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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION
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JULY 2012

Diane Krivoniak Receives Award for Professional Excellence

At its annual conference held in Lancaster, Pa., the Conference of County Bar Leaders bestowed one of its highest honors on the WBA's Executive Director, Diane Krivoniak, presenting her with its Arthur J. Birdsall Award.

According to the Pennsylvania Bar Association, the Arthur J. Birdsall Award is given periodically by the Conference of County Bar Leaders to recognize a bar executive who "has been a faithful steward of bar traditions, who is committed to the success of his or her bar association, who cooperates with other bar executives and bar leaders to make CCBL the best it can be and puts him or her self second to the needs of the bar association." Arthur J. Birdsall is a former PBA County Bar Services Director who retired in 2006 after nearly 40 years of support to local bar associations.

Past President Mike Stewart's glowing letter of recommendation, nominating Diane for the award, called her "a professional in the truest sense of the word, always trying to improve her performance and the performance of the WBA." He acknowledged that awards won by the WBA at past Conferences of County Bar Leaders were due in large part to Diane's leadership and direction.

Counted among her many accomplishments over her 22½ years



▲ WBA Executive Director Diane Krivoniak (far left) was honored by the Conference of County Bar Leaders with its Arthur J. Birdsall Award. Also in attendance were, from left to right, PBA President Matt Crème, Rebecca A. Brammell, Maria E. Soohy, CCBL President Tom Casale, PBA President-Elect Thomas G. Wilkinson, John K. Greiner, David S. DeRose, and Michael J. Stewart.

as bar executive are improvements in the use of technology to facilitate communications with e-mail blasts and the WBA website; the promotion and development of CLE seminars; special events that include community participation; Bench/Bar relations; and recently, the opening of a lawyers' meeting room and Pro Bono Office in the Courthouse.

She wears several hats with warmth, grace, and a smile. Not only does she manage the extensive calendar of activities of the Bar Association as the WBA's Executive Director (quarterly and annual meetings, holiday parties, new member ceremonies, board

retreats, fund-raisers, and special events), but she was and is the organizing force behind the Bar Foundation and the Ned J. Nakles American Inn of Court, all while serving as the President of the Pennsylvania Association of Bar Executives in 2009.

David DeRose, current WBA President, who also nominated Diane for this award, remembers working with Diane on the committee that was formed to purchase the building that now houses our Association. "Diane jumped right into that effort and used her foresight to help turn perhaps

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President's Message

Pro Se? Oy Vey!

by David S. DeRose, Esq.

It seems that *pro se* litigants are converging on the courthouse in droves. While the family practice area is chiefly under assault, this phenomenon has spread into other practice areas as well.



There are, of course, intelligent and well meaning individuals who represent themselves. They do it for a variety of reasons, economics being one of them. Haven't you

heard that litigants just can't afford us? Of course, there are also those who believe they can do a much better job than any of us can do, inside or outside the courtroom!

A conversation with Bruce Tobin's office reveals that, at certain intervals, almost half of the custody cases filed are *pro se* cases. At the same time, one of our judges explained to me that he had spent the whole day with a number of *pro se* litigants in civil matters, no attorneys present. This isn't exactly what we would like to hear.

The growth of *pro se* has occasioned our Bar Association to create a task force, which includes a member of the Bench and a number of attorneys, who are studying the problem and beginning to fashion solutions. One of the ideas that is being explored is a practicum for law students from both Pitt and Duquesne, who would provide advice to these potential litigants.

The *pro se* issue should be a concern to all of us, both Bench and Bar, since it can have a crippling effect on the system. Inexperienced people have a tendency to slow the process down, making it more difficult for all of us to move our cases through the system. These individuals have no mouthpiece to afford them the opportunity to

resolve a matter with the other side before it winds up in front of a Master or a Judge. If a case has been filed, it is highly unlikely that the two litigants representing themselves are going to sit down and have any meaningful settlement negotiations without the presence of a buffer—at least one attorney for either plaintiff or defendant.

This all comes at a time when Laurel Legal Services, the indispensable group in this day and age who renders critical services to those in need, is grappling with maintaining its level of service in the face of budget cuts

and become much more difficult and time consuming, our system of justice as a whole is compromised, and at the same time, our profession suffers.

Over the years that I have been in practice, there has been an erosion of the practice areas and the things attorneys once did almost exclusively. You have all heard this before, but as young lawyers, we were actively involved in performing title searches and real estate closings, preparing contracts of sale for the family home, attending our fair share of civil and criminal magistrate proceedings, and were frequent participants in custody

“Do we provide the public with a crash course in substantive law and procedure, or do we hold those individuals representing themselves to the same standards as all of us who hold law degrees are held to each day as we litigate our cases?”

and funding shortfalls. If Laurel Legal Services has to reduce its presence in our County, this will more than likely add more fuel to the *pro se* fire.

Further, while we have a very active Pro Bono Program to help reach out to those in need, particularly in the family law and landlord/tenant areas, our Pro Bono Program could use greater support from our Bar Association members. If each of us would accept one or two *pro bono* cases per year, we could adequately serve the people who legitimately qualify for this type of help, and then some.

I view these subjects as interrelated since if we don't adequately address the *pro se* problem and don't adequately support Laurel Legal Services and our Pro Bono Program, our Judges' tasks

and support proceedings. Much of that practice has fallen by the wayside. It is now extremely difficult to keep attorneys in real estate deals.

We have Lawyers Abstract Company that helps us with this issue, but it has become an increasing problem over the course of time. We are not preparing contracts of sale and other documents as we did in the past because real estate firms with title companies and mortgage companies as part of their business, now perform these tasks.

Many more people are filing their own complaints and attending magistrate proceedings themselves. As stated earlier, the Domestic Relations wing of the courthouse is seeing more than its fair share of those individuals who are unrepresented.

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Remembering Andrew G. Uncapher, Jr.

Editor's note: Andrew G. Uncapher Jr., died Thursday, February 16, 2012. He is survived by his wife of six years, Kathleen C. Chovanes Gwinn Uncapher; son, Daniel W. Uncapher and his wife, Michelle; daughter, Leslie Uncapher Zellers; grandchildren, Zachary and Nathan Uncapher and Jordan Marie Zellers; and a stepdaughter, Elizabeth Gwinn (Jeffrey Popovic). He is also survived by two sisters, Carolyn (James) Wallace, of Newtown, and Betsy (Robert) Briggs, of Jamestown, N.Y. He was preceded in death by his first wife of 42 years, Barbara W. Uncapher.

by Leslie J. Uncapher, Esq.

As a child, a trip to visit my father at work (and by default, a visit with my grandfather as well) meant the short walk down Grant Avenue in Vandergrift from my grandparents' big old Victorian home to the unassuming door on the side of a red brick building with a little bronze sign to the left that read: "Uncapher & Uncapher, Attorneys at Law." Then came the rather intimidating, long, dark stairwell that led straight up to the second floor, with an equally intimidating long, dark hallway, at the end of which sat Helen. Helen was the secretary extraordinaire, and Dad always maintained that he learned more about the practice of law from Helen than he did in three years of law school at West Virginia University. This was rather fortunate, because his dreams of being a big-time oil and gas attorney for a West Virginia law firm came to a crashing end when my grandfather, who decided to "celebrate" Dad's passing of the bar a bit too exuberantly, slipped off a bar stool in Philadelphia and broke his hip. Being the dutiful son, Dad decided to forego the wonders of oil and gas law and come to work in my grandfather's law practice in Vandergrift.

