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THE NEWSLETTER OF THE  
WESTMORELAND BAR ASSOCIATION  
VOLUME XXX, NUMBER 5  
NOVEMBER 2018

# dicta They Want to Have Their Cake and Eat It, Too

by Pamela Ferguson, Esq.

Why can't Congress get anything done? It's a question that dominates every form of conversation. Whether you get your news from social media, online periodicals, political pundits, or print, the lament is the same: political partisanship has a chokehold on our government. No group knows this better than those who are seeking protection from discrimination



Pamela Ferguson

for their sexual orientation or gender identity. A 2017 national survey conducted by the Center for Progress reported 25.2% of LGBT respondents had experienced discrimination because of their sexual orientation or gender identity in the past year, requiring them to "hide who they are and who they love from their neighbors and employers, self-censor their public speech, avoid the public square, or even move away from family."<sup>1</sup>

Before pointing a finger at the current administration, understand that this is not a new fight nor is it solely the *cause*

*célèbre* of one party. Legislation which would prohibit discrimination in housing, the workplace, and public institutions on the basis of sexual orientation was first introduced as The Equality Act, in 1974.<sup>2</sup>

Championed by NY Reps Bella Abzug and Ed Koch, the Equality Act of 1974 was offered as an amendment to Title VII of the Civil Rights Act of 1964 to prohibit discrimination on the basis of sex, marital status, or sexual orientation in public accommodations, public facilities, public education, federally assisted programs, housing, and financial services. Anticipating continued hate crimes against those in the LGBT community, Abzug included in the bill penalties for anyone who willfully injured, intimidated or interfered with a person on the basis of sex, marital status, or sexual orientation and empowered the U.S. Attorney General to take civil

action against such discrimination. Unfortunately, the bill died in committee.

The pairs' reintroduction of the bill the following year as the Civil Rights Amendment of 1975 failed once again; however, not before convincing 22 members of Congress to join their ranks. Expecting the bill's failure, Abzug rationalized that 1975 was not the time for American gays and lesbians to receive full acknowledgment of the federal government, particularly considering that only

two years before, the board of trustees of the American Psychiatric Association (APA) had classified homosexuality as a mental disorder.<sup>3</sup>

Fifteen years later, proponents of non-discrimination legislation decided to try again. This time, they narrowed their focus to equality in the workplace through the introduction of the

*continued on page 17*



<sup>1</sup> CAP poll conducted by Tom Calazza on May 2, 2017.

<sup>2</sup> Fueled by the Stonewall Inn Rebellion, a resistance by LGBT patrons at the Stonewall Inn to NYC police in 1969, and introduced by NY Representatives Bella Abzug and Ed Koch, the first non-discrimination bill went nowhere.

<sup>3</sup> Prior to 1973, homosexuality was noted as a mental disorder in the Diagnostic and Statistical Manual of the APA.

From the Editor

# A Comment on the Lives of Sharks

by David J. Millstein, Esq.

**A**s I sit here writing these words, I don't know how the vote has turned out regarding the proposed WBA new office space. Anxious for the appearance of perspicacity whenever I can feign it, however, I am pretty confident in positing that there are only two likely outcomes. No matter which way the

vote has gone, there is both a poignancy and a pragmatism for me in this, and since I find myself with space in this issue to do with as I please, I am going to tell you all about it.



I came back to Greensburg, my hometown, in 1973 to practice law. Three years out of law school, I already had had two jobs: one with the FCC in Washington, and one with a small boutique law firm in Pittsburgh. My stint with the government taught me naught but that I didn't want to practice law there. My stint in Pittsburgh taught me everything I thought I would need to know to practice law on my own. The former was correct, but not so the latter, as many of my colleagues from those days will readily attest.

Before the decision was made to acquire and renovate our current space, the WBA was kind of homeless. Some of the time it occupied space in the courthouse, provided gratis by the county. But to give you some idea of what the county thought of us, it had put us right near the offices of both the district attorneys and the public defenders, for God's sake.

