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**THE NEWSLETTER OF THE  
WESTMORELAND BAR ASSOCIATION  
VOLUME XXXI, NUMBER 5  
DECEMBER 2019**

## Taking Her Leave

I guess we all knew it was going to happen sometime, that Diane Krivoniak, our executive director for 31 years, would decide to retire. We were just hoping it would not be for a few more decades.

But now, after 31 years as the heart and soul of the Westmoreland Bar Association, Diane has decided it's time to get all the lawyers out of her life and move on to other things, including enjoying a sort-of retirement with her husband, Dan.

Yeah, I know, it's a purely selfish decision, something we have probably never seen before from an executive director who has devoted so much time and energy to making our association the success it has been during her tenure. When she was hired in 1989 as the WBA executive director, our association was new to this level of organization, and until 1991, when it purchased its first building, she worked in the WBA offices in the courthouse next to the sheriff's offices.



*Diane Krivoniak*

**Don't miss your chance to say goodbye and good luck to Diane (and Dan!). Join us on Thursday, December 12, from 4 to 6:30 p.m. at Gianni's II in Greensburg. Register online at [westbar.org](http://westbar.org) or call 724-834-6730.**

"It's time," Diane says when asked why she's hanging up her guns. "My husband, Dan, has retired, and I would like to spend more time with him, and what with the purchase and renovation of a new building I just think the bar should have a new face to go with it. Besides, 31 years is a long time, and

I'm looking forward to new and different challenges."

Diane intends to take a year off from any work before she takes up other chores. She's very passionate about Zumba dancing, was recently certified as a teacher, and is looking forward to doing that. In addition, she's very active in her church, Charter Oak Methodist, and she and Dan have always done a lot of missionary work there. She expects to be doing such things as Habitat for Humanity, volunteer work in Appalachia and, when needed, such other things

as tornado clean-up, something her 31 years as executive director here has made her inordinately qualified to do.

Many of our members already know much about her story. Originally from Canonsburg, she graduated high school in exactly the year she should have. She obtained her degree from Penn State in Early Childhood and Elementary Education, another example of her suitability to be the WBA executive director, and was thereafter certified in Special Education Teaching. Until 1989, when the WBA hired her, she had taught in various private and public schools and was an education consultant to MacMillan Publishing Company.

Her list of accomplishments while serving as our executive director are too many and varied to be included here. During her tenure, the WBA budget she was charged to manage increased from \$300,000 to \$600,000, membership has increased by sixty percent, and she has served as executive director of the Ned J. Nakles American

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*President's Message*

# Welcome, Alahna O'Brien!

*by Joyce Novotny-Prettiman, Esq.*

It is my pleasure to welcome our incoming Executive Director, Alahna O'Brien, to the Westmoreland Bar Association.

I am looking forward to working with Alahna as she gets to know our members. I am sure that one of the

first things you notice will be her energy and enthusiasm.

Alahna comes to us after working with the Boy Scouts of America, Laurel Highlands Council, for several years but most recently as

field director where she managed five staff members and the budget for the entire organization. She has a strong fund-raising background and she managed the 2017 National Scout Jamboree with a budget of \$550,000. She also managed numerous Boy Scout programs in schools and other organizations and recruited new volunteers.

What struck me as most interesting about her résumé was her emphasis on community connections. In fact, in her introductory letter she said, "I would be a great fit for your organization's growth needs and desire to engage to further impact your community in a positive manner." Now that got my attention! If you take a look at the

focus of the WBA in 2019, we are looking to fund-raise to pay for our new building project, our budget is comparable to her past management experience, and we are focusing on a strategic plan that includes connecting with our members and our community.

On a personal note, as Alahna has shared with us in her welcome note which was emailed to our members, she and her husband, Mike, have two dogs, Lola and Duke. She loves the outdoors and being active, which includes working out at home. She also enjoys her annual vacations.

Alahna grew up in Irwin and currently lives in Jeannette. She graduated from Penn Trafford High School and went on to college at the University of Pittsburgh.

I know that all of you will welcome Alahna and take some time to get to know her (did someone talk about making connections in a past President's Message?). Since she has shared her background with us, please share a little bit about yourself with her. Alahna is excited to work with Diane, who has graciously agreed to stay with us at the WBA for a



*Incoming Executive Director Alahna O'Brien*



*Top photo: Alahna and her husband, Mike O'Brien. Bottom photo: Alahna and her pups, Lola and Duke.*

transition period as it will take a little bit of time to pass along the information Diane has garnered during her 31 years of service to the WBA.

Welcome, Alahna! ■

Please join me at the **Holiday Dinner Dance on Saturday, December 7, at the Westmoreland Museum of American Art in Greensburg**, to welcome Alahna O'Brien and celebrate her transition into her new role as our Executive Director of the Westmoreland Bar Association. I hope that you will take this opportunity to meet Alahna, to introduce her to your guest, and to chat with her so that she can learn a little more about each of you. She is working hard to be of service to all our members and the best way for her to be as successful as possible will be for her to get to know our members. I am confident that, with your support, she will do an amazing job! **Register online at [westbar.org/dinnerdance](http://westbar.org/dinnerdance).**

# Remembering George H. Love, Jr.

*Editor's note: George H. Love, Jr., passed away on Tuesday, February 12, 2019, at UPMC East, Monroeville. He is survived by his wife, JoAnn A. (Horansky) Love of Latrobe; a son, George H. Love III and his wife, Elena, of San Diego, Calif.; daughter, Jennifer Love Dupilka, Esq., and husband, Ray, of Latrobe; and four grandchildren. Jennifer is an Assistant District Attorney for the Westmoreland County District Attorney's Office.*

by Jennifer Love Dupilka, Esq.

My father was a lance corporal of the United States Marine Corps, serving in Vietnam from 1967 to 1968 as part of the Third Battalion First Marines (First Marine Division). He was positioned in special landing force "Bravo" and participated in five campaigns and 10 combat operations. When my father returned from Vietnam, he wanted to get married right away. He married my mother, JoAnn, got a job as an insurance adjuster for the federal government, and attended Duquesne University School of Law as a night student. He also served as a Lieutenant with the U.S. Navy's Judge Advocate General's Corps. My father was Commandant for the Marine Corps League in Latrobe and was Commander of the Latrobe VFW. He retired from the U.S. Department of Veterans Affairs as the Assistant Regional Counsel in charge of the Pittsburgh division after 32 years. My father loved that every day he was a veteran serving veterans in his work as an attorney. My father lost his hearing in both ears as the result of the war, and felt the need to also help the disabled veterans. His practice encompassed federal employment law and EEOC.

My father worked several jobs while attending college, law school, and then being a federal attorney. He always looked for creative ways to broaden his horizons. In the 1960s, he worked on the newspaper press while attending college. In the 1980s, he along with my mother, started a cruise-only travel agency called "Bon Voyage Travel." My dad prided himself on cruising and knowing everything about cruises.

**“My father loved that every day he was a veteran serving veterans in his work as an attorney.”**

He studied and read so many books about Alaska that he would teach courses on the subject at Westmoreland County Community College. My father traveled on more than 65 cruises in his lifetime. He made a list of each cruise he had ever gone on along with his stateroom number and a review. Luckily for me and my family, he would take all of us along.

My father would, in turn, teach me that the practice of law was many times like a cruise. You could sit your deck chair in the sun or in the shade, there were many amenities along the way,



and once you took off it was really hard to turn the ship around. What he enjoyed most about the practice of law was the many friendships he made in Westmoreland County—that was one of the amenities. When he retired from working primarily in Allegheny County, he was optimistic about opening a small practice in Westmoreland County. He joined the WBA as soon as he could, and instantly had friends.

For me, I have lost someone who is irreplaceable. Someone who has guided and formed my life. My dad was generous, hospitable, a gentleman, and always loved a good story. He always enjoyed the Bench/Bar and the time he spent sitting outdoors talking to other lawyers from Westmoreland County. He was also happy to find that there were many veterans he could help in Westmoreland County. My father felt he understood a lot of the needs of the veterans who served in Desert Storm and other conflicts.