That decision, like so many more in Dad's life, reflected his true nature. He was a gentleman. He was a gentleman in nearly every sense of the word.

gentleman

a: a man of noble or gentle birth

b: a man belonging to the landed gentry

c (1): a man who combines gentle birth or rank with chivalrous qualities (2): a man whose conduct conforms to a high standard of propriety or correct behavior

d (1): a man of independent means who does not engage in any occupation or profession for gain (2): a man who does not engage in a menial occupation or in manual labor for gain

—Webster's Dictionary

He was a man of gentle birth, whose parents did own land (the aforementioned home and office in Vandergrift). He was very proud of his ancestry, but he never boasted of it. In fact, he would downplay the rather historical significance that his Jackson forebears played in the development of the Apollo and Vandergrift areas. General Jackson's Civil War sword still hangs in my father's home, but he

would never make more of it than just being an object for interesting conversation with anyone who might have asked. It hangs

right between an old Masonic saber and my brother's dress sword from military school. Personally, I think he was more apt to brag about Dan's dress sword than the two more historic ones.

Like his father and uncle before him, and his two children after him, Dad graduated from Culver Military Academy before he went to college, but I'm not sure what ever became of his own parade sword. Culver was an Uncapher family tradition ... kind of like the practice of law, as it turns out.

Chivalrous qualities? Yes, he had them in spades. He was the one who would buy Thanksgiving and Christmas turkeys for families who could not afford a holiday meal, then set them on the front porch, ring the doorbell and, chortling a bit, run away.

He was the one who spent every Sunday visiting his "ladies," the elderly clients who were shut-ins or who lived in nursing homes, just to say hello and maybe, bring them a flower or two.

He was the lawyer who could have invented the pro bono concept, with the number of unpaid bills he forgave each and every year. For my grandfather and my father, the practice of law was a profession, not a business,

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▲ Andrew G. Uncapher, Jr., circa 1992

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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Remembering Andrew G. Uncapher, Jr.

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and Dad believed in that principle until he died on February 16, 2012.

For Dad, there was no gray area when it came to professional ethics, and so, as a true gentleman, he conducted himself according to the same high standards that he expected from others. He was consistently pleasant, even to the unpleasant, he was courteous, even to the discourteous, and he was respectful to everyone, even those who perhaps had not earned nor deserved his respect. He hated inefficiency in himself and his family, but tolerated it in others. He was a mediator before there was mediation, and always sought to find amicable solutions to disputes before wars erupted.

He loved his family, but for him, work usually came first. It took awhile for me to understand that by working such long hours and by representing his clients in the way that he did, he was showing us how much he did love us, and was setting an example for my brother and me that has stuck with us to this day. One simply did not forget about one's clients, no matter what.

It was a lesson that he taught the nurses in the labor room the day before my daughter was born, when he marched in with his briefcase in tow, presented me with four or five letters, and politely asked me to sign them so that they could be promptly mailed. It was a bit annoying at the time, but since he asked me for regular updates on his client files when he was in the hospital before he died, I guess he figured that what was right was, simply, right.

A gentleman, according to Webster, does not engage in a menial occupation or in manual labor for gain. Dad didn't quite meet that requirement, though. He worked in a horse stable when he was a lad, sold Fuller Brush products in law school, and labored on a road crew building a local highway before he started law

school. He was far from "stuffy," and he loved a good laugh, a well devised practical joke, a good party, and a good Manhattan.

He also loved what he called "putzying around" with things. If it needed doing, it got done, from plumbing to electrical, from landscaping to auto repair. "Putzying" occurred at home, at the office, and at our family vacation home in Bethany Beach, Delaware, lovingly named, "The Longueshotte." That is not to say, however, that Dad was above calling in a professional after his "putzying" was done—this happened quite frequently.

The one thing that he never could master, though, despite years of trying, was growing a proper rose bush, although I'm sure he's figured out the secret now after some heavenly conversations with my grandmother.

Dad practiced law quietly for almost fifty years. He served for nearly that long as the solicitor for the Kiski Area School District, and practiced mostly in Allegheny, Armstrong, Butler, Indiana, and Westmoreland counties.

He very rarely garnered much notice or notoriety, except maybe for that murder trial that he handled with Dick Galloway way back when, involving the missing,

still-unaccounted-for body of the victim. The client was actually convicted of third-degree murder and served his sentence. Dad still talked about that one, wondering what would ever happen if the victim ever showed up one day and the client, in a fit of rage, actually DID kill her. Double jeopardy? He was cerebral without being pompous, and usually always, with few exceptions, won every debate he started.

Dad was a pretty unassuming guy, with great humility and heart. Even his last illness and death were quietly dignified. He wanted no one to know that he had become ill, and insisted on getting his CLE credits before his April 30 compliance date. He never did have a chance to watch those videos, but it brought him comfort knowing that they were there, in the house, beside the TV, just waiting for him to get a bit stronger, which was exactly what he was determined to do.

He was not happy to be ill, and he was not particularly pleased that the cancer had snuck up on him in such a nasty and aggressive manner. But when it became clear that recovery was not to be, he handled his illness as efficiently as he had everything else. He didn't linger, he didn't drag it out, he simply decided that he would do what needed to be done. He called the funeral home, he made his final wishes known, he talked to friends, he kissed his grandchildren, he spent quiet moments with his children and his second wife, and then he went home. I'm pretty sure that my mom came to get him, exactly eight years less one day from the day that she died.

My father was a man of great faith who believed in the virtues of service and loyalty. He was a gentleman in every sense of the word. And I know that he is chuckling now, because he finally knows the answer to the mystery of where Jackie Simpson's body is. 🍷

LawSpeak

"The business of the law is to make sense of the confusion of what we call human life—to reduce it to order but at the same time to give it possibility, scope, even dignity."

— Archibald MacLeish (1892-1982), American poet, writer, and Librarian of Congress

foundation focus

Dennis N. Persin Named Pro Bono Attorney of the Year



At the annual meeting of the Westmoreland Bar Foundation held on April 2, 2012, Dennis N. Persin, a partner with Galloway Monzo in Greensburg, was named the 2012 Pro Bono Attorney of the Year. This award is given to the attorney who has provided noteworthy volunteer legal representation to indigent Westmoreland County residents.

Dennis has been a Pro Bono volunteer since the inception of the program in 1991. In 2011, he represented six clients in unemployment compensation hearings.

“Dennis’s conviction and dedication to helping the indigent are his true assets to the program,” explained Iva Munk, Pro Bono Coordinator.

In making the award presentation, President Judge Gary P. Caruso said Dennis’s service is noteworthy because of his conviction to “right some of the wrongs” of the less fortunate.

CONGRATULATIONS ON BEING NAMED PRO BONO ATTORNEY OF THE YEAR, DENNIS. WHAT DOES THE AWARD MEAN TO YOU PERSONALLY?

A I am very pleased to be honored with this Pro Bono Attorney of the Year award. It is especially meaningful to me as I take these kinds of appointments very seriously and I strive for positive results. Recognition by my peers is also very rewarding and



▲ Dennis N. Persin (left) accepts the Pro Bono Attorney of the Year Award from The Hon. Gary P. Caruso (right) at the Annual Meeting of the Westmoreland Bar Foundation held April 2, 2012, at the Greensburg Country Club.

gratifying. As Randy Jackson, from “American Idol” would say, “I am in it to win it!”