And as I recall, the WBA office bounced around in the courthouse,

being moved from one space to another as the county kept finding more important use for the space it had previously made available. The spaces were free but squalid, bereft of natural light and usable oxygen.

At some point near the end of 1989, the WBA board began to explore the possibility of buying its own space. The meeting held for debate and vote on the matter was moderately contentious. The WBA board strongly recommended the purchase and renovation of what is now our current space, but many colleagues, cleverly intuiting that free rent was cheaper than buying a building, were aghast at the idea of spending that kind of money. I was supportive of the idea and stood up to say so. "Look," I told the assembly, "I know all of our board members and some of them I even like. If they recommend it after a year's study, I am willing to support it."

I have no idea if I persuaded anyone, but the vote carried, and the rest is history. We have gloried in our own offices and it completely changed the face of our association, it altered the way we practiced law in this county, and it gave us the kind of presence and professionalism that had previously been absent.

The current vote now comes almost thirty years later, along with

the poignant part of my story. Aside from my work with the pro bono office, I no longer actively practice law. That part of my life and career has ended. Now I don't know for sure about this new potential undertaking, but I do know this: it's important stuff. There was a line in Woody Allen's great movie, *Annie Hall*, in which he talks to Annie Hall about their dying affair. "A relationship," he tells her, "is like a shark. It has to keep moving forward to survive. I think what we have on our hands here is a dead shark."

It's true enough that my legal career is pretty much over, and in that regard, I might not be expected to care about this vote. But the WBA has enhanced in every way both my career and my relationship with my colleagues, and I do care. I have loved my relationship with both my bar association and my colleagues—well, most of them anyway—and I wish for both the best.

However the vote turns out, I hope it's the right one, the progressive one. I'm proud of what we've become since I joined in the early seventies, it's something we should all glory in, and I want for it to continue always. Practicing or not, I intend to remain a member for some time yet, and the last thing I want on my hands is a dead shark. ■

## Membership Votes to Purchase New Building for WBA HQ

**A**t the Special Quarterly Meeting held on November 7, 2018, WBA members chose to authorize the purchase of the AAA building at 100 North Maple Avenue for its new headquarters by a vote of 46-21. Details about the building are online at [westbar.org/quarterly-meeting-november-7-2018](http://westbar.org/quarterly-meeting-november-7-2018). More information will be made available to the membership as it becomes available. ■

# Remembering Steve Alias

by Rebecca K. Fenoglietto, Esq.

Steve Alias, Esq., passed away toward the end of June. His burial was private and there was no obituary, just an announcement from the Bull Creek Rod and Gun Club, where he had been an active member and board member. He had been an attorney in New Kensington for over 30 years, but his love was the outdoors, from fishing to hunting to camping. Ask him about that and this normally private person would light up.

We bonded because my boys were Scouts and he was active in Scouting. One of the nicest things he did was to give me a vintage patch to give to my

son when he made Eagle Scout. That was pretty awesome.

Steve was one of the first attorneys I met on the other side of cases in Westmoreland County. One was a simple divorce that I seemed determined to make complex because I didn't know better. He chuckled and showed me what not to do. The second was a

legitimately complex custody case that was really a race to the bottom for both very troubled clients. Mine got there first. After one particular hearing, he looked at me and said,

"After a day in court with you, I just want to go out into the woods and kill something with my bare hands." Looking back, it may have been his

**“Steve was a fierce advocate for men’s rights, but he represented women just as fiercely. Come to think of it, everything he did he did fiercely.”**



way of complimenting me.

Over the years, I learned some cool litigation tricks from Steve that I'm not sharing because then you'll know them and use them against me.

Steve was a fierce advocate for men's rights, but he represented women just as fiercely. Come to think of it, everything he did he did fiercely. His house is up the street from our office. You'll recognize it from the huge Trump poster and signs that say—and I summarize—"Don't trespass. If my dogs don't kill you my guns will."

The last time I saw him, we discussed my coming to see him for shooting lessons. I would have loved to do that but then he'd have seen how bad I am at it. I was much better at agitating him in court. He also offered other female lawyers gun training lessons. Thinking back, I can't imagine why he'd want to train female lawyers to shoot. Maybe he had mellowed.