He adored his grandchildren and relished in "spoiling" them. When esophageal cancer struck him in late 2016, he was concerned first and foremost about his grandchildren and

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the sidebar

the sidebar is published bimonthly as a service for members of the Westmoreland Bar Association. Letters to the Editor should be sent c/o WBA, 129 North Pennsylvania Avenue, Greensburg, PA 15601-2311, fax 724-834-6855, or e-mail [westbar.org@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. Back issues from 2000 to the present and a comprehensive, searchable index are available online at [www.westbar.org/thesidebar](http://www.westbar.org/thesidebar).

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## George H. Love, Jr.

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not being able to see them graduate from college. He was on dialysis in the last two years of his life, but he never lost his witty personality. He taught me how to grow old with dignity, humor, and kindness. In fact, he would joke daily with his nurses, and every time a new nurse would introduce themselves, he/she would ask, “What do you like to be called—Mr. Love or George?” He would flash his big smile and say, “‘Your Highness’ or ‘King George’ sounds good.”

My Dad would always give an enormous amount of himself to clients, veterans, friends, and family members. He taught me that public service was rewarding and noble. He loved to give advice, and believed in kindness ... especially in the legal profession. He felt that an attorney should always have a willing hand to help someone, because they might be the only person who does. ■

### IN MEMORIAM

*Have you considered a contribution to the Westmoreland Bar Foundation in memory of a deceased colleague? For information, contact 724-834-6730.*

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# Remembering William C. Stillwagon

*Editor's note: William C. Stillwagon passed away on Monday, April 8, 2019. He is survived by his wife of 52 years, Carol; daughters, Jane Mondock (Dave) and Dr. Anne Stillwagon; sons, John Stillwagon (Kim) and Kurt Stillwagon (Shelly); his 11 grandchildren, Michael, Connor, Emily, Tyler Mondock, Kevin Loya, Kathryn Rodino (Rob), Molly, Jack, Leah, Lila, Hank Stillwagon; and one great-grandchild, RJ Rodino. Memorial donations may be made to St. Vincent College, Office of Advancement, 300 Fraser Purchase Road, Latrobe, PA 15650, or online to the Student First Fund at [www.stvincent.edu](http://www.stvincent.edu).*

*by The Hon. John J. Driscoll*

Bill Stillwagon packed more action and achievement into one lifetime than most could imagine. His reserved, amicable demeanor downplayed the accomplishments of his actual hands-on everyday work. In his profession and in his personal life, he left valuable lessons for the hardworking, everyday lawyer.

I first met Bill in the late 1960s on the second floor of the Bank and Trust Building, where he was visiting Eddie Doran, a lawyer who died long ago, about a referral. At that time, Bill was just getting his practice off the ground and he was happy to have referrals. He received referrals from Ned Nakles, Emmett Boyle, Leonard Reeves, and others early in his career. As years went on, Bill built a prosperous, diverse general practice through an office in Greensburg and a night office in Murrysville.

Later I came to know Bill through our wives and children. I had been in an office with Joe Hudock, who had gone to Saint Vincent Prep and College with Bill. They had both married Seton Hill girls, Carol and



Rita. Joe Hudock used to tell stories of how the Saint Vincent boys would try to meet the Seton Hill girls in the basement of the Tea Room, a mainstay Greensburg restaurant that is now long gone. In the basement was a bar known as The Tap Room. He recalled Carol and Rita being there on a crowded Saturday night. According to Joe, when Bill first saw Carol Miller across the bar, he beelined his way to her, knocking over bar stools that were in his way, then stood there gasping for air and stuttering as he tried to engage her in small talk. Later, he and Carol were married. Today they have four wonderful children, eleven grandchildren, and a great-grandchild.

The essential qualities of this accomplished lawyer's life were imbued in his childhood on a farm in Dawson, Fayette County, where he lived beside a one-room schoolhouse. There, as the child of a state trooper and a nurse, he absorbed the habits of hard work and self-initiative. Overcoming the reluctance of his mother, he talked his way directly into the first grade when only five years of age. As Bill's son later recounted, by the ninth grade, when no homework was coming home, Bill's father sent him to Saint Vincent Prep,

where he received not only the benefit of a Benedictine education, but the inculcation of his faith. He also played baseball. Later, Bill never mentioned it, but while in prep school, he was offered a contract to play in the Phillies minor league system. His father nixed that idea, saying Bill should be a doctor or a lawyer. Bill then went on to law school at West Virginia University.

Law careers go fast, even when they last 54 years, as Bill's did. But indelible impressions are left. I think of Bill as having been a model lawyer. He was reserved, circumspect, and modest, but diligent and honest. Many of us had cases and transactions with him over the years, and his colleagues knew that whether he was a so-called adversary or partner, he was worthy of the trust and confidence of his fellow lawyers. He never touted or even discussed his cases, but he had excellent relationships with his clients. He earned the trust of clients, and had many of them without even advertising.

If you followed Bill's law career, you would wonder whether he had time for

anything else; when you see what else he did, you wonder how he could maintain such a successful practice! Bill had an array of lifetime friends—Buzzy Carbone, Mario Ferretti, Bob

**“Bill Stillwagon packed more action and achievement into one lifetime than most could imagine. In his profession and in his personal life, he left valuable lessons for the hardworking, everyday lawyer.”**

Roth, Dick Guskiewicz, Jerry Pevarnik, (and others, whom I am forgetting)—with whom he met for drinks and dinner every week for 40 years. I recently had breakfast with Buzzy. He still feels the presence of Bill: “When we'd go on a golf trip, Bill would handle everything, the tee times, hotel reservations, transportation,

everything!” He loved golf, and was pretty good at it, especially for a left-hander. He had a routine of weekly starting times at the Latrobe County Club, usually with the same foursome. He was competitive, too. One year he invited me to be his partner in the annual member-guest, a high-level event which could result in your name on a wall plaque down the hall from Arnold Palmer's. He never complained, but I could see the sadness in his eyes as he watched my feckless shots squander one opportunity after another.

Golf is an interesting topic. Bill saw the complexity and challenge of the game, and was quite knowledgeable. I was excited but Bill was his usual reserved self when Bill engaged Arnold Palmer to design a course in North Carolina for a development group that was Bill's client. Arnold asked Bill to meet him at the airport at 8:00 a.m. They flew in Arnold's Citation to the course development site, walked it, and were back by noon. Arnold then

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## William C. Stillwagon *continued from page 5*

played 18 at Latrobe County Club, and Bill went to the office, all in a day's work.

Bill was an example to be emulated, not only by his colleagues, but by his children. His son, Kurt, recalled that the family always managed to have a sit-down dinner, after which their father would go back to the office; to Bill's children this was an example of Bill's dedication to his clients. As his son, Kurt, said, "When we would see him come home from work for dinner during the week and then go back to work that evening, we thought that was just work. What we learned is that when you make a promise to someone, you do what it takes to do your best for them."

Bill did have other interests, though. He could be a gourmet cook, a master craftsman, or a landscaper. One night, Joe Hudock, George Conti, and I were Bill's dinner guests at his house. Our wives had all gone somewhere together. Bill had done all the prep work, and would do all the cooking. He was to serve a thick, juicy, finest-cut steak. He put them in a frying pan. Hudock (who would become rhapsodic over the thought of a good steak) started mumbling, "What is he doing? He is going to ruin these things!" George weighed in, and started offering his opinion. Bill was miffed, and I thought a full-fledged tiff would erupt among these loyal Saint Vincent Bearcats. Bill took

control—he was searing the steaks and had already prepared the grill. When served, they were perfect! Funny, the things you remember.

Bill relaxed by doing things. He had an oversized garage in his house in Unity Township, part of which served as his wood shop. In it he built (in his children's best count) two ice chests, a coffee table, a bench, several cutting boards, a hutch, an armoire, a cradle, a high chair, several entertainment centers, a doll house, several cabinets, and some clocks. He and his son, Kurt, even built an automobile! He would tell his children that doing manual work and building things teaches one to plan, think, and to overcome frustration. Kurt said it best in his eulogy: "When I would work with him in the garage on different projects, there were always mistakes made but Dad would never get frustrated. What he was showing me was that life is not perfect. A true craftsman is not someone who knows how to do something perfectly, but someone that knows how to fix mistakes and learn from them." His children learned many lessons from their father, and today they are all wonderfully successful.