WHAT DOES THE AWARD MEAN TO YOU PROFESSIONALLY?

A My objective in performing pro bono service is to help those individuals who otherwise would not have the benefit of legal representation and also to enhance the image of the legal profession in the community at the “grass roots” level. Despite the many examples of attorneys serving the community on volunteer boards, service clubs, church and municipal boards, and youth activities, the image of the legal profession is sometimes not held in high enough esteem.

HOW DID YOU FEEL UPON LEARNING YOU WERE THE RECIPIENT?

A I was proud, humbled, and completely surprised to be named for this award. My wife knew about it for one month and kept it a secret. My children agreed that the real surprise was not that I received this award, but that their mother kept it a secret from me!

WHAT ADVICE CAN YOU GIVE TO FUTURE CANDIDATES FOR THE AWARD?

A If you love the practice of law and tend to favor the underdog in any situation, you are a prime candidate for the Pro Bono Program. The goal is not only to provide representation but to use one’s experience to achieve a successful result. Every referral client feels helpless and overwhelmed by the legal process. To provide these people with the knowledge that you are on their side and will fight for their cause results in a visible change in attitude. They are generally ecstatic and thankful for a successful result and that translates to you as the attorney as well. The reward and satisfaction are well worth the efforts involved and participation in pro bono will only enhance an otherwise busy and successful legal practice. I would encourage those who have not participated to get involved.

WHY ARE YOU INVOLVED IN THE PRO BONO PROGRAM?

A I am involved with the Pro Bono Program to enhance the image of the legal profession to the general public and for the personal satisfaction of helping those who are otherwise helpless and hopeless in dealing with a system that they do not understand. Basic knowledge of issues such as who has the burden of proof and a well placed hearsay objection can lead to a successful result. 🌟

TO VOLUNTEER YOUR TIME WITH THE PRO BONO PROGRAM, CALL IVA MUNK AT 724-837-5539.

Law Journal Advertising Rates Increase August 1

The WBA Board of Directors approved an increase in advertising rates for the Westmoreland Law Journal, effective August 1, 2012. Download a new rate card at www.westbar.org/wlj, or call 724-834-7260 to have one mailed to you. The new rates are as follows:

- Change of Name* \$100.00
- Corporate Notice* \$100.00
Articles of Incorporation, Certificate of Authority, Certificate of Organization, Dissolution, etc.
- Estate** (effective July 1, 2012) . . . \$100.00
Runs three consecutive weeks.
- Fictitious Name* \$100.00
- Trust* \$100.00
Runs three consecutive weeks.
- Other Notices \$2.50 per line, per week
- Proof of Publication \$3.00 each
- Annual Subscription \$52.00
E-mail or regular mail delivery.

* Cost includes one proof of publication. This notice must be **PREPAID**. Make check payable to: Westmoreland Law Journal.

** Through Register of Wills office when filing Petition for Letters. Cost includes one proof of publication.

Diane Krivoniak Receives Award for Professional Excellence *continued from page 1*

negative opinions into positive ones,” said David. “I knew right from the start that the selection of Diane to lead our Association into the future was the right choice. Her dedication, enthusiasm, knowledge and personality have all merged together to give us a consistent leader who has shepherded the growth of our Association, its programs, its membership and its outreach over these years.”

Members of our Association have always known what a precious commodity we have in Diane. But we can now take pride in the fact that she’s been acknowledged as among the best in Pennsylvania! Thank you, Diane. 🌟

President’s Message

Pro Se? Oy Vey!

continued from page 2

Our profession has also been attacked by people who are disguised as lawyers who purport to do estate planning work for individuals. The Internet provides individuals with a wealth of information, some of it not very accurate, concerning the preparation of wills, powers of attorney, inheritance tax issues, gifting issues and other similar matters. I am sure we have all seen these things but we need to take action to curtail the growth of these assaults on our profession.

The task force that is now in place to address the *pro se* issue, hopes to tackle the issue of how to better educate people on the necessity of having a lawyer represent their interests. At the same time, that task force hopes to implement strategies to make the *pro se* litigants’ use of this system a smoother one. But how far do we go? Do we provide the public with a crash course in substantive law and procedure, or do we hold those individuals representing themselves to the same standards as all of us who hold law degrees are held to each day as we litigate our cases? We have to strike a balance here.

How do we address the information flow through the Internet and other sources that give the public the confidence to create their own legal documents or, for example, to administer a loved one’s estate? How do we combat the advertisements that we are bombarded with over the airwaves that continue to stretch the word “professionalism” well beyond its boundaries?

Our Bar Association Board is committed to finding ways to promote our profession and market the fine legal talent we have in this County, to help the public understand the importance of having one of our attorneys represent them, and the consequences for the failure to do so. We certainly welcome your comments about the issues that I have raised in this article to help us, as a Board, fashion solutions that our Association and the Courts may implement in the coming years to better deal with these ever-increasing problems. We appreciate the efforts of many of you who volunteer your time—particularly to the Pro Bono Program and our community outreach efforts—and we applaud your efforts to promote our profession in a dignified manner. 🌟



Get Connected!

Need access to a free wireless Internet connection in Greensburg? WBA members are welcome to stop in the WBA offices and log on to our free wireless network to conduct business online.



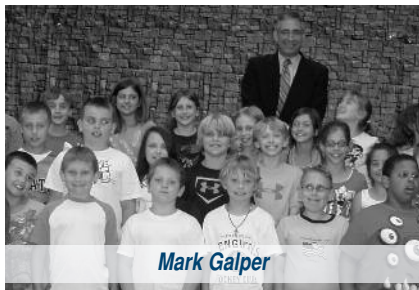
Judith Ciszek



Meagan Bilik DeFazio



The Hon. Christopher A. Feliciani



Mark Galper



Mike Garofalo



Melissa Giddy

Law Day Visits A Success

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

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

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



Kelly Tua Hammers



Kevin Henderson



Scott Henderson



Jackie Knupp



Lisa Monzo



Judi Petrush



Mark Shire



Mike Stewart

Shimborske-Abel Named Outstanding Young Lawyer

Kerri Shimborske-Abel was named Outstanding Young Lawyer at the WBA Annual Meeting held on April 2, 2012. The Outstanding Young Lawyer award is given to the young lawyer who best exemplifies outstanding leadership and distinguished service to the legal profession and the community.

Kerri has been a member of the WBA since 2006. She is the immediate Past Chair of the WBA Young Lawyers Committee, a member of the Ned J. Nakles Inns of Court, California University Alumni Association, St. Peter's Catholic Church, and the Pennsylvania and West Virginia Bar Associations.

An associate with Zimmer Kunz, Kerri is a graduate of Brownsville High, California University, and Duquesne University School of Law. She resides in Belle Vernon with her husband, Greg.

Q CONGRATULATIONS, KERRI. WHAT DOES THE AWARD MEAN TO YOU PERSONALLY AND PROFESSIONALLY?

A Personally and professionally, I am honored to have received the

Outstanding Young Lawyer Award. It is always nice to be recognized by your peers. I have a great amount of respect for the members of the Westmoreland Bar Association and really appreciate becoming a recipient of the award.

Q HOW DID YOU FEEL UPON LEARNING YOU WERE THE RECIPIENT?

A Upon learning that I was the recipient of the Outstanding Young Lawyer Award, I was excited. I was also humbled because of the accomplishments of the previous individuals who received the award. I would like to thank the members of the Bar Association for the recognition.