He would hate that anyone wrote anything about him. But like I said, I was always pretty good at agitating him and I see no reason to stop. Rest easy, my fierce friend, and know I am totally putting PETA stickers all over your Trump sign. ■

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

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



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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# Update on Civil Case Assignment Procedures for 2019

by *Emily Shaffer, Esq.*

With Judge Marsili's retirement this December and the resulting vacancy until next year's election, many attorneys are wondering what will happen to cases presently assigned to Judge Marsili. In order to make the transitions in the next few years as seamless as possible, Court Administration recently implemented a system for assigning and reassigning Judge Marsili's



*Emily Shaffer*

caseload, which began occurring in October of this year.

Court Administration began reassigning cases that required scheduling orders to the two remaining civil court judges, Judge Scherer and Judge Smail, as pleadings were filed. Those cases included proceedings requiring a hearing, oral argument, or other appearance in front of a judge and were reassigned on an alternating basis between Judge Smail and Judge Scherer. All current cases will not be automatically reassigned, but will be reassigned only as filings requiring scheduling are received by Judge Marsili's chambers or by Court Administration. However, even though reassignments will take place in order to move the cases forward, the docket will also continue to list Judge Marsili as one of the assigned judges in order to distinguish them easily once a new civil judge is assigned.

Beginning in late November, the Prothonotary will begin assigning new cases on a rotating wheel basis between three judges, even though there will be a vacancy. Accordingly, the assignment procedure might look like this:

Case 1: Judge Smail  
 Case 2: Judge Scherer  
 Case 3: Judge Marsili/Judge Smail  
 Case 4: Judge Smail  
 Case 5: Judge Scherer  
 Case 6: Judge Marsili/Judge Scherer  
 Case 7 would be assigned to Judge Smail, and so on. This procedure will facilitate a smooth transition when a

new civil judge fills the vacancy. At that time, all cases assigned to Judge Marsili will be reassigned to the new civil judge and all three should have a similar caseload.

Attorneys should contact the Prothonotary or Court Administration with individual questions on their pending cases. ■



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# Spotlight on Charles Dangelo

## Q WHAT JOBS HAVE YOU HELD PRIOR TO BEING AN ATTORNEY?

**A** I worked in my grandfather's grocery store from age 12–18, and did everything from produce work to meat cutting. Also, I was a graduate teaching assistant, a Turnpike road worker, a document production paralegal, and even spent

a couple of days working on a mushroom farm.

## Q WHAT IS THE FUNNIEST THING THAT'S HAPPENED TO YOU AS AN ATTORNEY?

**A** During a criminal trial, a defendant took the witness stand and started singing the song he used to seduce an exotic dancer. The defendant was not a good singer, but his romantic crooning convinced the dancer to go home with him.

## Q WHAT IS THE QUALITY YOU MOST LIKE IN AN ATTORNEY?

**A** I get along with attorneys who are reasonable and want to resolve problems.

## Q WHAT IS YOUR FAVORITE JOURNEY?

**A** I've been visiting the Outer Banks of North Carolina since I was a kid. It's my home away from home.

## Q WHAT IS YOUR GREATEST REGRET?

**A** I have not had the opportunity to travel internationally.

## Q WHO ARE YOUR HEROES IN REAL LIFE?

**A** My wife, who supported me in my twenties and got me through law school.

## Q WHAT ADVICE WOULD YOU GIVE TO ATTORNEYS NEW TO THE PRACTICE OF LAW?

**A** Don't try to do everything. Focus on two or three areas of law that you like and do well. Trying to be an all-purpose lawyer is the path to stress and anxiety.