Though his activities, work, and interests were so broad and encompassing, the heart and core of Bill's life was his family. He loved and admired his daughters, Jane and Ann, and had lifelong traditions with his sons, John and Kurt. For 35 years, Bill and his son, John, spent Opening Day fishing the creeks and streams of the Laurel Highlands. In the week before Bill died, he reminded John to remember to buy the minnows.

As Bill's last days were winding down, he calmly made all arrangements. He sold his South Maple Avenue office building, contacted clients, and closed his practice. He even saw a few clients in his home during his last few days. He organized all his personal affairs and even left notes for his wife and children as to details of yard and household things that needed to be done. His affairs were in order and he could depart with a minimum of fuss. He died just as he had lived.

Bill's inspiration in the Tea Room 54 years earlier led to a life of fulfillment and joy. He was blessed to have been married to Carol. In his last months, he was in her loving care. Bill's was a wonderful life, well lived. ■



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## LawSpeak

What is law? Is it what is on the books, or what is actually enacted and obeyed in a society? Or is law what must be enacted and obeyed, whether or not it is on the books, if things are to go right?

Bernhard Schlink

Of the twelve cases on the September 2019 Civil Jury Trial list, three settled, eight were continued, and one proceeded to a jury trial.

**ROSWITHA M. DETOMA  
AND GUY F. DETOMA,  
HUSBAND AND WIFE  
V.**

**GRAFT OIL OF OCI, INC. D/B/A  
HONEY BEAR MINI-MART  
NO. 3376 OF 2017**

*Causes of Action: Negligence*

On February 4, 2017, Plaintiff Roswitha M. DeToma slipped and fell on ice at the Honey Bear Mini-Mart located on PA-356 in Leechburg, Westmoreland County. As a result of the fall, Plaintiff alleged that she sustained injuries to her wrist, shoulder, and her lower back. She



required a lower back surgery and experienced pain in her lower back ever since.

Defendant admitted liability and the matter proceeded to the jury only on the issue of past and future non-economic damages. Defendant argued that Plaintiff's back injury was a result of normal degeneration, and not a result of the fall, because she did

not complain about back pain until months after the fall. Therefore, Defendant argued that any damages awarded should not take into consideration the back injury. Plaintiff testified that the delay in seeking treatment for her back only occurred because she fell on her left hip and both the pain and medical treatment was focused on the left hip until it was realized that the pain was a result of an injury to her back.

*Trial Date:* September 9–10, 2019

*Plaintiff's Counsel:* Brendan B.

Lupetin, Meyers, Evans, Lupetin, & Unatin, LLC, Pgh.

*Defendant's Counsel:* John F. Deasy, Marshall, Dennehey, Warner, Coleman & Goggin, Pgh.

*Trial Judge:* The Hon. Chris Scherer

*Result:* Verdict in favor of Plaintiff in the amount of \$950,000. ■

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Each summer, Ron Chicka, Fran Murrman, County Detective Bob Weaver, Bill Ryan and his son, Kyle, and Deputy Sheriff Ed Fink and his son, Ed, Jr., take to the open road on their motorcycles. This year's itinerary included Colorado's Rocky Mountain State Park, where the mountains were snow-covered in June.

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# Taking Her Leave *continued from page 1*

Inn of Court, the Westmoreland Academy of Trial Lawyers, the Westmoreland Bar Foundation, and the WBF Office of Pro Bono Services.

She will be missed by everyone who has had the pleasure to work with her on the myriad committees she has shepherded and the tasks that she has overseen.

“It hasn’t always been an easy ride,” Diane says, “but I’m proud of what I’ve accomplished, and I know I’m leaving the WBA better off than when it found me.”

Although Diane can be replaced, as can any of us, in a larger sense that isn’t going to happen. She was our executive director and she set a standard that will be nigh on to impossible to match. The WBA owes a debt to her that it can never repay, and as she rides off into the sunset, we don’t ever have to ask, “Who was that masked (wo)man?” We all know who it was, we will always know. ■

**G**oing, going, gone. By the time you read this, I will have cleaned out my desk, pulled down my family photos and hauled my mugs and Tupperware home. I’m off to something new, and so are you with a soon-to-be-renovated building and a fresh look for the WBA. It kind of reminds me of what the bar association looked like in 1989 when I was hired to manage the association. It was an exciting time for me but an equally exciting time for the WBA. Shortly after my hiring, we moved from a two-office location in the basement of the Courthouse to a 9,000-sq.-ft. building in the alley off Main Street. New furniture, new wall coverings, new energy for its members. And this is what I see happening again to your association. I encourage you to set time aside to be part of this revitalization. Join a committee. Attend events. Be part of this adventure.

With my leaving, I thank you for welcoming me so many years ago and accepting my many attempts to keep this association relevant and current with what was happening across the region, the state, and the nation. No matter where I traveled I heard good things about our bench and the civility among our members. I was so proud to represent Westmoreland County. I often heard envious comments from “outside” attorneys who would ponder the camaraderie of our county bench and bar. I would hope that those good feelings continue for our legal community.

I say thanks again to those of you who have contributed your time and energy towards this association. You made my work life joyful. It’s really been a special place to call home and I will miss it and you. ■



**DAVID J. MILLSTEIN**

I have worked with Diane for many years on the Editorial Board, at one time a CLE committee co-chair, and, probably most importantly, as executive director of the Office of Pro Bono Services. She and I worked almost an untold number of hours to stabilize that office, and although we didn’t fully accomplish our plan, we did finally get it on firm footing. I have always found Diane willing to take on any challenge for the good of the order, and much of the credit for what we have accomplished with the sidebar and with the Pro Bono Office, just to name two, belongs to her. I probably couldn’t have done anything without her and in any event it would not have been nearly as much fun.



**JOYCE NOVOTNY-PRETTIMAN**

I have always been impressed by Diane’s welcoming nature and her interest in getting to know me as a WBA member. As I serve on the Board and have worked with her as President of the WBA, my respect for Diane has only increased. She has a difficult job because she has to be our visionary, cheerleader, organizer, and historian, and that takes not only a whole lot of energy but tremendous administrative skills. That is not an easy combination to find in a person but she manages to take on these challenges with so much grace! She has worked hard for the WBA for many years and I wish her all the best ... and hope that she will be available for consultation!



**DANIEL JOSEPH**

I have worked closely with Diane both as president of the Bar Association and as an active member of the Association. Our Bar Association is recognized statewide as one of the best in the state, from its innovative programs, level of member participation, membership benefits, and bench/bar relations. Diane has clearly been the driving force for all of this. The association’s presidents and boards come and go, but the one constant has always been Diane and for that we should be forever grateful. I want to personally thank Diane for her dedication to this bar association and for the improvement of our bar that has resulted because of her. You will be missed.

# DICTA Could Victims' Rights Put Constitution In Peril?

by Pamela Ferguson, Esq.

On November 5, Pennsylvania voters were asked to vote for or against “Marsy’s Law,” an amendment to the state Constitution, which establishes a crime victims’ bill of rights, enforceable to the same degree as those afforded the criminally accused under the Sixth Amendment of the U.S. Constitution. The proposed constitutional amendment would provide crime victims with 15 specific constitutional rights, including the right to be treated fairly and with respect; to be assured of their safety; to be considered when bail and release conditions are set; to be notified of, and present at, all public proceedings; to be heard at, and provide information before, all proceedings in which the Defendant’s release from incarceration is to be considered; to refuse an interview, deposition, or other discovery request made by the accused; to be awarded full and timely restitution; to receive their property promptly after it is no longer needed as evidence; to be free from “unreasonable” delays; and to be able to confer with the prosecution. The voters responded with a resounding “yes.” Not surprising, as who wouldn’t want to treat victims of crimes respectfully and fairly?