Q WHAT ADVICE CAN YOU GIVE TO FUTURE CANDIDATES FOR THE AWARD?

A My advice to future candidates would be to participate in the Westmoreland Bar Association's activities and committees. The Bar Association provides lawyers, especially young lawyers, with invaluable opportunities for professional



▲ Kerri Shimborske-Abel (right) accepts the Outstanding Young Lawyer Award from WBA Director Harry F. Smail, Jr., (left) at the Annual Meeting of the Westmoreland Bar Association held April 2, 2012.

development. Participation in the Bar Association also helps lawyers develop professional and personal relationships with other lawyers in the county. My practice is primarily focused on civil litigation. I have become acquainted with many lawyers who practice in other areas of the law through my participation in the Bar Association.

Fifty-Year Members Honored at Meeting

Two members of the Westmoreland Bar Association were honored at this year's Annual Meeting for attaining 50 years of membership in the WBA.

Dominic Ciarimboli and Morrison F. Lewis, Jr., received a standing ovation from the members for their contributions and dedication to the practice of law over the last 50+ years. 🌟



▲ Dominic Ciarimboli

▲ Morrison F. Lewis, Jr.

Criminal Law Named Committee of the Year

The Criminal Law Committee was chosen as Committee of the Year at the WBA Annual Meeting held on April 2, 2012. Chair Tim Andrews accepted the award on behalf of his committee members, who include: Charles Conway, Eric Dee, Michael Drag, John Egers, Jr., Michael Ferguson, James Fox, William Gallishen, The Hon. Rita D.



▲ *WBA President-Elect John K. Greiner (left) presents the Committee of the Year Award to WBA Criminal Law Committee Chair Timothy C. Andrews (right) at the Annual Meeting of the Westmoreland Bar Association held April 2, 2012.*

Hathaway, John Hauser, Daniel Joseph, Karen Kiefer, Jacquelyn Knupp, John Leonard, Jeffrey Monzo, Henry Moore, Judith Petrush, Mark Shire, Andrew Skala, and Harry Smail.

Q CONGRATULATIONS, TIM. WHAT DOES THE AWARD MEAN TO YOU, AS COMMITTEE CHAIR, PERSONALLY?

A It's a great honor to know that the committee has been recognized for this award. The work of everyone made this possible.

Q WHAT DOES THE AWARD MEAN TO YOU AND YOUR COMMITTEE PROFESSIONALLY, AS MEMBERS OF THE WBA?

A The award is a great testament to the work of everyone on the committee. It is particularly gratifying to know that the award comes from fellow members of the Westmoreland Bar Association.

Q HOW DID YOU FEEL UPON LEARNING YOUR COMMITTEE WAS THE RECIPIENT?

A Surprised, because I know the quality of the other committees.

Q WHAT ADVICE CAN YOU GIVE TO FUTURE CANDIDATES FOR THE AWARD?

A My advice would be to work on areas that you believe will best help our association. 🐾

AlterEgo: Mark Sorice, Attorney

Mark Sorice, Photographer



▲ *Mark Sorice*

You might think, mightn't you, that the art of photography and the art of lawyering are as inapposite as the poles of the Earth. After all, one art form strives to portray things as the light accurately reveals them and the other endeavors to portray things as the light best flatters them. They're not exactly the same objective.

One might then assume that to best avoid the constant bipolar turmoil of competing interests, Mother Nature would never permit the concrete-encrusted heart of a lawyer to reside together with the kind, artistic soul of the photographer within the confines of the same body. It would be like putting a Democrat and a Republican together in the same room. Ah, but you know what they say about assumptions: when you assume you make an ass out of u and of, well, you.

In support of the argument dispelling that fallacious assumption, consider Exhibit One: Mark Sorice, a colleague well known for his legal expertise but perhaps less well known for his photographic skill.

"I've been photographing seriously for about fifteen years," Mark says, "and I took it up initially in an effort to come to terms with my color blindness. That's why I've always shot in color instead of black and white.

"I first started shooting with a Minolta 35mm. I did that for about a year, and then after reading a lot of books and magazines on photography, I switched first to a

Nikon F4, also a 35mm camera, and then to a

Pentax 4x5, a film camera which provides a much larger negative and therefore a much more detailed photograph. I now shoot digitally, with a Canon 5D."

One of Mark's favorite subjects is the Westmoreland County Courthouse, always beautiful on the outside and equally as gorgeous, pictorially speaking, on the inside as well.

"Our courthouse is a wonderful Beaux-Arts structure," Mark says, "and I get permission to go in after hours to shoot. Some of my photographs were featured in the courthouse's 100th anniversary album in 2007. One of the reasons I repeatedly photograph it is to show how beautiful it is. I just love having the chance to do that.

"The world around us," Mark observes, "is a world of details, and that's what I try to show in my photographs." Given that the world of law is also a world of details, perhaps the differences between a good lawyer and a good photographer aren't that great after all, and perhaps that explains why Mark has been able to excel at both.

Mark's work is on display in the courthouse and has been exhibited in the Ligonier Library Photography Show where he recently garnered an Honorable Mention. 🐾

See the enclosed insert for a mini portfolio of Mark's photography.

Candid Camera: 2012 Annual Meeting



▲
Y.O.M.G.



▲
Dan and friends.



▲
"Just as I thought. You haven't washed those hands since your last pleading, right?"



▲
"You know, now that I'm not a judge anymore I think maybe I'll try my hand at lawyering."



▲
Though smiling on the outside, Jim inadvertently discloses his true feelings about Lou's most recent Hair Club for Men excursion.



▲
Probably because he was feeling a tad under the weather, Les spent his entire evening staring at women's faces.

USI Affinity is proud to be the insurance broker for the Westmoreland Bar Association.



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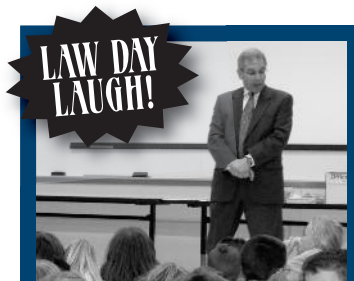
▲
"Baruch Ata Adonai ..."



▲
"And if elected ..."



▲
Even Harry could not refrain from laughing about it.



▲
"No, little girl, that was my brother. Now put the gun down."

May 2012 Civil Trial Term

Jury Trial Verdicts

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

Of twenty-two cases listed for the May 2012 Civil Jury Trial Term, five settled, twelve were continued, one was discontinued, one non-jury trial was scheduled, one non-jury trial was held, and two jury trials were held. There were two jury verdicts during the May 2012 civil trial term.

ANDREA M. KROPP
V.
MURAT BANKACI, M.D.
NO. 9500 OF 2009

*Cause of Action: Medical Malpractice—
Negligence*

In December 2007, Plaintiff was referred to Defendant because of sinus problems associated with a deviated nasal septum. On February 28, 2008, Defendant performed surgery at Frick Hospital in Mount Pleasant to repair Plaintiff's deviated septum.

Plaintiff alleges that the surgery caused a nasal collapse and a saddle nose deformity. Plaintiff subsequently consulted with a plastic surgeon who performed a follow-up corrective surgery on June 25, 2008. Following this surgery, Plaintiff alleged to continue having difficulties. Defendant contends that the original surgery that he performed on February 28, 2008, was done within the required medical standard of care and that proper surgical treatment of septal deviation does not always improve the nasal airway.

