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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION  
VOLUME XXV, NUMBER 1  
FEBRUARY 2013

# Nominations Announced for 2013–2014 Board, Committees



John K. Greiner



Patrick T. Noonan



Judi Potoka Petrush

The Nominating Committee, comprised of Barbara J. Christner (Chair), Michael J. Stewart, John K. Greiner, Kerri Ann Shimborske-Abel, Samuel R. Coury, Terrance C. Ferguson, and Annaliese P. Masser, met last month to review applications submitted for openings on the Board of Directors, the Membership Committee, and the Building Committee. 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 1, 2013, Annual Membership Meeting, the openings will be as such:

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

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. The committee's recommended candidates are:

- **Harry F. Smail, Jr.**, Vice President
- **Patrick T. Noonan**, Board of Directors
- **James P. Silvis**, Board of Directors
- **Judi Potoka Petrush**, Membership Committee
- **Charles J. Dangelo**, Building Committee

At the conclusion of the annual meeting, **John K. Greiner** will assume the Bar presidency.

## HARRY F. SMAIL, JR.

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

Harry F. Smail, Jr., has been nominated for the position of Vice President. He is completing his third year as a Director on the WBA board.

Harry is a member of the ADR, Bankruptcy, Bench/Bar, Business/Employment Law, Civil Litigation, Criminal Law, Elder Law & Orphans' Court, Family Law, Municipal Law, Planning, Real Estate, and Young Lawyers Committees, as well as the Ned J. Nakles American Inn of Court, and numerous other professional associations.

A graduate of Grove City College with degrees in Political Science/Pre-Law and Business Administration,



Harry F. Smail, Jr.



James P. Silvis



Charles J. Dangelo

*continued on page 6*

President's Message

# Civics Education and You

by David S. DeRose, Esq.

Recently, Mike Stewart and I had the privilege of teaching two civics education lessons to the fifth grade at the Valley School of Ligonier. As I am certain many of you would agree, going into the schools on Law Day, for civics education or for any other reason, is a most enjoyable and rewarding experience. Mike and I may have been more excited than the kids!



Our Board recognized several years ago that we lawyers, as a group, possess the knowledge and unique ability to aid our teachers in filling any gaps that may exist in the teaching of civics education in our local school systems. We believe there is a need for some outside help, or supplementation, and we can be the organization that fills that void.

Over the past several months, we have introduced two lesson plans that were developed by the PBA into several fifth grade classrooms. The response has been very positive.

The first lesson plan is entitled "No Animals in the Library/School." It generates a lively discussion about rules versus laws and order in our society, from home, to school, to the playground, and beyond.

The second lesson plan is constructed as a mock trial entitled "The Case of the Missing Puppy." The kids set up a classroom courtroom with all of the customary courtroom roles, and they decide whether a babysitter should be responsible for compensating the homeowners after "Spot" makes a successful dash for freedom.

We would like to see these lesson plans—with our attorneys in the



▲ Mike Stewart (far left) and WBA President David DeRose (second from right) with Valley School of Ligonier teacher Tracy Courtney (far right) and one of her students, Eli Yaroch, at the Naturalization Ceremony that was held at the Westmoreland County Courthouse in January. Mike and David visited Valley School of Ligonier recently to teach two civics education lessons to the fifth grade classes.

lead—in every fifth-grade classroom in this county, maybe once in the fall and a follow-up in the spring, beginning this year and every year into the future. In order to make this possible, WE NEED A FEW GOOD MEN and WOMEN! Will you please volunteer for the program and of course, help us infiltrate school districts where you may have some influence?

The Board has been actively examining how to improve our collective image as attorneys in our communities and this will go a very long way toward that goal. Of course, we must embrace the program and demonstrate that same level of enthusiasm and competence as we would do if we were preparing for a trial. The kids are receptive, and they will all benefit. We will all smile and say, "It has been a very good day."

Please call the Bar office at 724-834-6730, and let us know that you are interested in participating.

*It has been my honor and privilege to serve this year as Bar President. I have been proud to work as part of a team with Mike Stewart, John Greiner, and more recently, Joe Lazzaro. It does take a "village" to successfully operate our Association and my special thanks to Executive Director Diane Krivoniak, and to Cathy, Julia, and Susan.*

*I look forward in the coming year to continuing my work with President Greiner. I know you will be as supportive of John as you have so graciously been of me.*

*Thank you. 🍷*

Sincerely,

***Oglebay Resort & Conference Center***

# A New Old Venue for 2013 Bench/Bar Conference

by John M. Hauser, III, Esq.,  
Bench/Bar Committee Co-Chair

The 27th Annual Bench/Bar Conference will be held June 13-14, at the familiar forum of Oglebay Resort in Wheeling, W.Va., and should have something for everyone. Fewer than 90 minutes from Greensburg, with abundant amenities and activities, this resort seems the perfect locale for the rowdy crowd that we (and the folks at Bedford Springs Resort) know our members can be.

Attendees at the Conference will enjoy the activities and facilities at the resort including tennis courts, indoor and outdoor swimming pools, ping pong, a fitness center, racquetball courts, hiking trails, a full-service spa, and two top-tier golf courses. The animal lovers among us will likely appreciate The Good Zoo, while the enormous model train set containing numerous landmarks from southwestern Pennsylvania is not to be missed. For the more adventuresome members of our group, the Fiestaware factory is in nearby Newell, W.Va., and the casino in downtown Wheeling will likely draw the attention of the gamblers among our ranks.



If just hearing about the fun has you too excited to wait, you may also be glad to hear that,

as has become the custom with the two-day Bench/Bar format, rooms are also available for Wednesday, June 12, and members arriving early will gather for a celebratory Bench/Bar kickoff dinner that evening.

Activities at this year's conference will be similar in many ways to past conferences, and dinner will again be an outdoor barbeque featuring live entertainment. However, to avoid any disruption to hotel patrons—as well as any disruption to our festivities by hotel staff—this year's dinner has been booked at the outdoor pavilion down the hill from the hotel.



For the hackers among us, there will be a golf outing, which will be played on the well-known

Palmer course, designed by Latrobe's finest, "Arnie" himself. And last, but certainly not least, the Young Lawyers' Suite will be a separate cottage away from the hotel and not far from dinner or the band. As always, the suite will be well-stocked with potent potables and late-night foodstuffs.

Well, I believe that covers something for absolutely everyone. Regardless of your interests, we are confident that you will find this location to be a welcome respite from the daily grind, and perfectly suited to the relaxation, camaraderie, and mildly rowdy behavior that we hope for every year. We hope to see you there! 🍷



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](mailto: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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January 2013 Civil Trial Term

# Jury Trial Verdicts

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

Of twenty-five cases listed for the January 2013 Civil Jury Trial Term, ten settled, twelve were continued, one was transferred to arbitration, and two jury trials were held.

**CAROL ALLEN**  
V.  
**MADALYN CAPERELL**  
**NO. 7993 OF 2010**

*Cause of Action: Negligence—  
Personal Injury—Automobile Collision*

On September 1, 2010, at approximately 9:00 p.m., Plaintiff, while operating her vehicle, approached the four-way intersection of Buttermilk Hollow Road and Center Highway in North Huntingdon. She claimed that she stopped at the stop sign, and then proceeded through the intersection when her vehicle was struck in the right rear by the Defendant's vehicle.

Defendant claimed that she was operating her vehicle on Center Highway when she came to a complete stop at the intersection, proceeded through the intersection, and then struck the Plaintiff's vehicle, which had failed to stop and sped in front of her.



As a result of the collision, Plaintiff claimed to have sustained a cervical strain, concussion, full thickness rotator cuff tear, right shoulder and right biceps tendinopathy, lacerations, and contusions. In addition, she was unable to drive for about six months due to anxiety related to the accident.

*Plaintiff's Counsel:* Daniel S. Schiffman, Schiffman & Wojdowski, Pgh.

*Defendant's Counsel:* Kenneth Ficerai, Gbg.

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

*Result:* Verdict for the Plaintiff in

the amount of \$4,371.53 in economic damages; zero awarded for non-economic damages.

**WALTECH SERVICES, INC.**  
V.  
**VSI, INC., FRANK C. YESH**  
**AND PHYLLIS M. YESH**  
**NO. 3772 OF 2005**

*Cause of Action: Contract—  
Breach of Contract for Services*

Walter Matenkosky, principal and President of Plaintiff Corporation, agreed to perform services as an independent contractor for the Defendants, Frank and Phyllis Yesh, who are the principals of Defendant Corporation. Defendants are in the business of providing security system services. Plaintiff and Defendants agreed that Plaintiff would be paid \$45 per hour for his services and that his expenses would be reimbursed. Plaintiff periodically provided timesheets and invoices to Defendants, detailing the hours he worked and the expenses he incurred. Although Plaintiff was paid for some of his time, Plaintiff claimed that a balance remained due and owing.