Unfortunately, voters were given only a condensed summary of the rights proposed, igniting litigation that has temporarily relegated their votes to legal limbo. On November 4, the Pennsylvania Supreme Court upheld an October 30 lower court ruling in *Haw v. Boockvar* that postponed the tabulation and certification of the November 5 Marsy’s Law vote until after a decision on the merits. Filed by the League of Women Voters of Pennsylvania and Lorraine Haw, the pending litigation challenges the constitutionality of the proposed Marsy’s Law and contends that it violates the separate vote on separate subjects requirement of Article XI of the Pennsylvania Constitution. Since “Ms. Haw cannot vote for the parts of the amendment she agrees with without voting for other things she disagrees with,” she is denied her fundamental constitutional right to vote separately on each change to the Constitution.<sup>1</sup>



Pamela Ferguson

Unaware of the pending litigation, Pennsylvania voters responded with a simple “yes” or “no” to the following ballot question:

*Shall the Pennsylvania Constitution be amended to grant certain rights to crime victims, including to be treated with fairness, respect and dignity; considering their safety in bail proceedings; timely notice and opportunity to take part in public proceedings; reasonable protection from the accused; right to refuse discovery requests made by the accused; restitution and return of property; proceedings free from delay; and to be informed of these rights, so they can enforce them?*

Whether their votes lead the way for a Marsy’s Law amendment or are disregarded as invalid will be up to Pa. Commonwealth Court Judge Ellen Ceisler, who concluded, a day before the general election, that the Plaintiffs raised substantial questions as to the constitutionality of the proposed amendment:

*This Court concludes that Petitioners have raised substantial questions as to the constitutionality of the Proposed Amendment in terms of both a violation of Article XI, Section 1’s separate vote requirement and its facial impact on other articles and sections of the Constitution.... The proposed amendment addresses a wide range of subject matters including bail, discovery, due process, restitution, the right to privacy, and evidence*

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<sup>1</sup> *Haw v. Boockvar*, Cmwth Ct, 578 MD 2019.

# DICTA Could Victims' Rights Put Constitution In Peril?

*continued from page 9*

*control, all under the auspices of connecting them to victims' rights.*

Proponents of the amendment contend that there is only one subject—victims' rights—and the number of rights given to crime victims is irrelevant in determining the constitutionality of the ballot question. Opponents argue that each right pertains to a different subject, which has different logistical enforcement procedures and ramifications of implementation; and that identifying each of the 15 rights as a single amendment, obscures voter clarity of what they're actually voting for.

In an attempt to concisely present the issue to the voters, Boockvar failed to mention all of the new rights proposed for victims (the right to be notified of any pretrial disposition of the case; the right to be heard at any proceeding in which the rights of the victim are implicated, including release, plea, sentencing, disposition, parole, and pardon proceedings; the right to participate in the parole process; the right to prompt and final conclusion of cases and any related post-conviction proceedings; and the right to confer with attorneys for the government) or explain the potential changes to existing rights of the accused. While the Plaintiffs refuse to find

Secretary Boockvar's omissions to be intentional or negligent, they allege that the insufficient explanation of what Marsy's Law provides is contrary to the holding in *Stander v. Kelly*, 250 A.2d 474, 480 (Pa. 1969), which states that "the form of the ballot question put to the votes must 'fairly, accurately and clearly apprise the voter of the question or issue to be voted on.'"

Focusing solely on the constitutionality of the proposed amendment is difficult as the intent of the amendment—protecting victims from further victimization—is a noble cause and one that most Pennsylvanians want, as evidenced by the 78% who voted "yes"; but the social significance cannot outweigh the tenets of the Constitution. Amending the Constitution to provide crime victims with rights cannot impinge those rights already given to criminal defendants. While those rights given to victims are arguably well-intentioned, there are some that may affect defendants' rights under the Sixth Amendment. The average voter wouldn't know this because they haven't been given sufficient information upon which to make an informed decision. Had each right been posed as a separate ballot question with an explanation as to how those rights are to be enforced, voters could have chosen the rights they want without being forced to agree with those they do not. That is the purpose of Article XI: To prevent ratification of a constitutional amendment on the basis of a vague ballot referendum and insufficient information.

As opponents of Marsy's Law contend, there are very few of us who wouldn't want to make sure that victims are protected and treated fairly and respectfully; but, the effect on the criminal justice system and the accused must be considered. Was it explained to the voters that a victim's right to refuse discovery requests may impinge upon an accused's constitutional rights? Was it explained how much weight prosecutors will need to give a victim's input? Will that tie the prosecutor's hands when trying to work out a deal? What if the victim in a domestic violence case wants to drop the charges against the accused? Does the prosecutor have to comply? Is the prosecutor without authority to proceed? Does this empower victims to dictate how a case is tried? What is an "unreasonable" delay? If the defense attorney or prosecutor isn't prepared to proceed, can the victim demand enforcement of the right to "proceedings without unreasonable delays?" Is the Court constrained to move forward to comply with the amendment regardless of whether or not the accused's counsel is prepared? If the Court chooses to move forward with the case, does this amount to ineffective counsel? If the Judge does not move forward, what is the victim's recourse? Who is the victim?

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# To-Wit: The Eight Billion Ways To Lie

by S. Sponte, Esq.

Art Clark slowly hung up the telephone on his desk and took a deep, contemplative breath. It was late in the afternoon and it had up to now been a nice enough day, one of the few in recent years in which he hadn't fantasized about throttling the bejesus out of someone or other.

Rancid cigar smoke, the only palpable remains of a wasted client conference he had had earlier in the day, pecked at his nostrils from the ashtray across the room. Remnants of smoke remained, and the late afternoon sun pierced through the window blinds and haze to cast an eerie shadow of repeating vertical stripes into the room and across to the wall behind him. He sat there for a

long, unbillable time, thinking about the conversation he had just had.

"Your wife is on the phone," Miss Murgatroyd, his secretary, notified him through the intercom. He ignored

**"If you don't like being lied to, hey, start representing another species."**

them both, instead placing a call to Billy Vitornot, his best friend since childhood.

"I just got off the phone with my best client, a guy I've represented for more than thirty years," he told Billy, "and he just lied to me, he flat out lied. He's never done that before."

"You get no sympathy from me," Billy replied. "I'm a psychologist,

remember? You think all my male patients mean it when they say they really don't 'want' their mommies, if you catch my drift? If you don't like being lied to, hey, start representing another species."

Art went home in a funk. Over the course of the sullen evening, neither he nor Jack Daniels could figure it out. Why would his client lie to him?

Sometime past the witching hour, he turned on his computer and Googled "why clients lie to their lawyers." The little hourglass spun and spun for a really long time and when it stopped whirling, Art stared at the screen in disbelief; there were more than five million hits.

*continued on page 12*



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**Daniel Joseph**

## To-Wit: The Eight Billion Ways To Lie

*continued from page 11*

Wildly he began to scroll through the results, moving his forefinger over the mouse wheel so fast and hard that it soon began to throb. He could hardly believe what he read. There was lying by word, by deed, by silence, by presence, by absence, by writing, by oath, by pledge, by signature, by body language, the list went on and on and on. Some lies were just plain obvious, others quite sophisticated and inventive.

On hit 3,542,875 he paused. There was the translation of a treatise written by Perpetonio Lybaldi, a 14th century lawyer/chemist who had calculated that between content and presentation there were eight billion different combinations of lies clients could tell. He posited that once all those had occurred all lawyers would be by the blackest of arts turned into dentists. He shuddered uncontrollably at the thought.

That morning he got to work early. The rancid cigar smell had lingered and when he opened the blinds the same vertical shadows reappeared. He sat there catatonically until the familiar noises of his secretary's arrival stirred him into action. He picked up the phone and dialed his client; the secretary answered.

"Good morning, Jez," he said, "Is he in?"

"Good morning," she replied. "He said to say he's off on a three-hump, blind camel ride and expects it to be very slow going. He won't be back anytime soon."

Yet another lie. Art hung up the phone and slowly sat back in his chair again. At first imperceptibly, then increasingly, his jaw began to hurt. Soon it became quite painful and started to throb. He rubbed his jaw and felt around inside his mouth with his tongue. "Must be a damn cavity," he thought. "Miss Murgatroyd," he called out, "where did we put those pliers?"

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## DICTA Could Victims' Rights Put Constitution In Peril? *continued from page 10*

In a homicide case, are family members victims? Should their desires be considered equal to those of the accused's? Does identifying someone as a victim of a crime and providing the victim with constitutional rights presume that the accused is guilty before a trial by jury?

With so many unanswered questions, there is no way the electorate could make an informed decision, which raises another question: Why take it to the voters? Why a constitutional amendment?

Pennsylvania already has statutory protections for victims. Enacted in 1998, the Crime Victims Act provides victims with a bill of rights similar to what is being proposed by referendum. Some say the protections are not enough. But, if that's the case, why not amend the statute? Constitutional amendments are no more effective than state statutes. Changing the statute to address unanticipated issues that arise is a less daunting and more realistic process than correcting problems with a constitutional amendment.

