontoid fracture. Plaintiff alleged that Defendant was negligent and that Defendant's conduct was outside the standard of care. Plaintiffs are seeking monetary damages in order to be compensated for the injuries.

Defendants Excela Health and Frick Hospital deny the allegations and allege that their conduct was appropriate and within the standard of professional care and that there was no negligence on the part of any employee of the Defendant Hospital which caused any harm to Plaintiff.

A summary jury trial was conducted.

Plaintiffs' Counsel: Kevin R. Lomupo, Gilardi, Oliver & Lomupo, P.A., Pgh.

Defendants' Counsel: Suzanne M. Oppman, Thomson, Rhodes & Cowie, P.C., Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: Hung jury. The jury was deadlocked at 5-3. 🐼

Intellectual Property Law

Patents, Trademarks, Copyrights

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- Over 30 years of practice before the U.S. Patent and Trademark Office
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- Registered at Canadian Patent Office with over 300 patents issued
 - Registered over 300 Federal and Pennsylvania trademarks
- Obtained patents in all major countries, including European Union, Japan, China, U.K., Germany, Brazil, Mexico, etc.

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

Westmoreland Revisited

Jeremiah Murry Burrell

by *The Hon. Daniel J. Ackerman*

His likeness is frequently seen, though not recognized by present-day lawyers, in two courthouse paintings, both in courtroom number 5. One is a fresco set in a cartouche on the wall above



▲
The Hon. Daniel J. Ackerman

the jury box, the other a framed oil painting at the rear of the courtroom. And if place names are criteria for fame, one would think that Jeremiah Murry Burrell was one of the most famous individuals ever to have lived in western Pennsylvania. His name is affixed

to three townships and a city in Westmoreland, Armstrong, and Indiana counties. Yet very few know anything about this young lawyer and judge.

ALL IN THE FAMILY

Place names from his family got their start when his namesake and grandfather, Jeremiah Murry, an Irish immigrant who dropped the prefix “Mc” from his surname, thought it was a good idea to establish a grist mill and store on the bank of the Turtle Creek adjacent to the Forbes Road. A young physician, Dr. Benjamin Burrell, who had also crossed the mountains, deemed the same location a suitable place to establish a medical practice, though his decision may have been influenced by the attractiveness of Jeremiah Murry’s daughter, Sarah, whom he married in 1814.

Jeremiah Murry Burrell would first see the light of day in Murrysville on September 1 of the following year. The Burrells saw that their only child would receive a classical primary education under the tutelage of a

Reverend McGill, with whom the boy likely boarded, rather than commuting the three miles to the parsonage. The pastor was apparently proficient in instructing Jeremiah in Latin, mathematics, and the rest of his curriculum, for the lad eventually would graduate with honors from Jefferson College in Washington County.

The untimely death of his father resulted in Jeremiah and his mother establishing a new residence in Greensburg. There, Jeremiah read law in the office of Richard Coulter, a mentor who would later hold a seat on the Pennsylvania Supreme Court, and who was the uncle of another Richard Coulter, also a lawyer after being one of his uncle’s later pupils. The nephew would become a veteran of twenty-eight Civil War battlefields and a Greensburg financier. (See *the sidebar*, May-June 2006, at 15.)

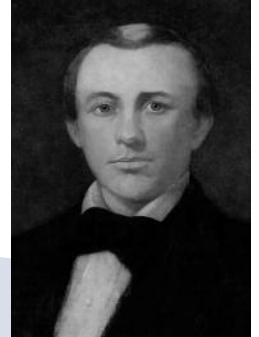
EARLY CAREER

Admitted to our bar in 1835, at age twenty, the new lawyer lost no time in building a practice and becoming a well-known stump speaker for the Democratic Party. In fact, success came so swiftly that in 1839, at age twenty-four, he purchased a newspaper, the *Pennsylvania Argus*, which he used as a vehicle for his political views, a common practice in the nineteenth century, and not uncommon today.

Five years later, he was a vociferous supporter of James Knox Polk, who would defeat the Whig candidate, Henry Clay, to become the eleventh president, and who would eventually lead the nation into a war with Mexico.