Defendants denied that Plaintiff was owed anything. They contended that Plaintiff was paid in full and that he could not substantiate his claim with valid or credible records.

In an earlier proceeding, the Court determined that Mr. and Mrs. Yesh are personally liable for all of VSI, Inc.'s obligations.

*Plaintiff's Counsel:* Daniel C. Hudock, McDonald, Snyder & Lightcap, Latrobe

*Defendants' Counsel:* David Colecchia, LAW CARE®, Gbg.

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

*Result:* Verdict for the Plaintiff in the amount of \$78,541.70. 🐾

## Lawyers' Exchange

(Free to all members of the WBA)

**MENTORS WANTED** The Paralegal Program at Westmoreland County Community College is seeking mentors for an internship which is part of the curriculum in the program. If you are willing to have a student intern assist you with your practice, or have any questions, please contact John Shelapinsky at shelapinskyj@wccc.edu.

**OFFICE SUITES FOR RENT** First Floor: Two rooms, two entrances off center hall, \$395/month. Second Floor: Two rooms, one for secretary's station and waiting chairs and large office for attorney, \$325/month. Both suites have use of first-floor conference room and handicap entrance, free off-street parking for tenants. Beautiful building with all amenities, landlord pays all utilities. Call 724-834-9087 or 724-837-5210.

# Art of the Steal: Heist or Conspiracy?

Is a will necessarily the most sacred document in the world? Can trusts be broken for the betterment of the public good? These questions will be discussed following a complimentary three-hour CLE offered on Monday, April 29, from 3 to 6 p.m., at the University of Pittsburgh at Greensburg, sponsored by The Community Foundation of Westmoreland County in partnership with the Westmoreland Bar Association.

Attorneys will be treated to the viewing of “The Art of the Steal”—the 2009 documentary about the dismantling of the Barnes Collection in Lower Merion, Pa.—followed by a discussion about the legal issues surrounding the officers’ decision to break Albert C. Barnes’ will and relocate his art collection to Philadelphia. Carolyn Duronio, partner at Reed Smith, will speak from 5 to 6 p.m. and explain the legal reasoning which led to the breaking of the Barnes will.

**A NOT-TO-BE-MISSED EVENT!**



▲ Albert C. Barnes in the main gallery of The Barnes Foundation. Photo: IFC Films.

Mark your calendars and plan to join us. The CLE program will be followed by a networking reception in the Mary Lou Campana Chapel at the University of Pittsburgh at Greensburg. An invitation from The Community Foundation will be mailed to your office by mid-March. 🌸

**B**orn into a working-class family in Philadelphia, Albert C. Barnes was a man who, through hard work and determination, became a doctor and medical researcher, founding a successful pharmaceutical firm that made him a multimillionaire. As his fortune grew, Barnes developed a taste for art and, in time, assembled one of the world’s most remarkable private collections, featuring original paintings by Van Gogh, Renoir, Picasso, Cézanne, and many other important artists.

Barnes relied on his own instincts rather than the advice of experts when he bought paintings, and he had little use for the pretentious attitudes of Philadelphia’s art collectors and high society; the animosity between Barnes and the city’s art establishment grew to the point that in 1922 he opened the Barnes Foundation, a private gallery where he kept his collection rather than share it with institutions such as the Philadelphia Museum of Art.

The Barnes Foundation was open by invitation only, and the doctor preferred to have his collection seen by students and serious art lovers rather than those he felt didn’t appreciate the work. Barnes died in 1951, and made strict provisions in his will that his collection was not to be sold, lent to other museums, or removed from the grounds of the Barnes Foundation.

Lincoln University, a traditionally African-American college, was appointed to oversee the foundation’s collection. But after the death of Barnes’ protégée, Violette de Mazia, in 1988, Lincoln University’s trustees took full control of the collection, now estimated to be worth \$25 billion, and a number of individuals and organizations inexperienced in the world of art laid hands upon the Barnes archive. “The Art of the Steal” is a documentary by Don Argott that explores how greed, political power, and good intentions colluded to violate Albert C. Barnes’ wishes and scatter his collection across the globe.

—Review from Rotten Tomatoes

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# Nominations Announced for 2013–2014 Board, Committees

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Harry earned his J.D. from Duquesne University. He has been in private practice since 1997 in Greensburg, and also serves as Solicitor for the Westmoreland County Clerk of Courts and Sheriff's Office.

## **PATRICK T. NOONAN**

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

**Professional Background:** Associate General Counsel, University of Pittsburgh, 2004–present; Former Assistant District Attorney and Sole Practitioner, Westmoreland County; Former Assistant United States Attorney, Western District of Pennsylvania; J.D. from University of Pittsburgh; B.A. from University of Notre Dame.

**WBA Activities:** Member since 1989; Bench/Bar Committee; Business Employment Law Committee; Planning Committee; Master, Ned J. Nakles American Inn of Court, 1995–present.

## **Other Professional Information:**

Lifetime resident of Westmoreland County; Member, National Association of College and University Attorneys; Counsel, Pitt/UPMC Radiation Safety Executive Committee.

**Reason for Interest:** It is my observation, shared by many colleagues, that the Westmoreland Bar is an exceptional Association and remains the envy of our neighbors. For over two decades, I have observed our Association thrive under committed leadership invested in the retention of our Association's outstanding character. A host of memorable days in my career have been spent with members of this Association, be it sparring in a courtroom or convening in the aftermath for a beer or two.

The first in my family to practice law, I am the grateful beneficiary of numerous mentors who call this Association home, both Bench and Bar. I appreciate the support of the Nominating Committee, and if elected, I seek simply to contribute and serve my fellow members in the

advance and preservation of our distinctive Association.

## **JAMES P. SILVIS**

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

**Professional Background:** O'Connell & Silvis, LLP, 2002–present; Westmoreland County Public Defender's Office, 2004–2006; Assistant County Solicitor, 2010–present; J.D., University of Michigan School of Law; B.A., University of Virginia.

**WBA Activities:** Member since 2002; Member, Ned J. Nakles American Inn of Court, 2003–present; Mock Trial, 2003–present; Young Lawyers Committee, 2003–present.

**Other Professional Information:** Lawyers Concerned for Lawyers, 2006–present; Vice President, St. Thomas More Society of the Diocese of Greensburg; Solicitor, Police Rod and Gun Club.

**Reason for Interest:** Growing up in a lawyer's family, I routinely heard of the many benefits to be gained through an active membership in the WBA. Since joining, I've had that confirmed. I'm excited to have the opportunity to join the Board to work toward maintaining the WBA's vitality both professionally and socially. The WBA has been blessed to have had many invaluable contributors over the years, and we need to continue to attract new members so we can all benefit from the many talents they possess.

## **JUDI POTOKA PETRUSH**

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

**Professional Background:** Assistant District Attorney, Westmoreland County, 1995–present; member of the



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Sex Crimes/Child Abuse Unit and Federal Habeas Corpus Unit; J.D., University of Pittsburgh; B.A., English Writing & Business, University of Pittsburgh.

**WBA Activities:** Member since 1994; Criminal Law Committee, Mock Trial Committee, Law Day, WBA Civics Education Project, WBA Values and Vision Task Force.

**Other Professional Information:** National District Attorney's Association; Pennsylvania District Attorney's Association; Speaker: Duquesne University Wecht Institute of Forensic Science and Law; National Ski Patrol (volunteer Seven Springs Ski Patrol).

**Reason for Interest:** Participating in the educational opportunities offered by the WBA has been both professionally and personally rewarding. The WBA's community outreach programs, especially the programs directed at our school

children, are outstanding. I am eager to share and recommend these experiences to new members of the WBA.

### CHARLES J. DANGELO

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

**Professional Background:** Special Partner, Meyer, Darragh, Buckler, Bebenek, and Eck, PLLC; 21 years of public service experience as law clerk for the Commonwealth Court of Pennsylvania, the Court of Common Pleas of Westmoreland County, and the Workers' Compensation Appeal Board; J.D. and M.A. from Duquesne University; B.A. from the University of Pittsburgh.

**WBA Activities:** WBA member since 2001; participate in WBA committees: former chair of the Law Library

Committee and Co-Chair of the Municipal Law Committee; work as a recent-decision editor for the Westmoreland Law Journal; involved in the WBA initiatives on values and vision and e-filing.