It appears that statutorily granted rights are not what proponents of Marsy's Law want. Henry Nicholas, billionaire co-founder of Broadcom Corp., and the organizer of Marsy's Law, has been spending millions of dollars in lobbying efforts across the country to promote passage of state constitutional crime victims' bill of rights (Marsy's Law was named after his sister, who was murdered by her ex-boyfriend in 1983). Nicholas' ultimate goal is to influence Congress to provide victims with federal constitutional rights. Again, a worthy cause, but one that some argue will violate the constitutional protections already afforded criminal defendants. While proponents argue that violations of an accused's constitutional rights could still be protected through U.S. Supreme Court interpretation, the reality is that their decisions are not free from political and personal judgments. There is a reason why our Constitution has been amended only 27 times since 1789.

As our Founding Father, James Madison, explained: The Constitution's daunting amendment process was designed such that our founding documents and basic rights therein could only be changed on "great and extraordinary occasions."

While Pennsylvanians' votes remain in limbo, it is up to our courts to decide whether Marsy's Law is such an occasion. ■

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Westmoreland Revisited

# The Evilest Man In America?

by The Hon. Daniel J. Ackerman

In his time, the epithet “The Evilest Man In America”<sup>1</sup> was applied to Alexander McKee, who served as one of Westmoreland County’s first judicial officers, and was once one of the most complex and powerful figures on the Pennsylvania frontier.



The Hon. Daniel J. Ackerman

The American Revolution called for choices. For Alexander McKee it was not simply a choice between political philosophies or economic interests, for he straddled two extremely different worlds. If he is

unfamiliar to us it is because in such clashes it is usually the victors who write the history.

The man who one day would be labeled as a traitor by the Continental Congress and whose name would be both feared and reviled in the young country’s western frontier was said to be born in 1735, though the year is uncertain, to a Shawnee woman<sup>2</sup> and a Scotch-Irish fur trader; the first of their six children. It is easy to jump to the conclusion that as a fur trader his father, Thomas, was a rough frontiersman dressed in buckskin and living in a rude hut. To the contrary, he was a man of financial substance who amassed sizable real estate holdings and

provided his family with a large comfortable house overlooking the Susquehanna River, staffed in part by indentured servants. Homeschooled on the frontier, young Alexander was taught English, French, and a working knowledge of the Shawnee and Delaware languages, as well as his father’s fur trade.

In recognition of his good standing with the native tribes, Pennsylvania appointed Alexander’s father Assistant of Indian Affairs for the colony in 1744. The relations between the McKees and the tribes, however, were not always cordial. In October 1755, a band of Delaware braves massacred

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<sup>1</sup> See Carroll, Lillian M. “The Evilest Men in America,” Ohio Cue (Maumee Valley Historical Society, March 1978) vol. 27, no. 2, p.1, which includes a profile on McKee.

<sup>2</sup> Historians differ as to whether his mother, Mary, was a white child captured by the Indians and raised in their culture, or was a full-blooded Shawnee. While he was said to resemble his father, Thomas, contemporary friends described Alexander as having Indian features and Shawnee relatives accepted him as one of their own. The captive narrative seems romanticized and one that likely played to the racial bias of the times.

# The Evilest Man In America? *continued from page 13*

settlers along Penn's Creek in the Susquehanna Valley, and the ensuing conflagration in that part of the frontier would leave the McKee mansion house in ashes by the end of the month.

The following year, with the outbreak of the French and Indian War, Alexander, now an ensign (lieutenant) in the Pennsylvania Second Battalion, was marching westward under the command of the ailing General John Forbes who was employing 1,400 men to cut a military road out of the wilderness, over which his force of 2,500 soldiers would pass. Because of young McKee's experience as a trader in Indian country he was used as a scout to inspect the proposed route

ahead in order to ascertain both its terrain and potential dangers. Forty miles short of its objective, the French fort at the forks of the Ohio River, the army paused on the banks of the Loyalhanna to begin construction of what would be Fort Ligonier.

On September 6, 1758, Major James Grant led an advance party, consisting of Highlanders and Pennsylvania provincials, from the Loyalhanna to ascertain the strength of the enemy and to engage it if necessary. Grant's force of 842 was ambushed by the Indians and French a week later, in what was a smaller version of Braddock's Defeat, for more than a third of Grant's men were killed, wounded, or captured.

Grant himself was one of the prisoners who were lucky enough to be taken alive back to Fort Duquesne. The list of wounded included Alexander McKee, though his injuries were not serious enough to preclude him from rejoining the march. But there would neither be a siege nor further battle, for as Forbes' army approached, the French and their Indian allies evacuated the fort and blew it up on November 24, leaving the British to claim the ruins.<sup>3</sup>

Out of the ashes, Fort Pitt grew to be ten times the size of its French predecessor, and McKee, in succession, took on two roles worthy of his talents; first, as an expediter of supplies and trade goods to the two new forts; and then, like his father before him, as an assistant Indian agent, to meet and parley with the tribes of western Pennsylvania. His services proved so valuable he was granted the privilege of living outside the fort, and Colonel Henry Bouquet, then the fort's ranking officer, compensated him further by awarding him a warrant for 1,200 acres of land on the Ohio at the mouth of Chartier's Creek, subject only to the condition that McKee would be subject to orders "for the good of his majesty's service." There on

a high rocky promontory he would build a "good House," which became known as McKee's Rocks, a structure so sturdy that it would stand for over 125 years.

McKee, with his rapport among the tribes, was at the right place at the right time, for from 1759 to 1761 the British conducted a series of conferences at Fort Pitt in the hope of negotiating with and placating the tribes, which brought thousands of Indians to the point. As the French and Indian War wound down to its conclusion in 1763, a respite of peace ensued between the European powers—but calm was far from restored on the frontier.

Neolin, a prophet of the Delaware nation, perpetuated a narrative that salvation would come to the Indian only by abandoning the goods and customs obtained from whites and then driving them from the land—a message that the Ottawa chief, Pontiac, would use to rally an uprising bearing his name, which resulted in a series of attacks upon, and sieges of British forts, beginning with Fort Detroit and ending with Fort Pitt.

By mid-summer, 540 men, women, and children crammed into Fort Pitt, now commanded by Captain Simeon Ecuyer. McKee relentlessly passed communications between the garrison under siege and the warriors surrounding the fort, unaware that on August 4, Colonel Bouquet

<sup>3</sup> The Indian presence at Duquesne had dramatically decreased, as many warriors after Grant's defeat were satisfied to claim victory and return to their villages, while others defected upon learning the British had made concessions in a treaty struck at Easton.

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The English artist Benjamin West created this view of Henry Bouquet's negotiation with the western nations at Tuscarawas in 1764. Although not drawn from life, the central figure standing behind the writing table is Henry Bouquet. The figure standing immediately to his left may represent McKee, Bouquet's translator and chief negotiator.

would lead two regiments he had trained in woodland fighting out of Fort Ligonier, along with 350 packhorses and some cattle, intent upon breaking the siege at the point. The next day, in sweltering heat, Bouquet's men engaged the Indians in a two-day battle near Bushy Run. The British victory there, obtained at a cost of 50 killed, 60 wounded, and five missing, removed the threat to Fort Pitt and wrote the final chapter of Pontiac's Rebellion.

While Pontiac wasn't victorious, he moved the British into action. The Royal Proclamation of 1763 established the Allegheny Mountains as the boundary between colonial and Indian land; prohibited private persons from purchasing lands reserved to Native people; and precluded colonial governors from issuing land grants west of the mountains. In short, all future westward expansion, if any, would be solely

controlled by the crown. Intended to perpetuate peace on the frontier, the proclamation posed a major obstacle to land speculators, and was widely ignored by westward-bound individuals. In the mind of one of the speculators, George Washington, the proclamation was simply "a temporary expedient to quiet the Minds of the Indians." He was right. The proclamation lasted five years. In 1768 the Treaty of Fort Stanwix moved the boundary hundreds of miles to the west and a land rush ensued.

In 1764, McKee took leave of his post at Fort Pitt to join Bouquet's expedition into the Ohio country seeking the return of mostly women and children who had previously been captured and adopted by the Indians. He wrote of touching and heartbreaking departures as many of the some 200 captives were reluctantly removed from the Indian families who had

adopted them and they had come to love.