## Q WHAT IS THE BEST ADVICE YOU EVER GOT?

**A** The facts are more important to the law.

## Q WHAT DO YOU CONSIDER YOUR GREATEST ACHIEVEMENT?

**A** Raising my two children and having a good marriage.

## Q WHAT IS YOUR MOST TREASURED POSSESSION?



**A** I don't have a treasured possession. However, if my house was burning, I'd grab my Martin guitar and my cameras.

## Q WHAT IS IT THAT YOU MOST DISLIKE?

**A** Certainty and intransigence.

## Q WHAT IS YOUR GREATEST EXTRAVAGANCE?

**A** I don't have one. I'm rather Spartan by nature and don't make extravagant purchases. I buy something for myself every two or three years and enjoy a good meal—that's it.

## Q WHAT TALENT WOULD YOU MOST LIKE TO HAVE?

**A** Fluency in a foreign language.

## Q WHAT DO YOU VALUE MOST IN YOUR FRIENDS?

**A** The ability to listen without being judgmental.

## Q WHAT CAREER, OTHER THAN YOUR OWN, WOULD YOU LIKE TO ATTEMPT?

**A** National Geographic photographer. Also, I would have made a great reference librarian. ■



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# foundation focus

## Law School, Mock Trial Scholarships Awarded



Three law school scholarships and four Mock Trial scholarships were awarded in August by the Westmoreland Bar Foundation Board of Trustees for the 2018-19 school year. From left to right, standing: Trustee Judge Christopher A. Feliciani, law school scholarship winner Marcus Spisso, Trustees David DeRose, Dr. Kathleen Kelley, Tim Geary, Janice Galloway, Bruce Tobin, Dick Galloway, and Edgar "Tack" Hammer III. Seated: Mock Trial scholarship winners Hannah Nemanic, Aubry Chickarella, and Kate Polechko. (Gina McKlveen, Ashley Solo, and Eden Elma were unable to attend.)

The Westmoreland Bar Foundation awarded three law school scholarships and four Mock Trial scholarships to Westmoreland County residents for the 2018-19 school year. An awards ceremony was held on Thursday, August 16, 2018, in The Hon. Christopher Feliciani's courtroom at the Westmoreland County Courthouse.

### LAW SCHOOL SCHOLARSHIPS

Gina McKlveen, from Stahlstown, was awarded the Wayne Donahue Memorial Scholarship. The Donahue Scholarship is named for Attorney Wayne R. Donahue, a sole practitioner from New Kensington and a lifelong resident of western Pennsylvania. Gina

is a first-year law student at George Washington University Law School. She is a graduate of St. Vincent College with a B.A. in English & Studio Arts.

Marcus Spisso and Ashley Solo are both recipients of the Donald Hankey Memorial Scholarship. Attorney Hankey was a sole practitioner in New Kensington and a member of the Westmoreland Bar Association for more than 65 years.

Marcus Spisso, from Greensburg, is a graduate of Pennsylvania State University with a B.S. in Political Science/History and is a third-year law school student at Dickinson School of Law of the Pennsylvania State University. "I am honored to be a recipient of the Donald Laird Hankey Memorial Scholarship," says Marcus.

"I cannot thank the committee and the members of the foundation enough for selecting me. This scholarship will go a long way as I pursue my law degree."

Ashley Solo, from Irwin, is a graduate of Penn State Erie, The Behrend College, with a B.A. in Political Science. She is a third-year student at Michigan State University College of Law. "I am so grateful to have been selected for the Donald Laird Hankey Memorial Scholarship," says Ashley. "The money is greatly appreciated and it is a major blessing to receive such a generous sum. I can't wait to one day be in the position to give back."

### MOCK TRIAL SCHOLARSHIPS

Mock Trial Scholarships are made possible through the generous donations of members of the Westmoreland Bar Association, appropriately titled the Founding Fellows. Over \$60,000 was raised in 2000 by this group to assure that two \$1,000 college scholarships could be awarded each year to deserving mock trial participants.

This year's Mock Trial Scholarship winners are Greater Latrobe High School graduate **Hannah Nemanic**, Kiski Area High School graduate **Aubry Chickarella**, and Penn-Trafford High School graduates **Eden Elma** and **Kate Polechko**. Eden and Kate were teammates on the Penn-Trafford team that placed first in Westmoreland County, first in the Region 3 competition, and second in the statewide competition held in Harrisburg in March. ■

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**SEPTEMBER 2018 TRIAL TERM**

Of the seven cases listed for the September 2018 Civil Jury Trial Term, three settled, three were continued, and one jury trial was held during the civil jury trial term.