**Other Professional Information:** Member of the Ned J. Nakles American Inn of Court; former member of the James Bowman American Inn of Court; Order of the Sons of Italy in America, Emilia Sammartino Lodge.

**Reason for Interest:** I have considerable background in areas of law that pertain to real estate such as zoning, tax assessment, historic preservation, and health and safety regulation. Also, I have an interest in art and design, as well as a good eye for form, light, and color. I would like to have the opportunity to use my skills on the Building Committee and contribute to the maintenance and improvement of WBA's facilities. 🍷

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# New Member Sketches

**K. CASEY CRYTZER** has been admitted as a participating member of the WBA. He earned a B.A. in History from Allegheny College, and his J.D. from Duquesne University. Casey is a Relationship Manager at PNC Wealth Management in Ligonier. He and his wife, Amanda, have four children—Cora, Ella, Sylvia, and Louis—and make their home in Freeport.



**SHANE M. GANNON** has joined the WBA as a participating member. Shane earned his undergraduate degree in PoliSci from Waynesburg University, and his J.D. from Duquesne University. He is an associate with Mears, Smith, Houser & Boyle, P.C., in Greensburg, and lives in Connellsville.

**ERIN LARIMER** was admitted to the WBA as a participating member. She earned a B.A. in English from Saint Vincent College, and earned her J.D.

from Duquesne University. She and her husband, Zachary, live in Murrysville.

**TIMOTHY MILLER** has been admitted as a participating member of the WBA. He earned a B.A. in Journalism from American University, and his J.D. from Duquesne University. Tim is an associate with DeBernardo, Antoniono, McCabe, Davis & DeDiana, P.C., in Greensburg, and lives in Pittsburgh.

**JAMES STOCKSTILL** has joined the WBA as an associate member. James earned his undergraduate degree in Political Science from the University of Mississippi, and his J.D. from the University of Pittsburgh. A sole practitioner with offices in Pittsburgh, he and his wife, Julie Boisseau, reside in Pittsburgh. 🐶



**W**BA members, be part of something BIG. The WBA is accepting applications for the 2013 Lawyer Referral Service. At just \$125, the registration fee allows WBA participating members to enroll in the only court-recognized referral service in Westmoreland County. Our service receives more than 1,000 calls each year, and is listed on all Notice to Defend correspondence issued in Westmoreland County.

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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



# Understanding, Awareness, and Compassion for Our LGBTQ Community

by Beth Orbison, Esq.

If you don't know what "LGBTQ" stands for, you need to read on. If you can't define the word "heterosexism"<sup>1</sup>—or if you are heterosexist—you need to read on. And if you believe that "reparative therapy" is a valid treatment modality, then you definitely need to read on.



▲  
Beth Orbison

Historically, lesbian, gay, bisexual, transgender and questioning people ("LGBTQ") have faced rejection, misunderstanding, invisibility, and, in the worst cases, discrimination and violence in our community and schools. As part of the "Community Awareness Series," a workshop entitled "Working with LGBTQ People in Crisis" was held on February 1, 2013, at the Youth Services Center in Greensburg to enable participants to develop an understanding of the LGBTQ community and the issues they face,

to gain tools for working with LGBTQ people in crisis, and to provide an informed response to LGBTQ victims of partner violence.

The Persad Center, a leader in serving the LGBTQ community for over 30 years, is working to foster inclusion, and eliminate hate crimes and LGBT discrimination in western Pennsylvania through its Community Safe Zone Program. Ted Hoover, Community Safe Zone Coordinator, explained that for too long, the LGBT population has been made to feel apart and different from their own communities. "In western PA—with its landscape of small towns and tight-knit neighborhoods—the isolation and invisibility is especially acute. A lack of understanding and acceptance of LGBT people has resulted in various forms of discrimination. But western PA, and its landscape, *is* changing. The LGBT population—children, parents, co-workers, preachers, teachers, and friends—are citizens living and working right here." (See *Community Safe Zone: A Program of Persad Center* brochure, available from the Persad Center.)

Workshop participants learned that referring to someone as a "homosexual" was old-fashioned; that so-called "reparative therapy"—that is, trying to "fix"

gays to become "straight"—is not valid or ethical science and not supported by *any* major mental health association; that LGBTQ people constantly have to deal with the triple threat of heterosexism, homophobia, and internalized homophobia; that the LGBTQ community is not protected by many anti-discrimination laws; and that LGBTQ people suffer from higher rates of suicide, depression, smoking, substance abuse, STD transmission, and runaways. Workshop presenters differentiated sexual orientation from sexual behavior and sexual identity. Biological gender was differentiated from gender role and gender identity in an effort to foster understanding of issues faced by the LGBTQ community.

Multiple resources for LGBTQ youth and their allies have been compiled by members of the WestCo Pride Project and include:

- 1) PFLAG (Parents and Families of Lesbians and Gays) Greensburg: Voicemail at 724-610-9388; online at [pflaggreensburg.org](http://pflaggreensburg.org); e-mail [pflaggbg@gmail.com](mailto:pflaggbg@gmail.com)

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Investments: Not FDIC Insured. No Bank or Federal Government Guarantee. May Lose Value.  
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<sup>1</sup> Heterosexism is a system of attitudes, bias, and discrimination in favor of opposite-sex sexuality and relationships. It can include the presumption that other people are heterosexual or that opposite-sex attractions and relationships are the only norm and therefore superior.

# Understanding, Awareness, and Compassion

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- 2) Westmoreland LGBTQ Interfaith Network: On Facebook
- 3) Dreams of Hope at [www.dreamsofhope.org](http://www.dreamsofhope.org)
- 4) The Gay-Straight Alliance Network ([www.gsanetwork.org/about-us](http://www.gsanetwork.org/about-us)) meets in Greensburg every Wednesday from 5 to 7 p.m.

If you are interested in being a part of this alliance, contact them for the location of the next meeting.

If you would like to help broaden knowledge and cultural competence in your workplace or organization, or spread the word to your LGBT and allied friends, coworkers and clients about the goals and activities of Persad's Community Safe Zone, contact any of the workshop presenters: Rebecca Harvey, Ph.D.,

Licensed Clinical Social Worker and assistant professor and program director of Marriage and Family Therapy at Seton Hill University, whose areas of interest include sexual issues and sexual minorities ([Harvey@setonhill.edu](mailto:Harvey@setonhill.edu)); Ted Hoover, Community Safe Zone Coordinator (Persad Center, 5150 Penn Avenue, Pittsburgh, PA 15224, 1-888-873-7723 ext. 218, [www.persadcenter.org](http://www.persadcenter.org)); Mae Palacios from the Blackburn Center (hotline 1-888-832-2272, office 724-837-9540, [www.blackburncenter.org](http://www.blackburncenter.org)); and Mary Clark, former County Children's Homeless Initiative Coordinator (724-837-4820). 🌈



## save the dates!

- March 27:** New Member Ceremony and Reception, 3 to 6 p.m.
- April 1:** WBF/WBA Annual Meeting, 4:30 to 8 p.m., Rizzo's Banquet Hall, Crabtree, Pa.
- April 29:** "The Art of the Steal" CLE, 3 to 6 p.m., University of Pittsburgh at Greensburg
- May:** 51st Annual Memorial Service
- June 8:** Gettysburg Bus Trip
- June 13–14:** 27th Annual Bench/Bar Conference, Oglebay Resort & Conference Center

## BRIEFLY SPEAKING



**Mark L. Sorice** began a one-year term as President of the Laurel Legal Services Board on January 1, 2013. Established in 1967, Laurel Legal Services provides free civil legal representation to low-income clients in a six-county area covering 4,372 square miles. Offices are located in Armstrong, Cambria, Clarion, Indiana, Jefferson, and Westmoreland counties. Other WBA members who serve on the Board include Matthew R. Schimizzi, Treasurer; Cindy Stine, April Milburn-Knizner, Michael J. Stewart, and Charles F. Wade. 🌈



WBA President **David S. DeRose** spoke about the responsibilities and rewards of being an American citizen at a Naturalization Ceremony held in conjunction with the Westmoreland County Historical Society's 5th annual Winter Frolic at the Westmoreland County Courthouse on Saturday, January 26, 2013. The event observed the importance of heritage and how it shapes people as well as community. As part of the ceremony, The Hon. Christopher A. Feliciani moved for the admission of six candidates from Russia, Peru, India, and China for citizenship, and administered the oath of allegiance to them. The newly inducted citizens celebrated with those attending the Frolic, where entertainment was provided by WBA member Eric Barchiesi's Combo. 🌈



**John M. Noble** was honored with the first "Heart of the Arts" award from Stage Right! School for the Performing Arts in Greensburg at their 15-year anniversary gala on Saturday, February 2, 2013, at the Latrobe Country Club. John has a long history as a supporter of the arts, both as a performer and through his generosity to local performing arts organizations. Each May, his "Westmoreland Night of the Stars" at The Palace Theatre celebrates musicals and plays performed by high school and home school students in the Westmoreland County area. Over the years, more than 10,000 students and their families have been involved, and over \$300,000 in awards and scholarships has been raised for high school theatre programs. Stage Right!'s Artistic Director Anthony Marino says: "John has demonstrated for years that he understands that the heart of this and any community is its arts community. In seeing this and supporting it and making it happen in so many ways, he has become the Heart of the Arts." 🌈



**Kerri A. Shimborske-Abel** has been elected as a Director at Zimmer Kunz PLLC. Kerri practices civil litigation with a concentration in commercial insurance defense, auto and trucking litigation, and general liability defense litigation. 🌈

# To-Wit: Alley-Oop

by S. Sponte, Esq.