By appointment in 1766, he took over the responsibilities of commissary at the fort. This office oversaw trade practices, prevented abuse, and was empowered to arbitrate disputes among traders as well as between traders and Indians.<sup>4</sup> McKee held this position until regulation of the Indian trade shifted from the British commissaries to the colonial governments in 1769. He continued to pursue diplomatic relations with the Indians at Fort Pitt

<sup>4</sup> To appreciate the volume of trade just in pelts which passed through Fort Pitt in one year, 1767, historian Frederick Wulff tells us that McKee recorded "10,587 pounds of beaver, 755 otters, 3,539 cats and foxes, 15,253 raccoons, 129 fishers, 166 martins, 35 wolves, 66 panthers, 785 bear skins, 178,613 hare skins and 92 elks," not to mention liquor, dry goods, and hardware.

until 1772, when the British evacuated for economic reasons what had been their largest fortification in the west.

With Pennsylvania's creation of the new county of Westmoreland in 1773, a trio of justices were appointed to sit at its seat in Hanna's Town: Arthur St. Clair, Alexander Ross, and Alexander McKee. At the time, two colonies, Virginia and Pennsylvania, contended for sovereignty over what is now south-western Pennsylvania. Their dispute became so heated that on one occasion a detachment of Virginia militia barred the three new Pennsylvania justices from entering their courtroom. There would follow arrests and counter-arrests between officials of the contenders

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# The Evilest Man In America? *continued from page 15*



*This 1757 painting of Alexander McKee is in the collection of Museum Windsor in Ontario. McKee's biographer, Frederick Wulff, notes that the painting was altered at some point to downplay McKee's Indian features.*

without resolution. At the same time, Lord Dunmore, Virginia's governor, was attempting to extend his colony's boundary westward at the expense of the Shawnee, with regrettable bloodshed that would become known as Lord Dunmore's War. Both the cause and that war would soon be overshadowed and rendered irrelevant by events at Lexington and Concord.

While there were no public opinion polls, it is assumed that the American Revolution was initially supported by a third of the public; a third opposed it, and the remaining third were uncommitted. It's unlikely, however, that such a balance would have existed in the west, where settlers were even more critical of British rule; for, after all, what had the government done for them? Westerners felt themselves economically disadvantaged; the govern-

ment had placed roadblocks before them to curtail westward migration, and had done very little to expunge their worst nightmare—Indians who refused to surrender their villages and hunting grounds without a fight. To the extent that Loyalist sentiments existed, it was best to keep them to one's self, and certainly a necessity to do so once hostilities began.

As for Alexander McKee, it would have been a surprise if he had decided not to remain loyal to the crown. He had done extremely well as a British Indian agent, and sympathized with the grievances the Indians brought to him, which usually focused on illegal acts of white trespassers. And, of course, he understood their culture better than almost anyone, for by descent he was one of them. Certainly all this was known to his contemporaries, which placed him under suspicion, particularly by the revolutionary Committee of Correspondence for Pittsburgh, yet he was protected to a degree by his favorable standing in the community.

Suspicious about him, though, were not unfounded, for from the start of the Revolution he was in fact serving British interests, fostering Indian resentments and urging them to reject American attempts to have them sit out the war. When Congress sought to subpoena him to appear before it in York at the end

of 1777, he avoided the order feigning illness, then sold his McKee's Rocks homestead and all of his land, which had accumulated to 6,102 acres, to his brother James, who unlike Alexander, adhered to the American cause. On the night of March 28, 1778, he, his Shawnee wife, Edna Yellow Britches-Rising Sun, several of his slaves, and two like-minded conspirators, Mathew Elliott and Simon Girty, met at McKee's Rocks and then headed down the Ohio to Indian country.

The western tribes had no ideological stake in this new war; their principal motivation was simply to defend themselves against those whom they viewed as a threat to their lands, but

if they were to be involved, they wanted to be sure they would be on the winning side. McKee's foray into their country involved spreading a rumor that the Americans were losing the war and that the tribes should shun neutrality and fight for the British. Earlier in the war there would have been some truth to the rumor; but surely McKee was aware of the decisive American victory at Saratoga in October of 1777, and may also have learned that the French committed to the American cause in February 1778. In fact he was spreading a fantastic lie, that Washington had been killed, his army cut to pieces, and that the British were hunting and hanging



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members of Congress. Among the tribes the rumor had credence, especially when it came from someone they trusted and who earned the name of the Great White Elk. His influence was so strong that he became the major overseer of all Indian movements and supply in the Ohio frontier, which would last through the war and beyond.

The American victory at Yorktown on October 19, 1781, for the most part, ended major military clashes in the east, but heated up the western frontier. March 1782 brought the worst atrocity of the war. Two hundred militia men from Washington County, Pennsylvania, under Colonel David Williamson, arrived at the Delaware village of Gnadenhutten in what is now eastern Ohio. The

German name, meaning “huts of grace,” came from Moravian missionaries who had converted its peaceful residents to Christianity. There was no resistance to the arrival of the troops, who separated women and children from the men into two houses, and then began to debate what to do with them.

Had the lives of these innocents been lost in the heat of battle it would have been regrettable enough, but three days of deliberation ensued, and then, the captives, after a night of hymns and prayer, were bound in pairs and methodically led to a building where all 96 men, women, and children were bludgeoned to death with mallets, scalped, and later burned. The militia then returned to Pittsburgh with

its “great haul” of furs and horses.

There are few today who have heard of Gnadenhutten, but it is not hard to imagine the reaction of the tribes as word of these murders quickly spread across the land. When General Washington heard of it, he warned the troops in the west to guard against being taken alive.

Three months later, another expedition out of Fort Pitt under Colonel William Crawford<sup>5</sup>, with Williamson second in command, would be on the march, with the settlements at Sandusky as their objective. The column was ambushed by Wyandot and Delaware warriors supported by British rangers, and an attempted retreat turned into a rout. About 50 were killed or wounded and ten unfortunates were captured including Crawford, his nephew, and son-in-law. Half of those captured were tomahawked to death by Indian boys and squaws; the others, which included Crawford and his relatives, were to undergo ritual torture for hours culminating in their scalping and burning at the stake. The executions were held within a mile of the burned-out village of Gnadenhutten. Ironically, Colonel Williamson, who had perpetrated the crimes

there, was one of those who escaped.

A month later, on July 13, Indians under the leadership of the Seneca, GUYASUTA, along with Canadian rangers attacked and burned Westmoreland’s county seat at Hanna’s Town, where all of the residents who had taken refuge in the stockade survived, with the exception of one teenage girl.

Irredeemable losses on the battlefield are the most tragic, but are not the only costs of warfare, for there are economic and political costs as well. By 1783, Britain determined that the cost of retaining its rule over its irascible colonies could no longer be justified. Peace talks would resolve the conflict with the 1784 Treaty of Paris, and most Americans found British concessions more generous than they could have hoped for. Not only were the colonies recognized as independent, but Britain ceded to them all territory east of the Mississippi, south of the Great Lakes and north of Florida, along with the promise of evacuating their fortifications.

Indians, on the other hand, who were not included in the negotiations, were incredulous that their former ally was claiming the right to give away their land to the Americans who had not defeated them in combat. In the Ohio country, the treaty was an invitation for further conflict. Alexander McKee redoubled his efforts to encourage unity among the tribes in order to defend their lands against coming

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<sup>5</sup> Crawford had a close relationship with Washington as his surveyor and partner in Washington’s land acquisitions. In 1770, both men while on a journey into the wilderness spent an evening as the dinner guests of Alexander McKee at his McKee’s Rocks home. One source places McKee at Crawford’s execution, but several others do not.

# The Evilest Man In America? *continued from page 17*

American incursions. Notwithstanding the treaty, the British military dragged its heels and continued to occupy their forts, believing that, at least for the time being, the Americans would not respond to their inaction with force. This, in fact, was true.