Burrell’s political efforts, however, were not spent solely on others and he succeeded, at the same time as Polk, in his own election bid for a seat in the General Assembly which he held in 1845 and 1846.

In 1847, he was appointed to a judicial seat, as president judge in the Tenth Judicial District, which then covered not only Westmoreland County, but also the area embraced by Armstrong, Cambria, and Indiana counties as well—a seat he would soon temporarily relinquish.



▲
Jeremiah Murry Burrell

CONFIRMATION BID REJECTED

The problem was that while he had been nominated for the position by Governor Francis R. Shunk (1845-48), the senate rejected his bid for confirmation. However, the governor proceeded with the appointment notwithstanding the senate’s action, and Burrell began serving on May 24, 1847.

Having second thoughts about the legality of his action, the governor vacated Burrell’s appointment and nominated in his place John C. Knox, from Tioga County. Knox was confirmed, and took the seat on May 22, 1848. But Burrell would be back. An amendment to the Pennsylvania Constitution in 1850 required the election of judges, and Burrell, not being a political unknown, mounted a successful campaign in 1851, and reclaimed the judicial post the following year.

While he undoubtedly presided over more consequential and complex matters, his presence on our bench is primarily remembered for a ruling on a petition, shortly after his election, which sought to excise a new township out of lands in Allegheny Township. Upon granting the petition, the nascent township supervisors, in a fawning

continued on page 14

Jeremiah Murry Burrell *continued from page 13*

tribute to the decision of their judge, named the new municipality Burrell Township. It, in turn, would be divided into two townships in 1879, both of which would have his name. Wisely or not, depending on your point of view, this type of judicial encomium was limited to Burrell and not repeated. (City of Caruso? Municipality of Marsili?)

GO WEST, YOUNG MAN

If Burrell's first judicial appointment was a bit of a fiasco, the second would have dire consequences. On September 13, 1855, President Franklin Pierce appointed him United States Justice of the Territorial District of Kansas.

Leaving his wife, the former Ann Elizabeth Richardson, and six children in Greensburg, he embarked on a 900-mile journey to the territorial capital, a desolate outpost at Lecompton. The decision to leave his family behind is understandable, for certainly at the time of his appointment Burrell would have been aware of the sacking of Lawrence, Kan., by pro-slavery ruffians only several months earlier. The open warfare between free-state and pro-slavery



▲ *Jeremiah Murry Burrell appears in two paintings in Courtroom No. 5: this fresco set in a cartouche on the wall above the jury box, and a framed oil painting at the rear of the courtroom (see page 13).*

sympathizers would become typified and burned into the public mind the following year by the massacre of pro-slavery settlers at Pottawatomie Creek by John Brown and his sons.

You may recall that President Pierce appointed another Westmoreland County lawyer, John White Geary, to be the Territorial Governor of Kansas, an appointment which would follow Burrell's by ten months. (See *the sidebar*, April 2010, at 13.) Neither would find success. Geary proved unable to stop the violence that gave rise to the term, "Bleeding Kansas," and Judge Burrell would lose his health.

According to the World Health Organization, in 2008, there were 247 million cases of malaria, resulting in one million deaths, mostly among children in Africa. While, for all intents and purposes, the disease is now non-existent in Europe and North America, in the 19th century it spread across the globe, putting half of the world's population at risk, with one in ten expected to die. It was this parasite which entered Burrell's blood stream while in Kansas and attacked his red cells. Too weakened to carry out his judicial duties and unimproved by the herbal remedies of the day, Judge Burrell left Kansas, shortly after his arrival, to return home. Reunited with his family, the still-young Jeremiah Murry Burrell, age 41, died in his Greensburg home on October 21, 1856, his promise and potential unrealized. His name, however, has remained. 🌿

SOURCES:

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- Litteer, Loren K., *Bleeding Kansas*, Champion Publishing, 2002.
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Actions of the Board

NOVEMBER 9, 2011

- Met with Fee Dispute Committee about Pa. Security Fund's request that the findings of each fee dispute hearing be shared with them for their use in matters that come before them. Agreed to keep policy "as is" and not share findings with this court-related agency.
- Agreed to share the decision with Pa. Security Fund's executive director.
- Agreed to pursue website advertising for 2012.
- Agreed to hire, if needed, a facilitator to help move the civics ed project forward.
- Agreed to send President Stewart, as representative of the WBA, to the Boy Scouts dinner, where Judge Driscoll would be honored.
- Learned that the Lawyers' Suite may be ready for occupancy as early as March 2012. Agreed to expend up to \$5,000 to outfit the Lawyers' Suite.
- Agreed to provide complimentary copies of the pictorial directory to courthouse staff.