Plaintiff sought monetary damages, and reimbursement of certain medical expenses from Defendant.

Plaintiff's Counsel: Anthony DeBernardo, Gbg.

Defendant's Counsel: Eric Reif, Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Defendant.



SAMANTHA PARISH
V.
RODNEY G. LEMLEY,
INDIVIDUALLY AND T/D/B/A
LEMLEY REMODELING
NO. 4769 OF 2010

Cause of Action: Breach of Contract

On July 9, 2008, Plaintiff entered into an agreement with Defendant, Rodney G. Lemley, in which Defendant agreed to construct an addition on Plaintiff's home. Defendant constructed the addition with some modifications that were requested by Plaintiff. These modifications became necessary due to the structure and other building parameters.

Plaintiff was dissatisfied with the work and filed suit approximately two years after the addition was completed, seeking damages resulting from Defendant's alleged breach of the construction contract. Specifically, Plaintiff alleged Defendant failed to complete the construction in a workmanlike fashion and failed to comply with industry standards and building codes.

Defendant argued that he performed the work on the addition

in a workmanlike fashion and that when the construction was completed, the addition had no material deficiencies of a nature that would prevent its intended use. Defendant argued that Plaintiff had demanded that he employ numerous cost-saving measures, which she later complained rendered the construction defective. Furthermore, Defendant argued that the delay in filing suit prevented Defendant from adequately determining whether any of the problems were created by other factors beyond the control of the Defendant.

Plaintiff's Counsel: Maria Spina Altobelli, Mears, Smith, Houser & Boyle, P.C., Gbg.

Defendant's Counsel: Timothy C. Andrews, Gbg.

Trial Judge: The Hon. Gary P. Caruso, President Judge

Result: Verdict in favor of Defendant. Plaintiff has filed a Motion for Post-Trial Relief. 🐾

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Letters to the Judge

Your honor, Sir,
Well, it looks like my cellmate, Jeeter's, retrial will be coming up in a term or two as his court-appointed lawyer is running short on reasons for a continuance, except for those which might bring down upon him both judicial ridicule and wrath. But Jeeter's in good spirits, claiming that he has a high-tech option which he intends to play which will soften his persona in the eyes of the jury, with even the possibility of a more favorable verdict. The trick, he says, is social media. Now understand, Jeeter is not a very high-tech type of guy, as is evident from the fact that he is intimidated by elevator control panels and usually opts for the stairwell.

However, Darla Jean, his fiancée of two decades, is now a social-media type, who has honed her skills while waiting for his release. Her middle daughter, Dixie, taught her to type with her thumbs and got her to open a Twitter account so her mother might be eligible for reentry into the human race. The two came up with the idea of how to use this tweeting business in connection with Jeeter's upcoming trial when Dixie read an article in the paper, "Jurors' Tweets Upend Trials." It seems that social-media types just can't go an hour without

some sort of electronic communication lest they break out with a rash. So, the article said, when these people find their way into a jury box, it doesn't matter what your honor might say about leaving well enough alone and not looking stuff up on the Internet or talking to people about the case, they can't help themselves; they just have to start communicating about the trial as soon as they get home, and some don't even wait until they're out of the jury room.

They told Jeeter that they were going to start tweeting a list of Jeeter's more admirable qualities and his partiality for innocence. And they hoped that their first such tweet would be seen by Dixie's yoga instructor, who let it slip that she had received in the mail a summons for jury duty. Dixie claims that this message will be all over the county in a matter of hours. Further, Darla Jean has opened a Facebook account for Jeeter, with a picture of him in a clean polo shirt, and relating flattering information, so that during the trial jurors can friend him, and find out all the good things which have a tendency not to be talked about in the courtroom.

The article, your honor, noted that a murder conviction in Arkansas was overturned because of a juror tweeting during the trial. And while it is extremely hard to detect, a survey of thirty federal judges indicated that, when detected, these judges granted four mistrials, fined one juror, held one in contempt, cautioned eight, removed nine from the jury and addressed seven by other means.

Jeeter says this is just another way to stifle speech, but how would he like it if the prosecutor had a Facebook page? Now that would really be scary.

Your friend,
Ricky H. Benbow, Sr. 🐦



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Please join your colleagues of the Westmoreland Bar Association as we celebrate the opening of the Lawyers' Meeting Room, Suite 411, Courthouse Annex, on Tuesday, July 17, from 4–5:30 pm with a wine and cheese reception. Look for instructions for member entrance to the meeting room and other pertinent information via e-mail before the July 17 opening.

To-Wit: Hello Dali

by S. Sponte, Esq.

After 42 years of practicing law, I can honestly say that the only thing I dislike about it is anything done by opposing counsel. And of the myriad obstreperous things opposing counsel do to disquiet my ire, none rankles me more than when they file preliminary objections to my complaints.

I used to look forward to arguing preliminary objections the way a hawk looks forward to a bunny. It was a chance to soar and pounce. The legal research, the writing, the oral arguments, those are the *sine qua non* of lawyering, the essence of it, as pure as the driven car into another car.

These days though, it seems that defense counsel file preliminary objections to every complaint as a matter of course. It's no longer about properly framing or limiting the issues

of litigation so much as it is about giving associates something to do. As a result, many preliminary objections that get filed are completely without merit, and that makes the game a whole lot less fun.

“That justice is slowed as equally by the inane as it is by the vital is something I’ve never liked, and over the years my intolerance for it has only gotten worse.”

Recently I was obliged to appear in argument court to oppose such preliminary objections. I wouldn't say they were completely worthless because there was probably some

billing time for defense counsel involved. Let's just say that these preliminary objections had less foundation than a mobile home.

On my drive to the courthouse, I couldn't help but conjure up the fantasy of a bevy of this defense firm's young associates all standing around some beleaguered secretary, simultaneously dictating various and sundry preliminary objection paragraphs right out of a form book, regardless of whether they were applicable to the case at hand.

“Oh, I know, I know, let's move to strike for impertinence,” a junior associate enthusiastically proffers while pointing to a paragraph in the book, whereupon they all hoot with glee,

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To-Wit: Hello Dali *continued from page 13*

and once their collective time clock hits \$2,000 for the morning's work, they all go out to Starbucks for Danish and coffee.

One thing is for sure no fantasy. Now that my case had been ensnared by the gooey web of civil procedure, what with the briefing and the arguing and the waiting for the court's decision, it would be stuck there for months while my client awaited justice and I my contingent fee. That justice is slowed as equally by the inane as it is by the vital is something I've never liked, and over the years my intolerance for it has only gotten worse.

It was something of a palliative that my case was listed first for argument that day. Before opposing counsel could utter so much as a single disingenuous word, Judge looked directly at him and said, "Is there anything more you could tell me that isn't in your brief?"

When he conceded there wasn't, Judge said, "Then I see no reason

to even have an argument. Your preliminary objections were pretty lame and I've already drafted an order dismissing them."

Huh? No oral argument, no waiting for a decision, no delay of the case at all? For a moment I just stood there, unable to fully comprehend an event rendered so surreal by its immediacy.

"I'm sorry, what did you say?" I mumbled.

"I said I've dismissed the preliminary objections," Judge replied.

"I'm sorry, what?" I babbled again, clearly in some sort of quasi-aphasic shock.