I have been writing this column for a very long time now, and for a very long time, I've been irked. You'd think that with as much time and creative energy as I've devoted both to my literary ambitions and to your professional amusement that I'd be this magazine's most popular feature, *numero uno*, the top dog, its undisputed head *shanda*.

Oh, but I'm not. According to every one of this publication's readers' polls, I rank no better than third. Now if, say, John Grisham were writing for this magazine and maybe Robert Ludlum, I'd understand my perennial third-place finish. I wouldn't agree, but I'd understand.

As it turns out though, my popularity is consistently bested by both the obituaries and the disciplinary suspensions. I take it

with a grain of salt that all one has to do to be more popular than me is to die, but to be outstripped by unethical conduct, oh, that hurts.

**“I take it with a grain of salt that all one has to do to be more popular than me is to die, but to be outstripped by unethical conduct, oh, that hurts.”**

As I've been enjoying my annual December vacation in the sun these past couple of weeks, I've been giving the matter some thought and I have come up with the perfect solution. It's perhaps a bit macabre, but I've decided to give you Romans the

spectacle you really want by telling you in advance about all the important disciplinary suspensions that will occur this

coming year. You can read them right here, right now, you can have your blood lust sated *eo instante*, and then you can be free for the rest of the year to enjoy my stuff completely undistracted by such reprehensible goings on. Next issue I'll be back to once again make your professional life a living guffaw. In the meantime, go ahead, have your little fun.

**BESSIE MAE MUCHO**—In utter disregard of the strictures against the commingling of funds, Ms. Mucho is suspended for two years for inadvertently depositing her paycheck  
*continued on page 12*



## WADDELL & REED'S TWIN THREAT IS TOPS...

—Barron's



In the 2012 Barron's "Best Mutual Fund Families" rankings (2/6/12), Ivy Funds is number one over the last five years for the second year in a row, while Waddell & Reed Advisors Funds rank second, for period ending 12/31/11, out of 53 firms ranked. And, across the last four years, either Ivy Funds or Waddell & Reed Advisors Funds consistently has occupied the top spot on the five-year ranking.

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Investors should consider the investment objectives, risks, charges and expenses of a fund carefully before investing. For a prospectus, or if available a summary prospectus containing this and other information for any of the Waddell & Reed Advisors or Ivy Funds, call your financial advisor or visit [www.waddell.com](http://www.waddell.com) or [www.ivyfund.com](http://www.ivyfund.com). Please read the prospectus or summary prospectus carefully before investing.

Investment return and principal value will fluctuate, and it is possible to lose money by investing. Past performance is not a guarantee of future results.

Sales charges are not included in the calculation of returns, and the ranking period included time periods during which some funds' returns were affected by expense reduction arrangements. The Waddell & Reed Advisors Funds and Ivy Funds are distributed by Waddell & Reed, Inc., and Ivy Funds Distributor, Inc., respectively. Barron's rankings are based on asset-weighted returns in five categories: domestic equity, world equity (including international and global portfolios), mixed equity (stocks and bonds), taxable bonds and tax exempt funds. Rankings also take into account an individual fund's performance within its Upper peer group. Over the most recent one-year period, Ivy Funds ranked 25th and Waddell & Reed Advisor Funds ranked 19th, out of 58 firms. Over the most recent ten-year period, Ivy Funds ranked five and Waddell & Reed Advisor Funds ranked 18, out of 45 firms.

# To-Wit: Alley-Oop

*continued from page 11*

into her client escrow account. Noting that her clients received a windfall from her gaffe, the committee is permitting her to practice only medical malpractice defense work during her suspension. “If she continues with such profligate handling of funds,” states the committee, “perhaps she may yet do some good.”

**CARMEN MONOKSIDE**—Mr. Monokside is suspended for five years for settling seventeen personal injury cases for clients who didn’t exist. “I’m sorry,” apologized Mr. Monokside to the committee. “I accept my punishment and I’ll get by. Thank God I had such a good year.”

**EVEL LESSER II**—Mr. Lesser, a matrimonial specialist, is suspended for eighteen months for awaking one morning suffering from a bout of acute catatonic hypoprocedurea during which he stacked all one hundred seventy-one of his client files in the alley outside his office and set fire to

them. “We are sympathetic to his understandable indisposition,” stated the committee, “but having an epiphany is no defense to his conduct.”

**T. FASTIDEUS BREWSTER**—Mr. Brewster is suspended from practice for one year for failing to report his partner for absconding to Mexico with the escrow and general office funds and Mr. Brewster’s wife. “I knew I took my chances by not turning him in immediately,” Mr. Brewster said in his own defense, “but I was afraid he’d bring her back.”

The magazine will conduct another readers’ poll later this year and now you owe me. I want your votes; I also want you all to stay alive. Yeah, I know, when it comes to my colleagues I’m not usually this magnanimous, but if history means anything, it’s the only chance I got. 🐾

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Westmoreland Revisited

# The Trial of Mamachtaga

by The Hon. Daniel J. Ackerman

This piece is not an article fashioned from various sources; rather, it is a review of an article with the same title written in 1785 by the defendant's counsel, Hugh Henry Brackenridge. One might assume that Brackenridge's professional relationship with the defendant might have tainted his writing with bias or embellishment; but there is no evidence of that, nor did he



▲ The Hon. Daniel J. Ackerman

engage in self-praise when it came to his role. In short, there is no reason to believe that this lawyer, legislator, supreme court justice, publisher, and writer (see *the sidebar*, August 2009, page 15) presented anything but the facts as he recalled them. As with all good lawyers, the facts are skillfully proffered; for even when we know that Mamachtaga was a killer, and that he was not lynched, but

received the due process of the day, the reader is left with a profound sense of sadness at his fate.

Of course there is no trial transcript to refer to: eighteenth-century legal proceedings, especially those conducted on the frontier, left little, if any documentation. Brackenridge, therefore, took it upon himself to record and publish the extraordinary events in which he was a participant, beginning, *"I know the particulars of the following story well because one of the men (Smith) was shingling a house for me in the town of Pittsburgh, the evening before he was murdered by Mamachtaga ..."*

The crime and trial have been written about before, most recently by George Swetnam, the former well known feature writer for the *Pittsburgh Press*, in *Pittsylvania Country* (republished in 1992 by McDonald/Sward Publishing Co.). The original source however is Brackenridge's article which was published in Philadelphia in 1795 in *Incidents of the Insurrection in the Western Parts of Pennsylvania, in the Year 1794 [Whiskey Rebellion]*. The events described in the article occurred in the summer of 1785, but no specific dates were given.

## THE CRIME

The Delawares, Mamachtaga's tribe, were the first of all Indians to sign a treaty with the United States and



▲ Hugh Henry Brackenridge defended Mamachtaga at his trial in 1785. For an Indian charged with a crime to be represented by a lawyer was unheard of, but Brackenridge thought it would be "a pleasantry."

were an on-again off-again ally during the Revolution. The translation of his name, "Mamachtaga," symbolized "Trees Blown Across" (by a whirlwind), and was bestowed upon him because of his unruly nature. When meeting him, Brackenridge noted that he had an *"appearance of great ferocity."* Before they met, however, the young lawyer, on his own, undertook an investigation of the crime.