DECEMBER 14, 2011

- Membership Committee report accepted as submitted: Daniel Schimizzi, Bruce Antkowiak, Robert Stone, Cori Kapusta, and Joseph Tkocs, participating.
- Heard report that Civics Ed Committee will take its time to develop lesson plans and fine-tune the project.
- Agreed to investigate the possibility of hosting the local viewing of the Holocaust film "Nuremberg: Lessons of Today," and to offer CLE credit along with free public showing of the documentary.
- Agreed to reactivate the Activities Committee to help with WBA activities. Members will be appointed to the committee.

And Baby Makes ...

Jerry and Kathleen Yanity welcomed their first child—a daughter named Nicola Adele—into the world on January 27, 2012. Nicola, born 4 weeks early, was 6 lb 13 oz. and 20 inches long. Jerry, a sole practitioner in Latrobe, says, "We like her and we are going to keep her. I have clients who fuss and whine more than she does!"



- Agreed to hold the annual judges/bar leaders meeting on January 18, at 4 p.m., with these topics of discussion: Bench/Bar Conference participation; civility training; *pro se* representation.
- Reviewed program for the winter quarterly meeting, set for Thursday, January 26, at 4 p.m., at the Greensburg Garden and Civic Center.
- Agreed to honor Judge Kelley, who is retiring from Commonwealth Court at the end of December, and to do so at the quarterly meeting.
- Young Lawyers Committee report: —YL lunch and learn with the judges held on December 8. —YL Santa party, also held on December 8, had the best turnout ever with 30 children.
- Agreed to submit a written status report on Judge Caruso's proposed Orphans' Court Monitoring Project to the judge.
- Agreed to move the Dinner Dance for 2012 to a traditional event: seated formal meal.
- Agreed to have the Activities Committee work on the Dinner Dance entertainment, food selection, and silent auction.
- Agreed to host a Westmoreland Symphony event on Saturday, February 4, with buy-one-get-one-free tickets, and to host a reception following the symphony.
- Tabled discussion on proposed marketing/ad policy until the February board meeting.

Antietam Battlefield Tour Planned

On September 17, 1862, Union and Confederate armies engaged in a battle near Sharpsburg, Md., which became known as the "bloodiest day in American history." On Saturday, **September 8, 2012**, former WBA member Ralph Conrad and current member Don Rigone will lead a tour of the **Antietam National Battlefield** for WBA members and their guests to honor those armies.

As in past battlefield tours, a block of rooms will be reserved for Friday night. Members are asked to arrive the night before so the group can board the bus and promptly leave the hotel parking lot at 8:30 a.m. on Saturday.

If there is enough interest from members, the WBA will cover the cost of the tour bus. Tour guests will be responsible for hotel charges, their own food, and a nominal fee at the Antietam National Battlefield.

See the insert in this issue for more information and plan on joining us for this historic trip. 🚗

On The Move ...

STUART J. HORNER, JR. has moved his office to 603 Florence Street, Greensburg, PA 15601, effective January 1, 2012. He can be reached by phone at 724-834-0692 or e-mail at sjhorner345@comcast.net.



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April 2, 2012

WBA/WBF Annual Meeting

June 14-15, 2012

**26th Annual Bench/Bar
Conference, Bedford
Springs Resort**

CALENDAR OF EVENTS

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

MARCH

2 Ski Outing, Seven Springs

8 Membership Committee, Noon

14 Real Estate Committee, Noon

15 Elder Law & Orphans' Court Committees, Noon

21 New Member Ceremony, 11:30 a.m., Courtroom No. 3, Westmoreland County Courthouse, followed by a Reception in the Commissioners Meeting Rooms

APRIL

2 Annual Meeting of the Westmoreland Bar Foundation and Westmoreland Bar Association

18 [CLE] Personal Injury Top 25, Noon to 2:15 p.m., 2 substantive credits available

24 [CLE] Compliance Period Seminar, 9 a.m. to 3:15 p.m., 4.5 substantive and 1 ethics credit available

Got News?