**PADMASHRI SAMPATHKUMAR,  
SRIKANTH RAGHUNATHAN  
AND NGX, INC.**

**V.**

**CHASE HOME FINANCE, LLC  
AND SAFEGUARD PROPERTIES  
NO. 5978 OF 2012**

*Cause of Action: Conversion*

In 2008, a foreclosure action was initiated upon the home of Plaintiffs Sampathkumar and Raghunathan by Defendant Chase Home Finance. The foreclosure action proceeded while Plaintiffs were incarcerated and Defendant Safeguard, a property restoration and maintenance company, was eventually brought into the home to oversee the cleanout and maintenance of the home during the pendency of the action. Plaintiffs alleged that personal property owned

# JURY TRIAL VERDICTS

BY EMILY SHAFFER, ESQ.,  
LEEANN PRUSS, ESQ., AND  
CAITLIN BUMAR, ESQ.

by Plaintiffs Sampathkumar and Raghunathan and intellectual and business property belonging to Plaintiff NGX, Inc., totaling approximately \$18 million, was improperly converted by Defendants Chase and Safeguard.

Plaintiffs argued that Defendant Chase did not follow the proper procedure in foreclosing upon the home, and that all of the property in the house was unlawfully converted by Defendants, as they did not have the right to exercise control over the property. Defendants asserted several defenses, including that Plaintiffs, upon discovery of their injury, did

not file their lawsuit within the time allotted under the relevant statute of limitations. Defendants also maintained that Plaintiffs abandoned their property in the home.

After a thirteen-day trial, the issues of Plaintiffs' discovery of their injury for statute of limitations purposes, as well as Plaintiffs' alleged abandonment of their property, and the ultimate issues of conversion and resultant damages were placed before the jury for deliberation.

*Trial Dates:* September 4–20, 2018

*Plaintiffs' Counsel:* Dennis J.

Kusturiss and Erica G. Wilson,  
Vuono & Gray, LLC, Pgh.

*Defendant Chase Home Finance's*

*Counsel:* John K. Gisleson and Franco  
A. Corrado, Morgan, Lewis & Bockius  
LLP, Pgh. and Philadelphia

*Defendant Safeguard's Counsel:*

Robert B. Eyre and Stacey Main, Foehl  
& Eyre, P.C., Media, Pa.

*Trial Judge:* The Hon. Harry F.  
Smail, Jr.

*Result:* Verdict in favor of the  
Defendants. ■

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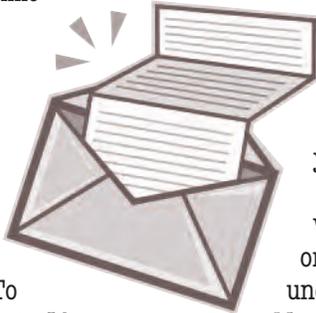
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# Letters to the Judge

Your honor, Sir,  
I'm sorry to say that my correspondence has been anything but regular for some time, but please dispel any idea that you are out of my thoughts. Your many admonishments at the time of sentencing are still clear, particularly your observation that my record suggested that I was nothing more than a snag in the social fabric of society—a characteristic that I am anxious to change. To that end, some months ago, I became the honorary self-appointed chair of the prison's committee to celebrate Love Your Lawyer Day, an annual event that is generating excitement across the nation. I'm sure you have heard of it, and at first it struck me as odd that there was no comparable Love Your Judge Day, but that is likely due to the fact that judges are already universally idealized and adored, while members of the bar are still a work in progress.

The day of celebration is traditionally recognized on November 2, a day without any other significance, except for those few people who still observe the coronation of Haile



Selassie. I was given permission on this one occasion to decorate the prison's intake room and set up tables to hold trays of week-old doughnuts obtained from the mess hall, along with gallon jugs of

Mountain Dew. The festivities were set for 2 to 4 p.m., but by 3:30 the only ones to show up were your correspondent and my cellmate, Jeeter, who said he had come only because he had an unquenchable thirst for Mountain Dew. Though, to be sure, he did say that he found his lawyer somewhat likable and tolerable even though the judge said something about him failing to read about some statute of limitations, which his honor seemed to find a little amusing.