He went to the Delaware camp on Killbuck Island in the Ohio River—the scene of the crimes—where a man named Smith and his companion named Evans, had gone, perhaps to trade in liquor. There, he learned from witnesses that Mamachtaga, while under the influence of alcohol, attacked four men in a cabin, and with a knife killed Smith and Evans and wounded the other two. Mamachtaga

made no effort to escape, but simply sat on a log in a stupor, surrendering himself to the authorities when they arrived,

*continued on page 14*

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# The Trial of Mamachtaga *continued from page 13*



▲ *The Delaware Indians, Mamachtaga's tribe, were the first of all Indians to sign a treaty with the United States. In 1771, Benjamin West finished this painting of their 1682 treaty with William Penn.*

and proclaiming no knowledge of what had happened. Because the county seat at Hannastown was thirty miles away, Mamachtaga was confined at the military garrison in Pittsburgh until the next term of the court of Oyer and Terminer (the court of general criminal jurisdiction) could be held.

For an Indian charged with a crime to be represented by a lawyer was unheard of, but Brackenridge thought it would be a novelty (in his words, “a pleasantry”), and he engaged an interpreter to inquire if his potential client might have access to furs or peltry which might also provide a fee. The good news for Brackenridge was that Mamachtaga had a forty-weight of beaver, which had not been traded, a brother who might raise yet another hundred-weight, and the interpreter had procured a contract for the transfer of the furs which Mamachtaga had signed with his mark—a hieroglyphic resembling a turkey track. The bad news was that the interpreter insisted upon receiving half the fee.

## THE CLIENT INTERVIEW

With the paperwork out of the way, Brackenridge and the interpreter set out to interview his new client. He was found, not in a cell, but in an eight-foot-deep hole in the floor of the guardhouse resembling a root cellar. Standing on the edge of this pit and speaking through the interpreter, Brackenridge explained his presence: that he was there to serve him and to learn the truth in preparation for his defense. But Mamachtaga showed no interest in advancing a defense. Rather, he was under the impression that he was giving the beaver as a commutation for his life.

## LawSpeak

“Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope.”

— Robert F. Kennedy

A Delaware woman known as Grenadier Squaw, who spoke some English and who also seemed to be there out of sympathy for the prisoner, was doing some work by the open trapdoor. Brackenridge asked her to question Mamachtaga as to whether he would choose to be hanged or burned. With a look of resentment, she refused, not, Brackenridge concluded, because the question was tactless and inhuman; but rather because in their culture, they concealed from the condemned the time and manner of execution.

The question was then conveyed through the interpreter, and, after reasonable hesitation, Mamachtaga replied he would rather be shot or tomahawked. Knowing that he would be of little use to his client, Brackenridge, to the consternation of the interpreter, ordered that the pelts be given to a trader with directions that he furnish the client with blankets and additional food to comfort him as needed.

Defense lawyers seldom engender popularity, and when the public learned that the Indian had a lawyer, it was enraged by the possibility that he might be acquitted by “the crooks of the law.” Talk rapidly spread about taking vengeance against the lawyer and the interpreter and lynching the defendant. A mob did form for the latter purpose, but the commanding officer at the garrison persuaded its members to disperse and to leave the defendant to the civil authorities.

In the interim, the interpreter fled to the hills, washing his hands of the whole affair, and left the lawyer constrained to take the fee of pelts not yet consumed by the client's meager needs. The decision sounds inconsistent with his earlier largesse, but Brackenridge seemingly rationalized it on the basis that tribal members told him that while Mamachtaga had been a great warrior, he was viewed as a bad man, having killed two of

his own people, and his loss would not be cause for regret.

Aside from the fee, it appears that Brackenridge wrestled with whether or not to withdraw from the case; concluding that he should not, for he wanted to avoid the impression that he was yielding to public pressure.

There were some who suggested that acquittal might be possible if he could prove that the victims had made Mamachtaga drunk, as the client himself contended, but such a defense was contradicted by all of the eyewitnesses and his client's prior record; for Mamachtaga had been previously convicted by the court of stealing a keg of whiskey.

**THE TRIAL**

The trial would commence as soon as two judges from Philadelphia had crossed the mountains and arrived at Hannastown. The two who were to preside over the proceedings were Chief Justice Thomas McKean (who would be elected governor in 1799) and Associate Justice George Bryan.

That two Pennsylvania Supreme Court justices should cross the state for a jury trial on the frontier suggests that the case had taken on an aspect of public importance.

As the trial opened, Mamachtaga, through an interpreter, was asked by the court to enter a plea. Not recognizing that, as a matter of form, he should say "not guilty," the defendant avoided a direct answer, unwilling to deny his act, for it was unbecoming for a warrior to deny the truth. The court then directed that the plea be entered for him.

In empanelling the jury, it appears that Mamachtaga alone, after an explanation by the interpreter, exercised his challenges to individual prospective jurors "according to the sourness or cheerfulness of the countenance" of each man called. As each prospective juror was called, the clerk, in the usual format of the time, announced: "Prisoner, look upon the juror. Juror, look upon the prisoner at the bar. Are you related to the prisoner?" Brackenridge noted

that when the question was posed to the first prospective juror from the panel, "a German," it caused a stir, as the man became indignant at the impertinence of a question that would suggest such a relationship; and the excited man was calmed only when the matter was explained to him by another German on the panel.

Brackenridge proffered intoxication as a defense, but the offer was overruled by the court, and it was explained to Mamachtaga that his being drunk would not excuse murder under the law; to which Mamachtaga responded that he hoped the good man above would excuse it.

**THE VERDICT**

The jury returned a verdict of guilty without leaving the bar. The trial had been so swift that the court had time to decide a second homicide case, this one against a John Bradly, also charged with murder, but who was found guilty of manslaughter. At the end of the session, both men were sentenced.

*continued on page 16*

G

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**Daniel Joseph**

## The Trial of Mamachtaga *continued from page 15*

When Mamachtaga was asked why he should not be sentenced to death, he replied that he would rather “run awhile.” Brackenridge explained this strange response as follows:

*This was under the idea of the custom among the Indians of giving time to the murderer, according to the circumstances of the case, to run, during which time if he can satisfy the relations of the deceased, buy a commutation for his life [with] a gun, a horse, fur and the like, it is in their power to dispense with the punishment; but if this cannot be done, having not enough to give, or the relations not consenting to a commutation, he must come at the end of the time appointed to the spot assigned, and there, by a warrior of the nation, or some relative, son, brother, etc. of the deceased, be put to death, in which case the tomahawk is the usual instrument. No instance will*

*occur in which the condemned man will not be punctual to his engagement.*

The narrative then turned briefly to the sentencing of John Bradly, the white man convicted of manslaughter. The judges first pronounced that he was to hang, which resulted in a loud anguished outcry from the prisoner, who was calmed only after it was explained to him that this was simply a procedural form and that the sentence would be mitigated if he sought the “benefit of clergy.” This being done, the sentence of “burning in the hand” was pronounced and the sheriff immediately bound the man’s hand with a rope to a low beam in the courthouse and a hot iron was applied.

When the sheriff came forward with the rope to bind Bradly, Mamachtaga thought the rope was meant for him, and showed signs of dismay and horror, believing that his execution was imminent. Upon

composing himself, after learning that he was not to be hung then and there, the judges asked if he had anything to say, to which he replied that he knew that his trial was fair and hoped that his nation would not seek revenge on his account.

While being led away to the jail, he was asked if he knew who the men were who were dressed in red robes and had passed judgment upon him. Having some exposure to the Moravian missionaries among the Delawares, he replied that he supposed that one was God and the other Jesus.

### TO DIE LIKE A WARRIOR

Mamachtaga was lodged in the jail, sharing a room with two other prisoners: one a thief, the other convicted for a “crime against nature.” The latter was also under a sentence of death. The thief somehow had obtained a knife and suggested to the other condemned man that since

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he had to die anyway, he could avoid the disgrace of hanging by allowing the Indian to kill him with the knife. It was a proposition to which this simple and distraught man agreed; but Mamachtaga, despite an offer of liquor for his services, spurned the idea, saying he had killed enough men already.

At this point in Brackenridge's narrative, the reader likely feels some pangs of sympathy for the plight of the defendant, but Brackenridge ensures it with a dramatic climax involving a risk taken by the condemned man's jailer.

He relates that the jailer's son was stricken with a fever that was of such concern, that the jailer unshackled Mamachtaga, and the two went into the woods where the defendant gathered roots which he said would—and in fact, did—cure the child.

No escape having been attempted, the jailer unironed him once again on the morning of his scheduled execution in order to grant Mamachtaga's wish to go into the forest and gather the plants necessary to concoct the paint he wished to apply to his body so that "he might die like a warrior." True to his word, Mamachtaga returned highly painted for "the great occasion."