Who knows how long I might have stood there muttering in stupefaction had not a colleague stepped up to the bench, taken me gently by the elbow and guided me slowly and carefully back to the rear of the courtroom.

"There, there," he said reassuringly, "there, there."

Oh, this is such a cruel profession.

What were the Gods of the Law thinking when they served me up this firestorm of the surreal? How can I ever again be expected to cope with the abject sluggishness of the law now that I have known such blessed celerity?

If experience is any kind of predictor though, I'm not going to see a repeat performance for another 42 years. With my zeal now unwarrantedly enflamed by this brutal mirage of Providence, I am fated for four more decades of disappointment and frustration. It could have been worse, I guess. It could have been perpetual.

But to paraphrase the Bhagavad Gita, I am become Sisyphus, doomed to spend the remainder of my career struggling to accomplish the impossible with impossibly large rocks. I'm afraid it may be true what they say. Dali will never go away again. 🐞

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Formerly Assistant Professor at Villanova University
Formerly Doctoral Candidate in Mathematics at Bryn Mawr College

Westmoreland Revisited

The Killing of Obadiah Haymaker, Part I

by The Hon. Daniel J. Ackerman

His wounds were multiple and grievous. A wide plank served as a stretcher, and it was cumbersome and awkward for the men who tried to carry him quickly over the sodden ground, but not so fast as to risk a fall from the board. They had succeeded in bearing him for a mile, and then they ascended the five steps to the porch of his white frame Victorian residence and managed to pass through the front door. But there, in the front hall, he died. He was 34 years old.



▲
The Hon. Daniel J. Ackerman

We can well relate to the setting. The country and the world were anxiously hoping that the economic downturn, sometimes called “The Long Depression” or the “Panic of 1873,” was nearing an end. New technologies were emerging to harness energy from the depths of the earth. Out-of-state entrepreneurs speculated in western Pennsylvania resources, and in the northwest corner of the state boom towns appeared. For those who paid attention and had the courage to act, it was possible that a great deal of money might be made.

THE WELL

For Obadiah Haymaker and his older brother, Michael, the odyssey began with something as simple as maple syrup. The brothers, recently returned from Clarion County, observed a neighbor, Josh Cooper, boiling maple sugar near the bank of the Turtle Creek and were intrigued by the source of the flame beneath the kettle. It was gas emerging from the ground. These emissions were found all along the creek, and the brothers, who had been roustabouts in the oil fields of the northern counties, had learned enough to opine, at least between themselves, that the presence of gas could be a portent of oil.

A lease of the mineral rights on the Franklin Township farm of Henry Remaley was the Haymakers’ first investment in a search for oil. The twenty-acre lease was for a term of twenty years with Remaley receiving the right to a one-tenth royalty and retaining the right to “tillage and agriculture.”

When it was signed on October 20, 1877, no one could have foreseen that it was the beginning of a natural gas industry. The use of gas as a fuel and for illumination existed at the time, but it was “manufactured gas” made

from coal. Natural gas coming from the ground was uncontrollable and was considered worthless, a nuisance, by drillers in the nascent oil industry.

The lease was a start, but no lawyer-drafted document ever drew oil out of the ground. Strapped for cash, the brothers scraped up enough money for the purchase of some used equipment. “It was,” Michael Haymaker would later say, “the worst drilling outfit I had ever seen.” Nor was it efficient. Early on, they encountered a hard formation known in the industry as Big Injun sand, which at this site proved to be 400-feet thick. It took them a full year to drill an eight-inch hole through it.

However discouraged they may have been by their tedious pace, their spirits must have been lifted by the emergence of something they heretofore lacked, a financial backer. Hilary Jacob Brunot of Greensburg paid them \$500 for a one-eighth interest in the well. So the drilling continued. And then,

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The Killing of Obadiah Haymaker, Part I

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what they had labored for happened on November 3, 1878. “I’ll never forget the day the well came in,” Michael Haymaker would reminisce at age ninety.

“We were down 1,400 feet. Without the slightest warning, there was a terrific roar and rumble that was heard fifteen miles away. Every piece of rigging went sky high, whirling around like so much paper caught in a gust of wind.” But there was not a drop of oil. What was escaping, with a near deafening sound which would rattle local

windows for months, was natural gas, coming forth and going into the

atmosphere at a rate of more than 30 million cubic feet a day.

No one had ever seen anything like it; and equally, no one had any idea what to do about it. The local popularity of the Haymakers must have plummeted as residents of the village of Murrysville pondered the value of their homes, and whether it remained safe to live there. There in their midst was this giant, noisy curiosity, which had taken over the neighborhood. Fortunately, there would have been no odor accompanying the escaping gas, for natural gas is odorless. Odor would be introduced years later in the commercial production of natural gas by the addition of chemicals to aid in the detection of leaks.

Undeterred by the absence of oil, the brothers accepted the hand

dealt them and, with Brunot, took advantage of the escaping gas by building a plant near the well to manufacture lampblack, a fine soot obtained from partially burnt carbon substances often used, among other things, in printers’ ink. Still, the roaring discharge was disruptive and it went on for nearly three years. For the residents, it could hardly have been any worse.

THE PLACE WHERE THERE WAS NO NIGHT

But it did get worse. On September 18, 1881, a group of nocturnal sightseers with lanterns ventured too close, and, in a blinding flash, the escaping gas was ignited, shooting a giant ball of flame 300 feet in the air, so high and so bright it was visible in Pittsburgh. Those present, including Michael Haymaker, were knocked to the ground by the explosion, but remarkably there were no deaths or serious injuries; however, the lampblack works were destroyed by fire.

The flame at the well leveled to about 100 feet in height and would burn continuously for 18 months. Murrysville became famous as a place “where there was no night.” Tourists came in earnest to view what was said to be “one of the greatest wonders of the day.” Among them were President and Mrs. Grover Cleveland, with the president calling it “an uncanny picture, a superb spectacle.” A widely noted curiosity at the well was the presence of countless dead birds that ringed the well, having perished by flying near the flame.

The energetic and persistent Haymakers were not content to allow their hard labor to rest with only a public spectacle and an avian abattoir to show for their efforts, so they undertook to cap the well. The methodology was, at best, primitive. They acquired an old



where in the world IS THE WBA MEMBER?



“Joyce Novotny-Prettiman and I were in Las Vegas in March 2012 for the NASCAR race. Joyce and her family have gone out for a number of years for the race—this was my first NASCAR experience—it was a great time!”

—Jessica Rafferty



LAS VEGAS, NEVADA

45-foot-long smokestack with which they intended to plug the blazing fountain. Guy wires were attached to the stack extending in every direction, held taut by a large labor gang moving toward the wellhead. Workers drenched themselves in the creek in an attempt to ward off the heat as they got the smokestack near the hole, and, with the leverage of the guy wires, pulled the stack upright.

To their astonishment, the fire went out. Or did it? During the operation, an oak tree nearly 300 feet away caught fire. Gas seeping through the ground reached the tree and ignited, burning back to the wellhead. In his written recounting of the event, Michael Haymaker tells us, "The smokestack snuffer came off and the fire was under way again. But we found a way to extinguish it and soon had the stack back over the hole once more." Unfortunately, he omits any details as to how the fire was ultimately put out.

THE CHICAGO CAPITALIST

As may be inferred from the preceding paragraphs, the Haymakers fairly exhausted themselves on this project, and had little, if anything, to show for their efforts. Perhaps it was high time to find a buyer for their lease on the now-famous well.