Do you have news to share with the sidebar? Making Partner? Marriage? Birth? Anniversary? Accomplishments? Send us a fax at 724.834.6855 or e-mail susan.zellner@westbar.org, and we'll publish your news in the next available issue.

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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**SAVE THE DATE!
FRIDAY,
MARCH 2**

Ski & snowboard outing 2012

**ATTENTION: ALL SKIERS AND SNOWBOARDERS
FRIDAY, MARCH 2 AT SEVEN SPRINGS
EXPERTS AND BEGINNERS WELCOME**

Have you tried the WBA Ski Outing? We would love to have you join us for this annual event. What better way to spend a Friday in March than on the slopes at Seven Springs? And lunch is on the Bar Association: complimentary beer, soda, and pizza.

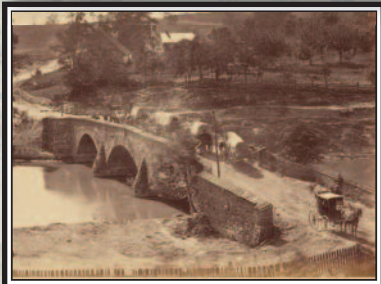
Why not mark your calendars and plan to join in the winter fun?

Discounted lift tickets (\$31) and ski (\$18) and snowboard (\$28) rentals are available. Purchase tickets at the ski ticket office at Seven Springs, but call the WBA at 724-834-6730 or **RSVP online at www.westbar.org so we can keep track of how many people are going.**

JOIN US FOR THE WBA MEMBER

ANTIETAM BATTLEFIELD TOUR

SATURDAY, SEPTEMBER 8, 2012



On September 17, 1862, on what became known as the "bloodiest day in American history," Union and Confederate armies engaged in a battle near Sharpsburg, Md. On Saturday, September 8, 2012, former WBA member Ralph Conrad and current member Don Rigone will lead a tour of the Antietam National Battlefield for WBA members and their guests to honor those armies.

As in past battlefield tours, a block of rooms will be reserved for Friday night at a hotel in either Hagerstown or Frederick, Md. Rooms will also be available for those wishing to stay over on Saturday. Touring members are asked to arrive at the hotel on Friday evening for an overnight stay so the group can board the bus and promptly leave the hotel parking lot at 8:30 a.m. on Saturday.

Hagerstown, Md., is an easy 2 1/2 hour drive from Greensburg; Frederick, Md., is about 15 minutes further east.

If there is enough interest from members, the WBA will cover the cost of the tour bus. Tour guests will be responsible for hotel charges, their own food and a nominal fee at the Antietam National Battlefield. Your tour guides, Ralph Conrad and Don Rigone, will donate their tour services and no 1099s will be issued.

To determine whether there is sufficient interest, complete and return the form below to the WBA by Friday, March 9, 2012.

Final commitments will be due June 29, 2012.

THE ITINERARY

The day-long tour will cover part of the Battle of South Mountain (September 14, 1862), and all major parts of the Antietam National Battlefield. As in the past, we will attempt to schedule a mid-day lunch break at the Bavarian Inn in nearby Shepherdstown, Md.

After completion of the tour in the afternoon, the group will return to the hotel around 5:00 p.m. For those planning to stay over Saturday night, a group dinner may be arranged.

Harpers Ferry, W.Va., is located a short distance south of Antietam National Battlefield, for a self-guided tour on Sunday, September 9.

ANTIETAM BATTLEFIELD TOUR

SATURDAY, SEPTEMBER 8, 2012

YES, I am interested in attending the Antietam Battlefield Tour.

Name _____

Number of adults _____

Mail to WBA, 129 N Pennsylvania Ave, Greensburg PA 15601-2311, fax 724.834.6855, or e-mail westbar.org@westbar.org by Friday, March 9, 2012.