Brackenridge's narrative then gives his eyewitness account of that occasion:

*A great body of people assembled at the place of execution. The white man was hung first, and afterwards the Indian ascended the ladder placed to the cross timber of the gibbet; and a rope [was] fastened. When he swung off, [the rope] broke and the Indian fell, and having swooned a little, he rose with a smile and went up again. A stronger rope in the meantime having been provided, or rather two put together about his neck so that the weight was supported... he underwent the sentence of the law and was hanged till he was dead.*

Why did he not try to escape when presented with two opportunities to

## Light the Night at the First Annual Tim's Walk

by Michael J. Stewart, Esq.

All WBA members are invited to light the night in memory of one of the WBA's finest, Tim McCormick, on Friday, April 19, 2013, by participating in **Tim's Walk** at Twin Lakes Park, Greensburg, Pa.



This is the first year for Tim's Walk, an annual event to raise funds to benefit the Leukemia & Lymphoma Society's mission: cure leukemia, lymphoma, Hodgkin's disease, and myeloma, and improve the quality of life of patients and their families. Tim McCormick, also known as "Mr. Greensburg," lost his battle with blood cancer on June 17, 2012, at age 59. The walk will include a special memorial ceremony for those who—like the McCormick family—have lost, but not forgotten, someone to blood cancer. The Tim McCormick Memorial Research Fund has been established by Tim's beloved family and friends so that others can win their battles with blood cancer.

This will be a night to honor the life of Tim McCormick and you won't want to miss it. Join us for Tim's Walk by starting your own fund-raising team or becoming a member of the WBA team to honor Tim's memory and assist others with their fight with blood cancer. To join the WBA team, e-mail Diane Krivoniak at [dk.wba@verizon.net](mailto:dk.wba@verizon.net) or call 724-834-6730. Children and dogs are welcome; refreshments will be served.

For more information regarding Tim's Walk, visit the link to Tim's Walk home page at <http://wpa.timswalk.11sevent.org> or contact me, Mike Stewart, at [mstewart@greensburglaw.com](mailto:mstewart@greensburglaw.com) or 724-836-0321, extension 18. 🐾

do so? Brackenridge explained his action by referring to the common belief among the Indian tribes that once a warrior gave his word to do something he then lacked the physical power to do otherwise. 🐾

### SOURCES

— The complete article, "The Trial of Mamachtaga," by Hugh Henry Brackenridge, is available online at

<http://nationalhumanitiescenter.org/pds/livingrev/expansion/text4/brackenridge.pdf>.

— Additional information came from Swetnam, George, "Pittsylvania Country," McDonald/Sward Publishing Company (1951, reprinted 1992); and Yenne, Bill, "The Encyclopedia of North American Indian Tribes," Random House (1986, reprinted 1995).

# Actions of the Board

## NOVEMBER 14, 2012

The Annual Bench/Bar Leaders meeting convened at 4 p.m. In attendance: Judges Blahovec, Hathaway, Scherer, Bononi, Marsili, McCormick Jr., Bell, Pezze, Driscoll, and CA Paul Kuntz. Topics included:

- Opinions in WLJ—Judges indicated they are sending the opinions that they feel are worthy of publication.
- Court-Appointed Fees—Judges agreed to support the efforts of the WBA in their approach to the commissioners for an increase in court-appointed rates as it has been ten years since the last increase.
- Upcoming judicial retirements—Recommendation that the bar association provide a good education about all judicial candidates to the public.
- Bench/Bar Conference date will be Flag Day 2013; WBA asked for cooperation with the court calendar.

- Civil Court cases and *pro se* cases—Agreed that mediation of *pro se* cases might be of help to the courts. Discussed the purging of civil court cases and the court costs associated with this.
- E-filing—Row officers have indicated that they will pursue e-filing. The WBA is interested in working with the courts in any undertaking with e-filing and the judges agreed to support any efforts to institute e-filing.

### Regular business:

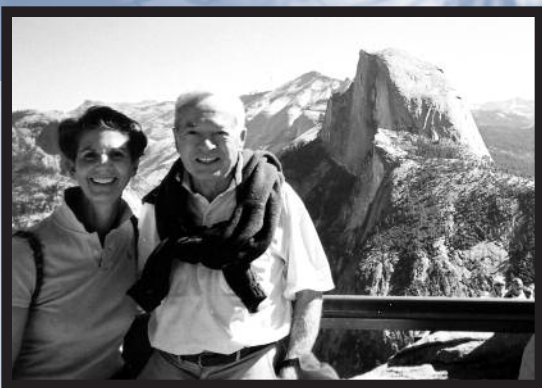
- Accepted Membership Committee report: Kristen Weidus, Tyler Jones, and Zachary Kansler, participating.
- Discussed the Laurel Legal Services Board and the WBA appointments to the board: Mary Meisner is not seeking reappointment while April Knizner has accepted reappointment.
- Established a board policy that any PAC board member intending to run for any political office or judicial opening be made inactive from any PAC activity until after the respective election.

- Reviewed specifics for Nuremberg Film set for January 9 at 6:30 p.m. at Seton Hill Performing Arts Center. Agreed to charge flat fee of \$20 for 2.5 hours of CLE.
- Learned that Mike Stewart II replaces Don Rega as YL Chair.

## DECEMBER 20, 2012

- Accepted Membership Committee report: Tim Miller, Shane Gannon, and Erin Larimer, participating; Nathan Lyle and James Stockstill, associate.
- Passed the 2013 budget with decision to wait until end-of-year figures are confirmed before making Pershing Fund (investments) contribution.
- Learned that advertising rates for Sheriff's sales in the law journal will increase from \$165 to \$225, effective with the May sale list.
- Agreed to hold the annual meeting on Monday, April 1, after discussing the Jewish holiday that ends near that date.
- Agreed that Tim Andrews will put together the background information on the court-appointed fees with a meeting to be set to discuss this with the commissioners.
- Voted to hire Architect Barry Morris to determine costs of renovating first floor to be totally usable as a CLE/large meeting room inclusive of addressing the bathroom and kitchen needs.
- Young Lawyers reported good showing at last YL meeting and are preparing to do a service project once a month. Learned that Vice President of YL will be elected at next meeting.
- Voted to offer judicial candidates the opportunity to resolve disputes over campaign issues by referring them to the ADR Committee, who will attempt to mediate the conflicts before being reported to the Disciplinary Board.
- Confirmed June 8 for the Gettysburg tour with Don Rigone and Ralph Conrad serving as tour guides. 🇺🇸

## where in the world IS THE WBA MEMBER?



*The Hon. Charles Loughran and his wife, Sally, visited Glacier Point, overlooking Half Dome, in Yosemite National Park in September 2012. They planned their visit around the*

*availability of rooms at The Ahwahnee Hotel, located in the main valley inside Yosemite Park. Completed in 1927, The Ahwahnee is a National Historical Landmark and one of the most distinctive resort hotels in North America with a unique blend of influences including Art Deco, Native American, Middle Eastern, and Arts & Crafts Movement.*

YOSEMITE NATIONAL PARK

wba

# Nuremberg Film Event A Huge Success

On Wednesday, January 9, more than 450 Westmoreland Bar Association members, their guests, and members of the public attended a powerful evening of history as the critically acclaimed *Nuremberg: Its Lesson for Today* had its local premiere at the Seton Hill Performing Arts Center in Greensburg, more than 60 years after it was first filmed.



▲ Sandra Schulberg [Photo courtesy of Bruce Siskawicz and the NCCHE]

Filmmaker Stuart Schulberg's daughter, Sandra Schulberg, who is responsible for painstakingly restoring the film with Josh Waletzky (see box at

right), joined WBA members for a meet-and-greet at Bar headquarters before the film, and conducted a Q&A at the film's conclusion.

Heartfelt thanks to the following sponsors of *Nuremberg: Its Lesson for Today*, who made this event possible:

- National Catholic Center for Holocaust Education (NCCHE)
- Belden Family Fund
- Berk Whitehead Kerr & Turin PC
- B. Patrick Costello

- David and Johnette DeRose
- Kim Ross Houser
- Joe and Karen Lazzaro
- McDonald Snyder & Lightcap, P.C.
- David J. Millstein
- Patrick H. Mahady
- Ned J. Nakles Inn of Court
- Stewart, McArdle, Sorice, Whalen, Farrell, Finoli & Cavanaugh, LLC
- Tremba, Jelley & Kinney LLC
- Ward & Christner, P.C.
- Westmoreland Academy of Trial Lawyers
- Westmoreland Bar Association 🍷

One of the greatest courtroom dramas in history, *Nuremberg* shows how the international prosecutors built their case against the top Nazi war criminals using the Nazis' own films and records. The trial established the "Nuremberg principles," laying the foundation for all subsequent trials for crimes against the peace, war crimes, and crimes against humanity.