As for me, I always liked my lawyer who was Darla Jean's (my significant other's) nephew, who was ripe with learning, being just six months out of law school, and who agreed to take my case if I would paint his office (with two coats) and walk his dog daily until my appeals were exhausted. I often wondered how he knew there would be appeals; I guess he was just that smart.

Anyhow, your honor, despite the anemic attendance, I feel that I have performed something in the nature of community service and that your views about me might be slightly modified to the point where you might consider my enclosed application to reconsider my sentence. And if you like doughnuts I could mail you a few, there are plenty left over. ■

Your friend,  
Ricky H. Benbow, Sr.

## Lawyers' Exchange

(Free to all members of the WBA)

**RESEARCH OR CONTRACT RATE WORK** performed for employment law and contract law. If you need research performed or want me to work on one of these cases at a contract rate, please call Sharon Wigle at 724-423-2246 or email [jjwigle@wpa.net](mailto:jjwigle@wpa.net).

## where in the world IS THE WBA MEMBER?



"Slieve League Cliffs on the Wild Atlantic Way in County Donegal; elevation of 1,972 feet."

— Bruce Tobin

**D O N E G A L , I R E L A N D**

# RBG: Biopic of A Hero

by David J. Millstein, Esq.

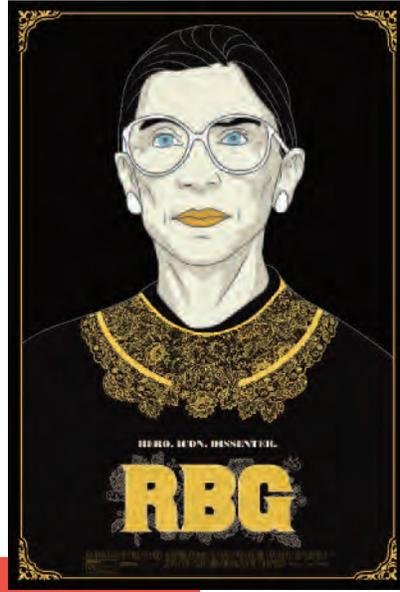
I am giving away no secrets when I say that the political landscape is currently divided into two warring camps. On one side we have conservatives, those who tend to favor smaller government in the form of less spending, less government regulation of economic issues, and more government regulation of individual liberties. On the other side we have progressives, those who tend to be kind and caring, those who love America and its people.

Every once in a while, each side may produce a hero, someone who stands up for, fights for, moves mountains for the highest and best principles of either side. American progressives include, for instance, the likes of Abraham Lincoln, George Washington, Thomas Jefferson, Albert Einstein, Nelson Mandela, Sigmund Freud, and Martin Luther King, just to name a few. Conservatives have similarly produced their fair share of heroes as well, although at the moment none occur to me.

And when it comes to contemporary progressive heroes, one cannot for a moment overlook Ruth Bader Ginsburg. If you love heroes, if you love women, if you only just like women, if you know any women, even if you can't accept that women are a huge part of our species, you have to admit this—she's a really big hero.

The only element of her stature that is not enormous is her physicality; in that regard she's tiny. Otherwise though, her status is that of a Colossus, and that brings me to the point. There is a current documentary movie out there, bearing the appropriate appellation *RBG*, that tells her story, and whether you stand on left or right turf, you need to see it. I'm not going to provide you with many biographic facts, even though this movie is a biopic. It is quite enough to say that she went to law school in the 1950s when hardly any women did. She started at Harvard and graduated from Columbia first in her class, having transferred there when she married. Despite her class rank in a superb Ivy League law school, Justice Felix Frankfurter (SCOTUS) would not hire her for a clerkship because she was a woman. In fact, she had trouble finding any work until, with some strongarm tactics of Columbia's then law school dean, she eventually was hired to clerk for a federal district court judge in the southern district of New York.