A Sunday CLE at
SAINT VINCENT COLLEGE



*Expert Witnesses in Pennsylvania:
A Legal and Ethical Overview*



March 18, 2012

1 - 4 p.m.

Sis and Herman Dupre' Science Center

Presenters:

Dr. Bruce A. Antkowiak, Director, Criminology, Law, and Society Program

Dr. Matthew A. Fisher, Chair, Chemistry Department

THE PROGRAM

The Law of Expert Testimony in Pennsylvania:

1. The Classic Foundations of Expert Testimony
 - a. Why we screen expert testimony
 - b. The five classic elements of expert testimony
2. The Frontiers of Expert Testimony
 - a. New case law in Pennsylvania
 - b. To Daubert or Frye?
 - c. Particular applications:
 - i. In DUI cases
 - ii. In narcotics prosecutions
 - iii. Experts and eyewitness identification
 - iv. Other new areas

Ethics and the Expert Witness:

1. What a lawyer must know about the limits of science and the ethical perspective of the scientist
2. The National Academy of Sciences Standards

CLE Credits

2 Substantive and 1 Ethics Credit

REGISTRATION

Fee: \$75 for private practitioners

\$ 50 for Public Defenders, Assistant District Attorney, and Judicial Law Clerks

All proceeds benefit Pre-Law Students at Saint Vincent

RSVP by Phone / Email: Contact Sandra Frye @ (724)805-2670 or sandra.frye@email.stvincent.edu

Register by mail: Mail the form below to Sandra Frye, Office of Legal Counsel, Saint Vincent College 300 Fraser Purchase Road, Latrobe, PA 15650

Name: _____

Phone or Email: _____

WESTMORELAND BAR ASSOCIATION

DINE AROUND

SPRING
EDITION!

3 NIGHTS, 3 RESTAURANTS, 3 GREAT MEALS

Join other bar members and their guests for an informal evening of food and conversation. The **Dine Around** will travel to three different eateries on three different weeknights over three months. Register for the ones that interest you, or register for all three. There are openings for approximately 30 attendees with no registration costs.

Reservations are necessary and taken on a first-come, first-served basis. Register online at www.westbar.org, or call the Bar office at 724-834-6730 to reserve your Dine Around date(s).

Start time: 6:30 p.m. • Cost: On own, as ordered from menu.

TUESDAY, MARCH 20: SOLSTICE
911 GREEN STREET, GREENSBURG, PA 15601

NEW!

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

WEDNESDAY, APRIL 18: JAFFRE'S ITALIAN RESTAURANT
259 MAIN STREET, YOUNGSTOWN, PA 15696

NEW!

Jaffre's Italian Restaurant at the Tin Lizzy in Youngstown strives to serve the freshest seasonal dishes available by using local vendors and farmers to promote community growth. All menu items are house-made fresh, with no added preservatives. With a menu full of delectable appetizers, antipasti, insalata, pizza, and your favorite Italian pastas, entrées, sandwiches, and desserts, you're sure to leave Jaffre's full and content. **Find Jaffre's on Facebook.**

TUESDAY, MAY 22: THE BACK PORCH
114 SPEER STREET, BELLE VERNON, PA 15012

Located on the banks of the Monongahela River, the Back Porch Restaurant offers charm, history, and friendly service. The impressive two-story brick structure was the 1806-built home of ferry-owner Henry Speers. Diners enjoy glowing fireplaces in winter and the menu offers familiar comforts—duck Chambord, veal Oscar, chicken piccata and signature baby-back ribs. ***Join us early for cocktails, starting at 6 p.m.*** www.backporchrestaurant.com



You are cordially invited to attend the

Presentation of New Members
of the
Westmoreland Bar Association
Wednesday, March 21, 2012

The court en banc will recognize the newest members of the WBA at the annual New Members Ceremony scheduled for Wednesday, March 21, 2012, in Ceremonial Courtroom #3 at the Westmoreland County Courthouse at 11:30 a.m.