Writing some fifty years later about marketing the lease, Michael Haymaker recalled, "Among the many men Mr. Brunot, my brother Obe and I saw in those years was Andrew Carnegie and he turned us down. Later, he told me it was one of the biggest mistakes of his life." Most likely, this was not wishful name-dropping by an old man.

While Carnegie is remembered as a steel baron and philanthropist, as a young man still employed as the Superintendent of the Pittsburgh Division of the Pennsylvania Railroad, he and a friend, William Coleman, formed the Columbia Oil Company to drill for oil along Oil Creek. By 1863, the company was paying dividends of 160 percent, and

Carnegie's annual profit from the venture was in excess of \$21,500, or \$3.8 million in today's economy.

In 1865, at the age of 28, Carnegie retired from the railroad, "having struck oil in large quantities." With that background, it is reasonable to understand why Brunot and the Haymakers would consider him as a prospect. But by the 1880s, Carnegie recognized that Rockefeller had "colonized the oil business" in the region, and had come to believe that drilling was too speculative.

If Andrew Carnegie had regrets, what about the Haymakers and H. J. Brunot, whose lives would have taken a much different course had they dealt with Carnegie? Instead, in 1882, they were introduced to a Chicago businessman by the name of Milton Weston. Later, after events soon to be related, the New York Times and papers across the country would link Mr. Weston's name to the adjectives "capitalist" and "millionaire"—nineteenth century, but not fully

continued on page 18

G

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Daniel Joseph

The Killing of Obadiah Haymaker, Part I

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outdated buzzwords to excite readers.

At various times, Milton Weston undoubtedly qualified as both a capitalist and a millionaire.

But in an era when fortunes were both quickly made and easily lost, his financial position, as well as his personal life, were often in a state of flux.

Initially, he conducted business in Philadelphia, though he and his wife and children lived across the river in Camden, N.J. In 1879, after divorcing his wife, he

went into the wine bitters business with Colonel Erastus H. Crittendon, manufacturing and selling an alcoholic compound known as “Crittendon’s Bitters.” “After some unsuccessful schemes in the East,” a Philadelphia resident would later comment, “he drifted to Chicago, where he married again and where he now lives in palatial style. How he ever came to be known as a millionaire is a mystery to his former friends in this city.”

It was a long train ride that brought Mr. Weston from Chicago in 1882. Before he returned, he had struck a deal to purchase the lease for \$20,000, somewhat more than \$3 million in today’s currency. Of course, he did not have that kind of money with him; but he would be back in ten days for the closing. Within the ten days Weston sent his agent, who informed the Haymakers and Brunot that at this particular time, the full amount was unavailable, but that Mr. Weston was offering hand money of \$1,000, which the agent could pay immediately, to be followed by two payments: \$3,000 in thirty days and \$16,000 in sixty days. The Haymakers and Brunot took the \$1,000, but the subsequent payments never materialized.

A year later, on a train from Buffalo, N.Y., Brunot took a seat next to a distinguished-looking gentleman who introduced himself as Joseph Newton Pew. In the course of their conversation, Brunot told him of the events concerning the well. Pew, who would become one of the founders of The Peoples Natural Gas Company, followed up with a visit to Murrysville. Now with Pew showing interest and eventually extending an offer on behalf of himself and his partner, Edward O. Emerson, the Haymakers and Brunot sought legal counsel who advised them that they were free to deal with Pew if they chose, because Weston had not lived up to the terms of their agreement.

Not wanting to leave any stone unturned, Brunot headed for Chicago to tender a deed and demand payment from Weston of the amount due. And should that not work, he had a cashier’s check for \$1,000 that would be used to return Weston’s initial payment.

Milton Weston, however, was somehow alerted to Brunot’s purpose and was determined not to give him an audience. “Mr. Weston is away,” Brunot would be advised. Doggedly, Brunot hired a detective to watch Weston’s office, and after a ten-day wait, Brunot received word that Mr. Weston was back. The confrontation took place and Weston tried to put Brunot off, saying he thought the money had been paid, and that he had subsequently sold his interests to another. Brunot would have none of it. Weston also refused the tender of the cashier’s check, but after leaving Weston’s office, and before returning home, Brunot deposited the check in Weston’s account at a Chicago bank. 🐾

Stay tuned! Part II of “The Killing of Obadiah Haymaker” will appear in the August 2012 issue of the sidebar.

BRIEFLY SPEAKING



Shirley Makuta received the Papal Cross Pro Ecclesia et Pontifice at a prayer service led by Bishop Lawrence E. Brandt at Blessed Sacrament Cathedral in Greensburg on April 29, 2012. Bishop Brandt recommended Shirley to Pope Benedict XVI for the papal honors for her “long, faithful and exemplary service to the church.” The Papal Cross Pro Ecclesia et Pontifice (For the Church and the Pope) is given for distinguished service to the church by clergy and laypeople.



David J. Millstein was honored with a resolution by the Greater Pittsburgh Chapter of the American Civil Liberties Union of Pennsylvania at its annual meeting on March 18, 2012, for his decade tenure as Chair of its Legal Committee and “his proud lifetime support of the Constitutional principles of freedom, fairness, justice, and equality.”



David S. Pollock was named to the 2012 Pennsylvania Super Lawyers—an honor bestowed on just five percent of the state’s attorneys. David is also listed as one the 2012 Top 50 Pittsburgh Pennsylvania Super Lawyers. This is his ninth year being named to Pennsylvania Super Lawyers as well as the Top 50 Pittsburgh Area Lawyers.

FAST FACT

According to the Pa. Board of Law Examiners, of the 664 applicants who took the bar examination in February 2012, 396 passed (the overall pass rate 60%).

If you work at the Westmoreland County Courthouse, you probably know **JOYCE MURMAN**.

Joyce distributes and handles the interoffice, ingoing, and outgoing mail for the numerous departments of the courthouse. Her office is located below the first floor of the courthouse, across from the cafeteria, in an area that lends itself to anonymity. Joyce, however, is far from anonymous.

On the day of our interview, we met in the courthouse cafeteria. Everyone within our sight seemed to recognize and know Joyce, and Joyce seemed to have more than a passing knowledge of each person whom she greeted, asking, for example about one employee's relative's recovery from a recent car accident, or remarking about another employee's child's career change. Under normal circumstances, this would be surprising in light of the fact that the courthouse mail room occasions only a few minutes of human contact each day. Spending a few minutes with Joyce, however, it was easy to see how she could be both

who's who@ THE COURTHOUSE

BY AMY DEMATT, ESQ.

introverted and gregarious at the same time; she simply guides each conversation in such a way as to politely avoid talking about herself and instead doggedly redirects the conversation to the would-be listener.

Thus, the few factual details to be gathered about Joyce were that she grew up in New Kensington, but now lives in Greensburg; she has worked at the Elections Bureau; she married late in life to a husband, now retired, whom she describes as quiet. She has no children, but has nieces and nephews with whom she is close.

She was clearly reticent to talk in any detail about herself, but in turning the conversation towards common interests, I was able to learn a little bit about Joyce. She is curious. She is an avid reader, the preferred genre being biographies. In particular, she

recommends the biography of Bishop Sheen, for its description of how the Bishop got his ideas for his speeches on religion. She has read biographies of the presidents and their wives. Presently, she is reading only Newsweek, Time, and Forbes.