This is the U.S. government's official film about the trial, made for the War Department & U.S. Military Government by Stuart Schulberg, a veteran of John Ford's OSS War Crimes film team. Though it was distributed in Germany in 1948 and 1949 as part of the U.S. de-Nazification campaign, its release to American theaters and other countries was canceled due to political concerns.

Over the years, the original picture negative and sound elements were lost or destroyed. Filmmakers Sandra Schulberg (daughter of Stuart Schulberg) and Josh Waletzky created a new 35mm negative and re-constructed the soundtrack using original sound from the trial. The Schulberg/Waletzky restoration allows audiences to hear Justice Robert H. Jackson's famous opening and closing statements to the Tribunal, and the testimony from the German defendants and their defense attorneys—all in their own voices—as well as bits of the English, Russian, and French prosecutors. Now, more than 60 years later, the newly restored film can be seen around the world for the first time. The film ends with Justice Jackson's stirring words: "Let Nuremberg stand as a warning to all who plan and wage aggressive war." 🍷





Westmoreland Bar Association  
129 North Pennsylvania Avenue  
Greensburg, PA 15601-2311

[www.westbar.org](http://www.westbar.org)

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## CALENDAR OF EVENTS

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

### MARCH

- 13** Real Estate Committee, Noon  
Ned J. Nakles American Inn of Court, 5 p.m.
- 14** Membership Committee, Noon
- 18** Family Law Committee, Noon
- 20** [CLE] Auto Law/Personal Injury Update 2013, Noon to 1:15 p.m., 1 optional substantive credit  
Board Meeting, 4 p.m.
- 21** Elder Law & Orphans' Court Committees, Noon  
Dine Around: Chef Mark's Palate, Latrobe, 6 p.m.
- 27** Presentation of New Members, 3 p.m., Westmoreland County Courthouse
- 29** Courthouse closed in observance of Good Friday

### APRIL

- 1** Annual Meeting of the WBF and WBA, 4:30 p.m., Rizzo's Banquet Hall, Crabtree, Pa.
- 17** [CLE] Subrogation and Medicare Issues in Personal Injury Cases, Noon to 2:15 p.m., 2 optional substantive credits  
Board Meeting, 4 p.m.
- 24** [CLE] Video Compliance Seminar, 9 a.m. to 4:15 p.m., 5 optional substantive and 1 optional ethics credits  
Dine Around: Kitchen on Main, Ligonier, 6 p.m.
- 25** Ned J. Nakles American Inn of Court, 5 p.m.
- 29** [CLE] The Art of the Steal, 3 to 6 p.m., University of Pittsburgh at Greensburg, 3 CLE credits

## LAWYERS CONCERNED FOR LAWYERS CORNER

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

# you're

## Estate Planning Teleconference

featuring Charles A. Redd

hosted by PNC Wealth Management

Attendance qualifies for 1.5 CLE and/or CPE credit. To qualify for the 1.5 continuing education credits, attendees must be present the entire call.

**Tuesday, March 19, 2013**

12:30 - 2:30

**Westmoreland Bar Association**  
129 North Pennsylvania Avenue, Conference Room  
Greensburg, PA 15601

Boxed lunch will be provided.

### Vexatious Fiduciary Duty Concerns

- Discretionary distribution scenarios
- Use and misuse of exculpatory clauses
- Hazards in decanting and trust modification
- Directed trusts

**RSVP Information:** Space is limited. Kindly RSVP to Barb Pellicciotti at [barbara.pellicciotti@pnc.com](mailto:barbara.pellicciotti@pnc.com).



The PNC Financial Services Group, Inc. ("PNC") uses the names PNC Wealth Management®, PNC Institutional Investments® and Hawthorn PNC Family Wealth SM to provide investment and wealth management, fiduciary services, FDIC-insured banking products and services and lending of funds through its subsidiary, PNC Bank, National Association, which is a **Member FDIC**, and uses the names PNC Wealth Management® and Hawthorn PNC Family Wealth SM to provide certain fiduciary and agency services through its subsidiary, PNC Delaware Trust Company. PNC does not provide legal, tax or accounting advice.

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**Investments: Not FDIC Insured. No Bank Guarantee. May Lose Value.**

ADV PDF-0809-089

# invited

# DINE AROUND

**ALL NEW  
SPRING 2013  
EDITION!**

**J**OIN 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](http://WWW.WESTBAR.ORG), OR CALL THE BAR OFFICE AT 724-834-6730 TO RESERVE YOUR DINE AROUND DATE(S). START TIME: 6 P.M. • COST: ON OWN, AS ORDERED FROM MENU.

**THURSDAY, MARCH 21:  
CHEF MARK'S PALATE**

1032 LATROBE 30 SHOPPING  
PLAZA, LATROBE, PA 15650

**NEW!**

The goal of Chef Mark is to satisfy all your dining needs. At the Palate, you are promised to enjoy fresh local cuisine, quality product, affordable prices, personalized and pleasant service, and Chef Mark's signature artistic presentation. Entrées include New York Strip Steak, Asiago Crusted Chicken, Broiled Lump Crab Cakes, Smoked Salmon, Pecan Crusted Trout, Lobster Tail, and more.

*Order off the menu; average meal \$20-\$25; BYOB, \$5 corkage fee.*  
[www.chefmarkspalate.com](http://www.chefmarkspalate.com)

**WEDNESDAY, APRIL 24:  
THE KITCHEN ON MAIN**

136 EAST MAIN STREET,  
LIGONIER, PA 15658

**NEW!**

If you like Out of the Fire Café in Donegal, you will love its sister restaurant, The Kitchen on Main in Ligonier. Just off the Diamond on East Main Street, it has an upscale, cozy atmosphere, and serves unique American cuisine including Seafood Garlic Herb Linguini, Filet Mignon, Pan Roasted Scottish Salmon, 48 Hour Maple Cured Frenched Pork Chop, and more.

*Order off the menu;  
average meal \$20-\$30;  
BYOB, \$3 alcohol fee per person.*  
[www.thekitchenonmain.com](http://www.thekitchenonmain.com)

**THURSDAY, MAY 16: THE  
TOUCHDOWN CLUB II**

ROUTE 30 WEST,  
LATROBE, PA 15650

**NEW!**

The Touchdown Club II proudly continues the tradition started by the original Touchdown Club in 1947 of a friendly gathering spot with a quiet, relaxing atmosphere, good food, and good drinks. Whether you are in the mood for chicken, veal, beef, seafood, or pasta, The Touchdown Club II has an entrée to satisfy every craving.

Be sure to save room for dessert!

*Order off the menu;  
meals average \$20-\$25.*  
[www.touchdownclub2.com](http://www.touchdownclub2.com)

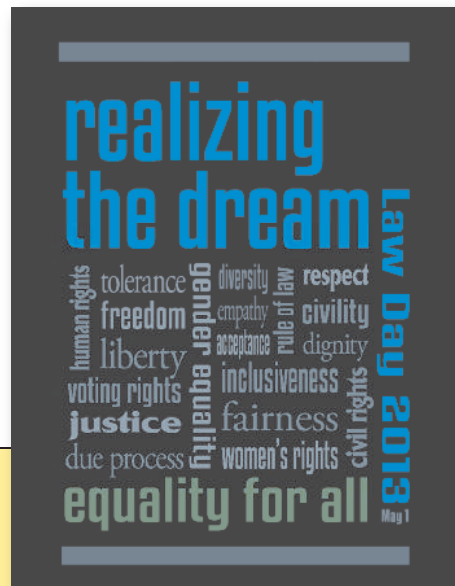
**3 NIGHTS, 3 RESTAURANTS, 3 GREAT MEALS**

# VOLUNTEER FOR LAW DAY 2013

E-mail [dk.wba@verizon.net](mailto:dk.wba@verizon.net), or return the form below via fax (724-834-6855) or mail (WBA, 129 N Pennsylvania Ave, Greensburg PA 15601-2311), by **Friday, April 5, 2013.**

The promise of equality under the law is what has made America a beacon to other nations. It is a pledge clearly set forth in the Declaration of Independence and in the opening words of the Preamble of the Constitution, "We the People." It is, in the words of Abraham Lincoln, the proposition to which our nation is dedicated.