Attorneys eligible to participate in this presentation:

Kathleen A. Caruthers
Stacia A. Christman
Charles J. Grudowski
Michael T. Kornis
Adam J. Long
Ian Petrulli

Matthew A. Schandler
Daniel R. Schmizzi
Robert H. Stone Jr.
Gregory W. Swank
Allison E. Thiel
Joseph C. Tkocs

A luncheon buffet reception will be held in the Commissioners' Meeting Rooms at the conclusion of the ceremony.

RSVP by March 14th to the Bar Office 724-834-6730 or register online at www.westbar.org



Personal Injury Top 25

2 Substantive Credits

— Live —

**Wednesday,
April 18, 2012
12:00 pm - 2:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm April 17, 2012)

CLE Credit

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

WALK- IN:

CLE Credit

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

Pizza and soda will be provided.

Westmoreland Bar Association

129 North Pennsylvania Ave.

Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

www.westbar.org

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

westbar.org@westbar.org

Personal Injury Top 25

◆ The 25 things every attorney needs to know about handling a personal injury case

Speaker: Michael D. Ferguson, Esquire

Ferguson Law Associates

Two (2) SUBSTANTIVE Credits are available toward your annual CLE requirements.

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

April 18, 2012 Personal Injury Top 25

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

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

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

Card # _____

Expiration Date _____

Three digit security code on back of card _____

Pre-Registration Fees

CLE Credit:

WBA Members - \$30 per credit hour

Non-Members - \$50 per credit hour

Non-Credit:

\$10 Flat Rate

Waived for Young Lawyers (practicing 10 years or less)

Credit Card Billing Address _____

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm April 17, 2012.**



**Tuesday,
April 24, 2012
WBA Headquarters
9 am - 3:15 pm**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA
office by 12:00 pm April 23, 2012)

CLE Credit
WBA Members- \$30 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit
\$10 Flat Rate
Waived for Young Lawyers
(practicing 10 years or less)

WALK-IN:

CLE Credit
WBA Members- \$40 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit
\$20 Flat Rate
Waived for Young Lawyers
(practicing 10 years or less)

Pizza and soda will be provided.

Westmoreland Bar Association

129 North Pennsylvania Ave.
Greensburg, PA 15601
724-834-6730
Fax: 724-834-6855
www.westbar.org

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disabled, please contact the WBA Office
at 724-834-6730, or by e-mail at
westbar.org@westbar.org

Session 1 — 2 Substantive Credits

9:00 am – 11:00 am (Video from 4/18/12)

Personal Injury Top 25

- ♦ The 25 things every attorney needs to know about handling a personal injury case

Speaker: Michael D. Ferguson, Esquire
Ferguson Law Associates

Session 2 — 1.5 Substantive Credits

11:15 am – 12:45 pm (Video from 11/16/11)

Overview of “PA New Fair Share Act”

- ♦ Fundamental changes regarding Joint and Several Liability
- ♦ Practical Ramifications for attorneys

Speaker: Michael D. Ferguson, Esquire
Ferguson Law Associates

Session 3 — 1 Substantive Credit

1:00 pm – 2:00 pm (Video from 1/19/11)

New Child Custody Legislation-Effective Jan. 24, 2011

Passage of House Bill 1639, amending Titles 23 (Domestic Relations) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes relating to child custody.

Speaker: Bruce C. Tobin, Esquire
Westmoreland County Custody Hearing Officer

Session 4 — 1 Ethics Credit

2:15 pm – 3:15 pm (Video from 1/26/12)

Sex with Clients: Honor in the Profession

“Sex with Clients” is about honor in the profession. The lurid title is meant to attract lawyers’ attention to the notion that the personal interest of the lawyer can create a conflict of interest, even when the personal relationship with a client is somewhat short of sex. We will discuss the genesis and effect of Pennsylvania’s new rules of conduct concerning a lawyer’s romance with a client.

Speaker: Mark D. Yochum, Esquire
Professor of Law, Duquesne University School of Law

Four and a half (4.5) SUBSTANTIVE and One (1) ETHICS Credits are available toward your annual CLE requirements.