The new and now victorious nation created the Northwest Territory out of its acquired lands and appointed as its governor McKee's friend and former colleague on the Hanna's Town court, Arthur St. Clair. The governor was charged with carrying out the policy of the new president of attempting to purchase land from the Indians in the Ohio country as an alternative to war—though the latter was recognized as more likely. St. Clair called for a conference with the confederacy of tribes at Fort Harmar, near present-day Marietta, in December 1788, where he announced that the right of the Indians to sell their land was now formally recognized. The meeting was sparsely attended, and the resulting treaty, agreed to by a minority of the tribes, pushed the Miami and Shawnee, who were not participants, into an area half the size of the range they then occupied. St. Clair optimistically reported to Congress that the confederation had been broken.

In 1790, with Washington now installed as president, the United States launched its first military operation sending 1,500 troops under the leadership of Colonel Josiah Harmar to punish those Indians (referred to as banditti) who had not complied with the treaty. It was an inauspicious beginning. After Harmar burned some crops and a few towns, a large organized force descended upon his expedition, killing or capturing 183, and routing the remainder. To expunge this embarrassment, the following year, St. Clair himself took charge of an army only slightly larger than Harmar's, but now led by a general who had the experience of command during the Revolution. To put it mildly, he fared no better. Surprised during an encampment on the banks of the Wabash, the Indians, at little cost, inflicted upon his troops over 600 casualties—the greatest defeat that would ever be suffered by American forces at the hands of the Native tribes.

At the time of these victories, McKee was filling multiple roles: as a British colonial administrator to whom the tribes looked for supplies and strategy; as a fur trader with a prosperous trading post at the Miami rapids; as a land speculator living a

gentleman's life in Detroit; as a diplomat and emissary among the tribes; and as a nemesis to the Americans, who attributed to him the Indians' military successes, and frustrated their own attempts to possess the Northwest.

The third attempt to subdue the Indians turned out to be the charm. On August 20, 1794, General Anthony Wayne leading a force of 3,000, after a slow and deliberate march which included every precaution against surprise, engaged the warriors of the confederation at a site near present-day Toledo, on a stretch of ground previously decimated by a tornado, and secured a victory in what would be known as the Battle of Fallen Timbers. McKee, who was present at the scene, was dismayed by the flight of the Indians and the refusal of the British commander of Fort Miami, who not wishing to precipitate the outbreak of yet another war with the United States, refused them sanctuary at the fort. McKee would also find that his storehouses, part-time residence, livestock, and orchards on the Miami had been destroyed.

The Indians' defeat at Fallen Timbers was costly for them, not so much in battlefield casualties, but in morale. They began to perceive that the Americans were relentless, and that one army would follow another. So perhaps the time had come to make some concessions to save what they could. McKee continued to urge them to resist and maintain their unity, but there were defections. The flames he had fanned had burned out. Promoted to the rank of colonel, he was ordered to report to Quebec where he was to preside as President of the Council of Indian Affairs. Yet, after starting toward Canada, he had a change of heart. He would stay with his Native people where he was most needed, as news of the Whiskey Rebellion encouraged him to hope it would lead to a paralysis of the American government. Still, Indian loyalty

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toward the British continued to erode.

McKee's worst fears were realized in 1795 with the Treaty of Greenville. Essentially an agreement of adhesion in which the tribes received a promise of peace, \$20,000, and a perpetual annual annuity of \$9,500 in exchange for ceding to the United States all of Ohio, excepting a strip of land along Lake Erie, part of Indiana, Detroit, and all the other lands they had previously given to the French or British. Now in his 60s, and in failing health, McKee continued his work of supporting the Indians above the border and securing Canadian defenses against its southern neighbor.

A man who never ceased being a champion for the Native cause, Alexander McKee died on January 15, 1799. Hundreds of Indians attended his burial to perform a ceremonial funeral dance. A Moravian missionary in a single sentence captured the essence of his public life, saying, "Great Britain has lost a great support, the Indians a tender parent, and the United States the most inveterate and unnatural enemy." ■

#### SOURCES

- Brown, Parker B. "The Fate of the Crawford Volunteers by Indians Following the Battle of Sandusky in 1782." Web. 1982.
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- Tonsetic, William. *1781: The Decisive Year of the Revolutionary War*. Penguin Random House, 2011.
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## BRIEFLY SPEAKING



**James R. Antoniono** has been selected to receive the 2020 Outstanding Liberal Arts Alumni Award from Penn State's College of Liberal Arts. The award recognizes alumni for their success and influence as leaders, for significant career achievements, and for being outstanding role models for current Liberal Arts students. Clarence Lang, Susan Welch Dean of the College of Liberal Arts, says: "I am impressed with your significant accomplishments in law and business, your service to the Greensburg community and legal profession, and your dedication to your alma mater. Numerous students have benefited from your participation in the Liberal Arts mentor program and Political

Science career workshops. And your generous philanthropic contributions establishing the Antoniono Family Trustee Scholarship as well as several charitable remainder trusts will support undergraduates, graduate students, and faculty in perpetuity." The award will be presented in State College in April.



This past May, **Dennis N. Persin** was inducted into the Alle-Kiski Valley Sports Hall of Fame for his outstanding performance in football and track at Oakmont High School as well as his career while at the University of Pittsburgh. "Duke" was an integral part in the Oaks' 1965 WPIAL Class B football championship team under the late Chuck Wagner. A part of former Penn State coach Joe Paterno's first recruiting class, he played football at Penn State for two seasons before transferring to Pitt to close out his career.

Do you have news to share with the sidebar? Making Partner? Engagement? Marriage? Birth? Moving? Retiring? Anniversary? Milestones? Community Involvement? Accomplishments? Email [westbar.org@westbar.org](mailto:westbar.org@westbar.org) and we will publish your news in the next available issue.



JOIN US AS WE CELEBRATE

## DIANE KRIVONIAK

AND HER 30+ YEARS OF DEDICATION TO THE WESTMORELAND BAR ASSOCIATION

**THURSDAY, DECEMBER 12  
4 TO 6:30 PM  
GIANNILLI'S II**  
4816 STATE RTE 30, GREENSBURG

**FORMAL REMARKS BEGIN  
AT 5:15 PM**

**RSVP TO THE BAR OFFICE  
AT 724-834-6730 BY  
THURSDAY, DECEMBER 5**

## CALENDAR OF EVENTS

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

For PBI CLE courses, call 1-800-932-4637 or visit [pbi.org](http://pbi.org).

### DECEMBER

- 7** Holiday Dinner Dance & Silent Auction, 6:30 p.m., Westmoreland Museum of American Art
- 9** [PBI CLE] Captivating Presentations: Look Smart, Think on Your Feet, and Win Over Any Audience, 9 a.m. to 4:30 p.m., 6S
- 10** Ned J. Nakles American Inn of Court, 5 p.m.
- 11** [PBI CLE] The Law of Guns in Pennsylvania, 9 a.m. to 4 p.m., 5S 1E
- 12** [CLE] Bridge the Gap, 9 a.m. to 1 p.m., 4E  
Retirement Party Celebrating Diane Krivoniak, 4 to 6:30 p.m., Giannilli's II, Greensburg

- 18** [PBI CLE] The Year in Review for the General Practitioner, 8:30 a.m. to 3:45 p.m., 5S 1E  
Membership Committee, Noon
- 19** [CLE] How to Handle a Motorcycle Accident, Noon to 1 p.m., 1S  
Board Meeting, 4 p.m.
- 20** [CLE] Video Compliance, 9 a.m.
- 25** Courthouse closed in observance of Christmas
- 31** Deadline for paying your 2020 Membership Dues

### JANUARY

- 1** Courthouse closed in observance of New Year's Day
- 8** Real Estate Committee, Noon
- 9** Criminal Law Committee, Noon
- 15** Membership Committee, Noon



### How Stress Affects Lawyers

Stress affects all people and all professions. Stress in the legal profession, however, is well-documented. Lawyers work in an adversarial system with demanding schedules and heavy workloads, which may contribute to increased stress levels.

Lawyer assistance programs are available to help lawyers manage stress effectively. Contact Lawyers Concerned for Lawyers for help: [www.lclpa.org](http://www.lclpa.org).

LAC Committee members:  
Joyce Novotny-Prettiman, Tim Geary,  
Jim Antoniono, Chris Skovira,  
Linda Broker, Stuart Horner,  
Tom Shaner, Linda Whalen.