This year's Law Day theme, "**Realizing the Dream: Equality for All,**" provides an opportunity to explore the movement for civil and human rights in America and the impact that it has had in promoting the ideal of equality under the law. It will provide a forum for reflecting on the work that remains to be done in rectifying injustice, eliminating all forms of discrimination, and putting an end to other violations of our basic human rights.



## LAW DAY 2013 CLASSROOM VISITS

As in years past, we are asking **Westmoreland Bar Association members** to **volunteer** for **classroom visits** in Westmoreland County schools during the month of **May 2013**. If you would like to volunteer, please complete the form below and return it to the WBA by **Friday, April 5, 2013**.



### YES! SIGN ME UP FOR LAW DAY!

To register for Law Day 2013, complete this form and return it to the Westmoreland Bar Association by mailing to 129 N Pennsylvania Ave, Greensburg PA 15601-2311; by faxing to 724-834-6855; or by e-mailing [dk.wba@verizon.net](mailto:dk.wba@verizon.net). Thank you for your interest!

Name \_\_\_\_\_

Firm \_\_\_\_\_

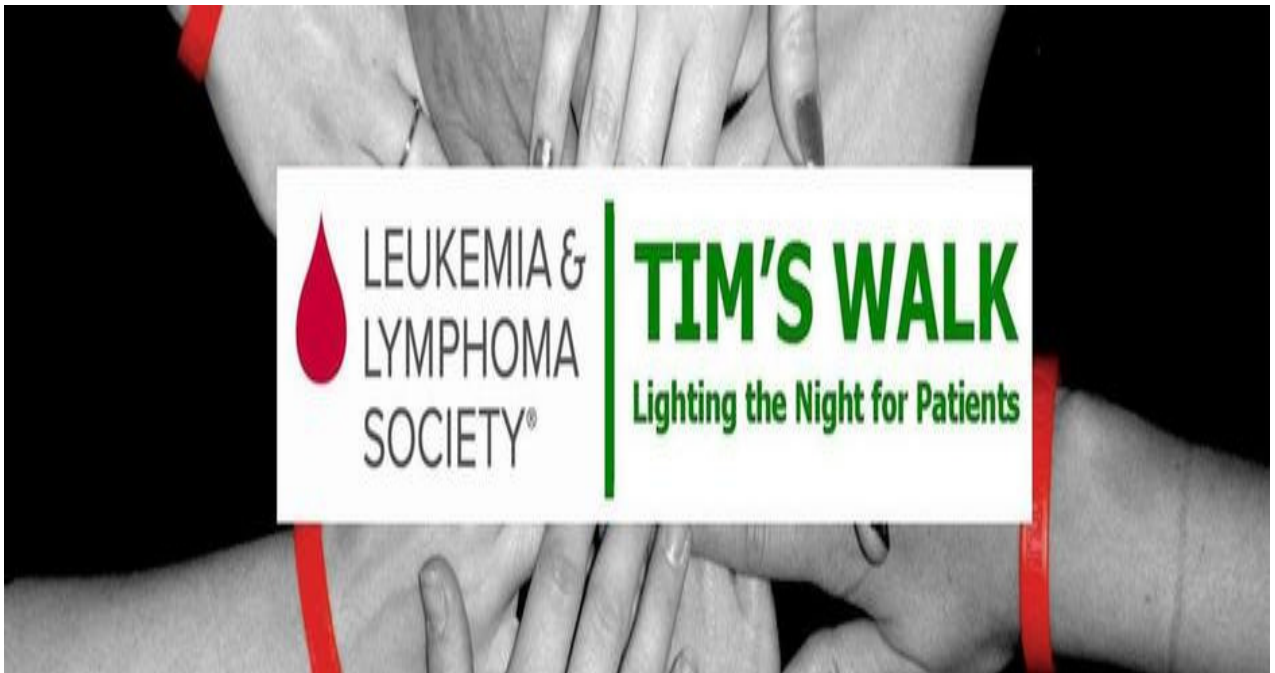
Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ E-mail \_\_\_\_\_

School/School District Preference \_\_\_\_\_ Grade(s) Preference \_\_\_\_\_

Availability (weekdays in May) \_\_\_\_\_



**Light the Night in memory of one of the WBA's finest—  
Tim McCormick—on Friday, April 19, by participating  
in Tim's Walk at Twin Lakes Park in Greensburg.  
There are several ways you can help!**

1. Join the **Westmoreland Bar Association** team and walk with us on April 19, 2013. Go to <https://wpa.dojiggy.com:443/ng/index.cfm/ae21b9e/reg-catalog/join-team/b0f8c21?returnTo=https%3A%2F%2Fwpa.dojiggy.com%3A443%2Fng%2Findex.cfm%2Fae21b9e%2Freg-catalog%2Fregfees> (choose "**Westmoreland Bar Association**" from the drop-down menu in the "Join Team" box) to register under our team name, or phone our office at 724-834-6730 to help you register.
2. Make a donation. Make checks payable to Leukemia & Lymphoma Society. On memo line write: Tim's Walk. Mail check to Westmoreland Bar Association 129 North Pennsylvania Avenue, Greensburg PA 15601-2311
3. Register your dog! Here is the link <https://wpa.dojiggy.com/ng/index.cfm/ae21b9e/reg-catalog/registerindividual/b61a14f1?returnTo=https%3A%2F%2Fwpa.dojiggy.com%3A443%2Fng%2Findex.cfm%2Fae21b9e%2Freg-catalog%2Fregfees>
4. You can become a sponsor! You're in good company! Mike Stewart, of Stewart, McArde, Sorice, Whalen, Farrell, Finoli & Cavanaugh, LLC, has signed on as chair, also Sean Cassidy & Associates, TRIB Total Media, Kohl's Department Stores and McDowell Associates.
5. To become a sponsor, or if you have your own ideas, contact [Christopher.Omiros@lls.org](mailto:Christopher.Omiros@lls.org) or phone 412-697-2850.



# ECHOES OF THE WAR

150TH ANNIVERSARY

## GETTYSBURG

*The American Bus Association is calling Gettysburg the top destination for 2013! Why not add this to your Summer Vacation plans?*

*The Battle of Gettysburg was the turning point of the American Civil War. Many historians agree that it was on these hallowed grounds that our nation was saved.*

*Join the WBA on Saturday June 8th as former WBA member Ralph Conrad and current member Don Rigone lead a tour of the Gettysburg battlefield for WBA members and their guests.*

*A block of rooms has been reserved for Friday and Saturday nights at 1863 Inn of Gettysburg at a starting rate of \$140/night, which includes breakfast. Attendees will need to make their own reservations by calling 866-953-4483 and booking a room from the WBA block. The bus will depart at exactly 8:30 am on Saturday June 8th from the hotel. Tour guests will be responsible for their own transportation to the hotel, all hotel charges, and their own food.*

## 150TH ANNIVERSARY GETTYSBURG

Yes, I will attend the Gettysburg tour on June 8th.

WBA member name \_\_\_\_\_

Name of family member(s) \_\_\_\_\_

Mail to WBA, 129 N. Pennsylvania Avenue, Greensburg PA 15601, fax 724-834-6855,  
or email [westbar.org@westbar.org](mailto:westbar.org@westbar.org) by Friday February 22, 2013

*The Bus is filling up!*

LAST CHANCE

# Westmoreland Bar Association

An accredited provider for the PA Board  
of Continuing Legal Education



## A Quick Primer in Unemployment Compensation Claims & An Introduction to Veterans Disability Benefits

— Live — **1 Substantive Credit Available**

**L**earn the basics in representing claimants making a claim for unemployment compensation benefits.

### Topics of Discussion

- Initial phone conversation with a potential new unemployment compensation client
- Strategies to prepare the client for the hearing
- Fee agreements
- What to expect at the hearing
- Appeals to the Unemployment Compensation Board of Review

**A**n introduction to Veterans Disability Benefits

### Topics of Discussion

- What are Veterans Disability benefits?
- What is the process?
- How do Veterans Disability benefits work with other disability benefits? (SSD, LTD, etc.)
- What additional benefits are available for disabled veterans?

### Speakers:

**James A. Horchak, Esquire**

**Michael V. Quatrini, Esquire**

QUATRINIRAFFERTY

**ONE (1) Substantive Credit 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.

### A Quick Primer in Unemployment Compensation Claims & An Introduction to Veterans Disability

**May 14, 2013**

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 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 13, 2013.**

**Tuesday,  
May 14, 2013  
12:00 pm - 1:15 pm  
WBA Headquarters**

### Seminar Fees:

#### PRE-REGISTRATION:

**(Must be prepaid & received at the WBA office by  
12 pm May 13, 2013)**

#### 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 email at westbar.org@westbar.org