April 24, 2012 Video Compliance CLE

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

Sign me up for:

- Session 1 – 2 substantive credits no credits
 Session 2 – 1.5 substantive credits no credits
 Session 3 – 1 substantive credit no credits
 Session 4 – 1 ethics credit no credits

Pre-Registration Fees

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

Non-Credit:

- \$10 Flat Rate
 Waived for Young Lawyers
(practicing 10 years or less)

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

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

Card # _____

Expiration Date _____

Three digit security code on back of card _____

Credit Card Billing Address _____

To qualify for pre-registration, please return this form and your
payment to the WBA Office, 129 North Pennsylvania Avenue,
Greensburg, PA 15601, **by 12:00 pm April 23, 2012.**

Westmoreland Bar Association

Emotional Stages of a Divorce

An accredited provider for the PA Board
of Continuing Legal Education



Live — 1 Substantive Credit Available

Divorce is both a legal process as well as a psychological process. The legal process is stressful and oftentimes frustrating for the litigants. It is essential that matrimonial attorneys do not underestimate the emotional fragility of their clients and offer direction at a pivotal time in their client's life.

Speakers:

Michael J. Stewart, Esquire
Dr. Kathleen J. Stewart, Psy.D.

FREE for WBA Family Law
Committee Members not
wishing CLE credit.

Discussion will focus on ways an attorney can initiate positive change on behalf of a client:

- Recognize that an attorney is not a mental health counselor and should assist the client in obtaining professional counseling/therapy when needed
- Assure the client that the "system" will allow him or her sufficient time to "emotionally catch up" with the initiator and that in the interim, you will protect his or her economic interests
- Familiarize the client with the provisions of the PA Divorce Code
- Address necessary change in a positive manner

One (1) Substantive Credit is available toward your annual CLE requirements.

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

Emotional Stages of a Divorce

May 1, 2012

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

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

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

Card # _____

Expiration Date _____

Three digit security code on back of card _____

Credit Card Billing Address _____

Pre-Registration Fees

CLE Credit:

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

Non-Credit:

- \$10 Flat rate
- Waived for WBA Family Law Comm. members
- Waived for Young Lawyers (practicing 10 years or less)

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office,
129 North Pennsylvania Avenue, Greensburg, PA 15601, by **12 pm April 30, 2012.**

**Tuesday,
May 1, 2012
12:00 pm -1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm April 30, 2012)

CLE Credit

WBA Members- \$30 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

- FREE for members of the WBA Family Law Committee
- Waived for Young Lawyers (practicing 10 years or less)

WALK- IN:

CLE Credit

WBA Members- \$40 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

- Waived for: • Family Law Comm. members
- Young Lawyers (practicing 10 years or less)

Westmoreland Bar Association

129 North Pennsylvania Ave.
Greensburg, PA 15601
724-834-6730
Fax: 724-834-6855

www.westbar.org

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

by e-mail at westbar.org@westbar.org



Negotiating Addendum Clauses in Oil and Gas Leases

**Wednesday,
May 16, 2012**
12:00 pm - 1:15 pm
WBA Headquarters

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm May 15, 2012)

CLE Credit

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

WALK- IN:

CLE Credit

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

Lunch will be provided.

Westmoreland Bar Association

129 North Pennsylvania Ave.

Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

www.westbar.org

For refund policy information, or if special arrangements are needed for the disabled, please contact the WBA Office at

724-834-6730, or

by e-mail at westbar.org@westbar.org

Each gas company has its own base form lease and all additional negotiated terms must be contained in the Addendum which “supersedes” the base lease. This seminar will discuss the process and pitfalls of negotiating addendum clauses.

Topics of discussion:

- ❖ Gross Royalty v. Net Royalty: Post Production costs and their effect on royalties
- ❖ How to address acreage adjustment in the addendum
- ❖ Pugh clauses and how to deal with:
 - a) orphaned acreage
 - b) release of shallow formations
 - c) release of deep formations
- ❖ Explaining risk to clients (of your fees) in the event that title issues arise and upfront bonus never comes

Presenter: Lynda M. Dupre, Esquire

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

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

May 16, 2012

Negotiating Addendum Clauses in Oil and Gas Leases

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

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Card # _____

Expiration Date _____

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Credit Card Billing Address _____

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Non-Members - \$50 per credit hour

Non-Credit:

\$10 Flat Rate

Waived for Young Lawyers (practicing 10 years or less)

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm May 15, 2012.**