She is also interested in art. Joyce mentioned that she went to a museum once and became so engrossed in a particular work of art that she moved closer and closer to it, in fact touching it just before ten guards raced over to her to admonish her not to touch. She laughed at this, and admitted to me that she loves laughing, before asking, for at least the third time during our interview, whether it was really necessary to have the interview, whether it was really necessary to publish it, and insisting we really didn't need a photo of her.

I can't remark on the necessity, but I can only note that for me, the interview was a delight, and that I, like many others in the courthouse, will look forward to making a trip to the mail room, just to say hello. 🐾

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CALENDAR OF EVENTS

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

JULY

- 17** Family Law Committee, Noon
 [CLE] Handling a Criminal Case Beginning to End, Noon to 2:15 p.m.
 Lawyers' Meeting Room Grand Opening, Westmoreland County Courthouse, 4 to 5:30 p.m.
- 18** [CLE] The Science Behind DUI and Field Sobriety Testing, Noon to 2:45 p.m.
- 19** Elder Law & Orphans' Court Committees, Noon

- 24** [CLE] Forensic DNA Pathology, 9:30 to 11:30 a.m.

AUGUST

- 1** Westmoreland Law Journal advertising rates increase
- 8** [CLE] Adoption, Noon to 1:15 p.m.
- 21** [CLE] Bridge the Gap, 9 a.m. to 1:15 p.m.
- 28** [CLE] Video Compliance Seminar, 9 a.m. to 4:30 p.m.

Can't wait to read the sidebar? We can e-mail it to you.

Be among the first to receive new issues of the sidebar when you sign up for e-mail delivery. Send an e-mail to susan.zellner@westbar.org and ask to subscribe to the e-sidebar. When a new issue is published, you will receive a PDF via e-mail immediately.

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.

AlterEgo: Mark Sorice, Attorney

Mark Sorice, Photographer



SEE PAGE 9 OF THE JULY 2012 ISSUE OF THE SIDEBAR TO LEARN ABOUT MARK SORICE'S ALTEREGO.



Act 101 Adoption Law

1 Substantive Credit

— Live —

**Wednesday,
August 8, 2012
12:00 pm - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm August 7, 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 email at

westbar.org@westbar.org

This CLE is presented in partnership with the St. Thomas More Society.

Act 101 of 2010, which became effective 4/25/2011, made significant changes to the Adoption Act by providing for enforceable “open adoptions” through post-adoption contact agreements (“PACAs”). PACAs apply to all types of adoptions – step parent, relatives, private, as well as both public and private agency adoptions – and provide for mandated notice provisions. This program will discuss the “ins and outs” of these amendments and the impact on your legal practice.

Speaker: Deborah L. Lesko, Esquire

Topics include:

- What is a PACA?
- Who can be parties to the PACA?
- What are the notice requirements?
- Requirements to be legally enforceable?
- What is the legal effect of a PACA?
- Ethical & Practical issues of PACAs

Moderated by attorney Shirley A. Makuta, president of the Diocese of Greensburg St. Thomas More Society.

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.

August 8, 2012 Act 101 Adoption Law

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

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

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

Card # _____

Expiration Date _____

Three digit security code on back of card _____

Pre-Registration Fees

CLE Credit:

WBA Members - \$30 per credit hour

Non-Members - \$50 per credit hour

Non-Credit:

\$10 Flat Rate

Waived for Young Lawyers (practicing 10 years or less)

Credit Card Billing Address _____

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm August 7, 2012.**



Bridge the Gap — Video 4 Ethics Credits Available

**Tuesday,
August 21, 2012
9:00 am - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA
office by 12 pm August 20, 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

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Greensburg, PA 15601
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Fax: 724-834-6855

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

As a courtesy of the Westmoreland Bar Association, this seminar is being offered **FREE** to **newly admitted attorneys** who are required to complete the Bridge the Gap program by their first CLE compliance deadline.

The program also serves as a great refresher for any attorney admitted to practice in Pennsylvania.

PROGRAM FORMAT

This four hour program produced by the PA CLE Board consists of the following sections.

- ◆ Introduction from the Chief Justice
- ◆ Communications
- ◆ Practice Management
- ◆ Fiduciary Requirements
- ◆ Overview of the PA Supreme Court Disciplinary System
- ◆ Outreach Programs & Resources

Four (4) ETHICS 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.

Bridge the Gap — August 21, 2012

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

* PRE-REGISTRATION Fees: 4 Ethics credits available

- I am a Newly Admitted Attorney — **FREE**
- \$30 per credit hour, WBA member
- \$50 per credit hour, Non-member

Non-Credit:

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

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Card # _____

Expiration Date _____

Three digit security code on back of card _____

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 August 20, 2012.**

Westmoreland Bar Association —

CLE Compliance Period Seminar

An accredited provider for the PA Board
of Continuing Legal Education

5.5 Substantive & 1 Ethics credits available



Tuesday,
August 28, 2012
WBA Headquarters
9 am - 4:30 pm

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA
office by 12:00 pm August 27, 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

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Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

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at 724-834-6730, or by email 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

w 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”

w Fundamental changes regarding Joint and Several Liability
w 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 5/1/12)

Emotional Stages of a Divorce

- 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

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

Session 4 — 1 Substantive Credits

2:15 pm – 3:15 pm (Video from 12/12/11)

ABCs of Landlord Tenant Issues

- Review of Statutes
- General Landlord Tenant Law vs. Mobile Home Parks
- Eviction Procedure - Self Help
- Appeals
- Security Deposit and Habitability Issues

Presenters:

Charles R. Conway III, Magisterial District Judge

Kathleen N. Kemp & M. Samuel Rosenzweig

Staff Attorneys for Laurel Legal Services, Inc.

Session 5 — 1 Ethics Credit

3:30 pm – 4:30 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

Five and a half (5.5) SUBSTANTIVE and One (1) ETHICS Credits are available toward your annual CLE requirements.

August 28, 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 substantive credit no credits

Session 5 – 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)

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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 August 27, 2012.

Westmoreland Bar Association

Trying the Divorce Case

An accredited provider for the PA Board
of Continuing Legal Education



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

Live — 1 Substantive Credit Available

You've reached the end of the discovery phase of your divorce case and it still hasn't settled . . . now what? Or, perhaps you would like to expand your practice and sit as a divorce master on cases. Where do you go from here; how do you get there?

— The Agenda —

Mary E. Mears, Esq. (Moderator)

The Settlement Conference and Applicable Local Rules and Forms

J. Douglas Farrell, Esq. & James R. Silvis, Esq.

The Divorce Master's Process

- The initial conference
- Additional settlement negotiations
- Planning and preparation for trial
- The hearing
- The Master's report
- The time frame
- Associated rules and forms

Margaret A. Tremba, Esq.

The Practitioner's Point of View

- Preparing your client for the trial
- The initial conference
- Making the record
- Evidentiary issues
- Filing exceptions
- Brief preparation and argument

Hon. Michele G. Bononi

The Court's Perspective

- Reviewing the exceptions and the record
- The Briefs
- Argument
- The Opinion

Tuesday,
September 18, 2012
12:00 pm -1:15 pm
WBA Headquarters

Seminar Fees:

PRE-REGISTRATION:

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

Lunch 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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the WBA Office at
724-834-6730, or by email at westbar.org@westbar.org

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.

Trying the Divorce Case

September 18, 2012

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

Pre-Registration Fees

CLE Credit:

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

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 _____

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 September 17, 2012.**