JOIN US AS WE CELEBRATE

# DIANE KRIVONIAK

AND HER 30+ YEARS OF  
DEDICATION TO THE  
WESTMORELAND BAR  
ASSOCIATION

**Retire  
ment  
Party!**

**THURSDAY, DECEMBER 12**

**4 TO 6:30 PM**

**GIANNILLI'S II**

4816 STATE RTE 30, GREENSBURG

**FORMAL REMARKS**

**BEGIN AT 5:15 PM**

**RSVP TO THE BAR OFFICE**

**AT 724-834-6730 BY**

**THURSDAY, DECEMBER 5**



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# Bridge the Gap — Video

4 Ethics Credits Available

**Thursday,  
December 12, 2019  
9:00 am - 1:15 pm  
WBA Headquarters**

**PRE-REGISTRATION:**

(Must be prepaid & received at the WBA office by 12 pm December 11, 2019.)  
CLE Credit

WBA Members- \$35 per credit hr.  
Non-Members - \$55 per credit hr.

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

**WALK- IN:**

CLE Credit  
WBA Members- \$45 per credit hr.  
Non-Members - \$55 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

As a courtesy of the Westmoreland Bar Association, this seminar is being offered **FREE** to **newly admitted WBA attorneys** who are required to complete the Bridge the Gap program

**PROGRAM FORMAT**

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

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

**Moderated by:**

Maria Altobelli, Esquire  
Mears, Smith, Houser & Boyle PC

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 — December 12, 2019**

Name: \_\_\_\_\_

Attorney I.D. # \_\_\_\_\_

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**\* PRE-REGISTRATION Fees: 4 Ethics credits available**

\_\_\_\_\_ I am a Newly Admitted Attorney, WBA Member

\_\_\_\_\_ I am a Newly Admitted Attorney, Non-Member - \$20 FLAT FEE

\_\_\_\_\_ \$35 per credit hour, WBA member

\_\_\_\_\_ \$55 per credit hour, Non-member

**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 December 11, 2019.**

# How to Handle a Motorcycle Accident

— LIVE — 1 Substantive Available



An accredited provider for the PA Board of Continuing Legal Education

## Topics of Discussion:

- \*Understanding the significant differences between car accidents and motorcycle accidents.
- \*Common insurance coverage issues in motorcycle accidents, including UIM and Medical Coverage.
- \*Subrogation issues and strategies.
- \*Preparing and presenting an effective case.

## **Speaker:**

\*Michael D. Ferguson, Esquire  
Ferguson Law Associates

### **December 19, 2019 - How to Handle a Motorcycle Accident**

Name: \_\_\_\_\_

Attorney ID #: \_\_\_\_\_

#### **Pre-Registration Fees**

\_\_\_ WBA Members - \$35

\_\_\_ Non-Members \$55

#### **Non-Credit:**

\_\_\_ \$10.00

\_\_\_ Waived for Young Lawyers (practicing 10 years or less)

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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 December 18, 2019.**

**Thursday,  
December 19, 2019  
12:00pm - 1:15pm  
WBA Headquarters**

#### **Seminar Fees:**

##### **PRE-REGISTRATION:**

(Must be prepaid & received at the WBA office by 12 pm December 18, 2019.)

##### **CLE Credit**

WBA Members - \$35 per credit hr.

Non-Members - \$55 per credit hr.

##### **Non-Credit**

\$10

Waived for Young Lawyers (practicing 10 years of less)

##### **WALK- IN:**

##### **CLE Credit**

WBA Members - \$45 per credit hr.

Non-Members - \$55 per credit hr

##### **Non-Credit**

\$20

Waived for Young Lawyers (practicing 10 years of less)

Lunch will be provided.

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# December Video Compliance

2.5 SUBSTANTIVE and 2 ETHICS CREDITS are available toward your annual CLE requirements.



An accredited provider for the PA Board of Continuing Legal Education

## Friday

**December 20, 2019**

**WBA Headquarters**

**9:00 am - 2:00 pm**

### Seminar Fees:

#### PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12:00 pm December 20, 2019)

CLE Credit

WBA Members - \$35 per credit hr.

Non-Members - \$55 per credit hr.

Non-Credit

\$10 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

#### WALK-IN:

CLE Credit

WBA Members - \$45 per credit hr.

Non-Members - \$55 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers

(practicing 10 years or less)

Lunch will be provided.

### Westmoreland Bar Association

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### Session 1 — 1.5 Substantive Credits

9:00 am - 10:30 am (Video from 06/13/19)

#### Social Media in Private Practice

Topics of Discussion:

1. How social media sites and applications work
2. Currently popular social media sites.
3. Data stored in social media sites and applications.
4. Preservation and presentation of social media data.

#### Speaker:

**\*Scott Lucas**

PATCtech

### Session 3— 2 Ethics Credits

12:00 pm - 2:00 pm (Video from 10/29/19)

#### Bridging Addiction and Client Care

The training will help professionals that work with people suffering from Substance Use Disorders such as alcoholism and opiate addiction. This training's goal is to teach participants to be aware of how transference, countertransference, external factors, and our own biases play a role in our interactions with people with substance use disorder. Participants will learn strategies to overcome these barriers while engaging clients.

#### Speakers:

**\*Manny Rivera, MA, LPC, NCC**

Clinical Director, Steps to Recovery

**\*Kathleen Murray, CPRS**

Outreach Coordinator, Steps to Recovery

### Session 2— 1 Substantive Credit

10:45 am - 11:45 am (Video from 06/13/19)

#### Stop the Sacrifice...Accelerate the Success..Enjoy the Ride!

Explore and apply powerhouse tools to maximize success in your practice and your life! Client's "hit the gas" while (sometimes, finally) "releasing the brakes" to get lasting, significant results. Traveling well beyond the tired "Work/Life Balance".

#### Speaker:

**\*Kieran M. Diorio, CPC, ELI-Master Practitioner**

**REMINDER: The WBA also offers online CLE. Earn CLE credits for \$30/credit at [westbar.org](http://westbar.org) under CLE Courses.**

## December 20, 2019 - December Video Compliance

Name: \_\_\_\_\_

Attorney I.D. # \_\_\_\_\_

Phone: \_\_\_\_\_

### Pre-Registration Fees

CLE Credit:

\_\_\_ WBA Members - \$35 per credit hour

\_\_\_ Non-Members - \$55 per credit hour

Non-Credit:

\_\_\_ \$10 Flat Rate

\_\_\_ Waived for Young Lawyers (practicing 10 years or less)

### Sign me up for:

\_\_\_ Session 1 - 1.5 Substantive credits

\_\_\_ Session 2 - 1 Substantive credit

\_\_\_ Session 3 - 2 Ethics credits

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Credit Card Billing Address \_\_\_\_\_

To qualify for pre-registration, please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12:00 pm December 19, 2019.**

JOIN THE LRS SERVICE IN 2020 AND LET US HELP YOU  
**Build your practice.**

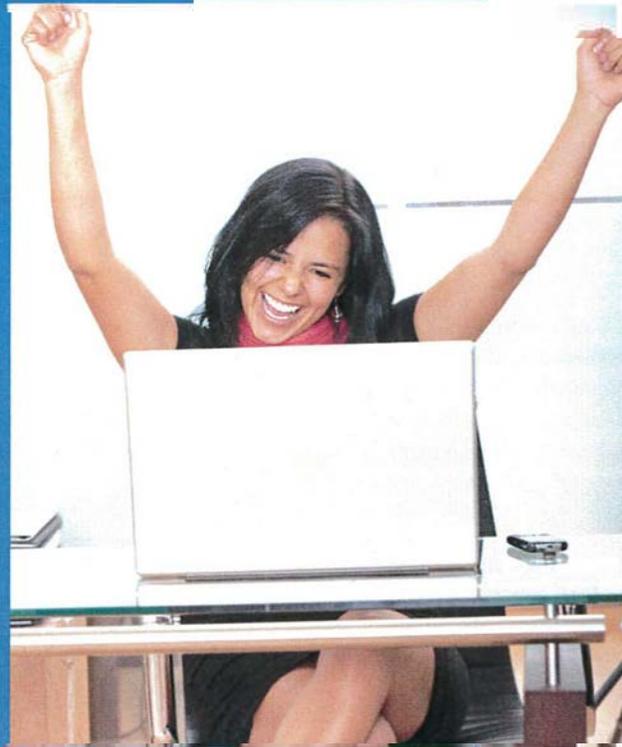


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