## LAWFLIX



Theatrical one-sheet for *RBG*, a Magnolia Pictures release. Photo courtesy of Magnolia Pictures.

After two years clerking and three years as a research assistant back at Columbia, she took a position teaching civil procedure at the Rutgers University School of Law, becoming one of fewer than twenty female law professors in the country. There she was informed she would be paid less than her male counterparts because she had a husband gainfully employed. Can you see where this is going?

I can make this short. Having experienced firsthand the disparate treatment of women, even in the legal profession that should have been the bulwark of protection against such perfidy, she founded the *Women's Rights Law Reporter* while at Rutgers. When she subsequently went on to teach at Columbia, she published the first casebook on the law of sex discrimination (and became the very reason it is no longer a slim volume) and then, as a volunteer attorney for

*continued on page 10*

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## RBG: Biopic of A Hero *continued from page 9*

the ACLU she founded the Women's Rights Project. In 1973 she became the ACLU's general counsel, and by the end of 1974, the ACLU had filed or otherwise participated in over 300 sex discrimination cases.

Her record as an advocate for women's rights is unparalleled. She won five of the first six cases she argued

### LAWFLIX

before SCOTUS, and she quickly developed a reputation as a highly skilled brief writer, oral arguer, and litigator.

President Carter appointed her to the DC Circuit Court of Appeals in 1980 and President Clinton appointed her to the Supreme Court in 1993. She has been there ever since, serving with intellect and distinction that is rare even for the better members of that now only semi-august body.

No review can capture this movie's essence, as is always true with real heroes. If you're a lawyer and you love the law, admittedly two things that don't always go hand in glove, I think you will love this movie. This is what lawyering on the top floor is supposed to be. The story of her career is the story of a hero of the law, much like Clarence Darrow was a hero, or Thurgood Marshall, or John Marshall, or Earl Warren—lawyers and judges who by the force of their intellect, personality, and character altered the structure of both our legal landscape and our culture. It is also a movie of wonderful tenderness, a lifelong love affair between husband and wife, lawyer and law, judge and justice.

There is one scene in the movie in which she shows off all the black dresses with white collars she wears when she takes the bench. They are only slightly different one from the other, they all fit her like a cape, and they have become her signature accoutrement. I say this because I'm guessing you can tell I really liked this movie. I did, and in no small part because I really liked the hero. I have had a life-long love affair with heroes, some fictional, like Superman and Batman, and some real, like Ruth Bader Ginsburg. What can I say, I've always been a sucker for capes. ■

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# To-Wit: Out of Practice

by S. Sponte, Esq.

I'm not sure why I did it that morning some months back. It hasn't been my custom for quite some time, but when the mail came, and my secretary wasn't in, I opened it all myself.

It didn't bother me much that there were bills there that I had no knowledge of. For many years now, I've let her take exclusive care of that stuff. It didn't bother me that there was correspondence there from people whose names I didn't recognize; I've been letting her take exclusive care of that stuff as well. And it didn't even bother me that there were pleadings there responsive to things I don't remember filing, on cases that I didn't recognize, on behalf of clients whose names had escaped me. There were, though, a bunch of catalogues I understood.

Then it cold-cocked me like a compulsory non-suit; I had become very far removed from my own practice and I was quite content and complacent about it.

**“Oh, I still have a fire in my belly, sure, but now it's mostly just indigestion.”**

This remove is not a recent phenomenon. Over the last several years I had been putting more and more work on my secretary, work that, in all candor, I should have been doing myself. I probably should have realized that this “here, you do it” mentality had gone too far the day she lost an argument in appellate court. I was actually quite surprised by the outcome; she had written a masterful brief.

It then occurred to me that the last three clients who called I'd referred out. Two sounded like decent cases, but I nonetheless sent them to colleagues who had previously referred stuff to me. The other one I referred to a colleague I couldn't stand, knowing that the statute of limitations had already passed and that he was unlikely to figure that out until he had spent a small fortune in discovery. But hmm, was there a red flag in all of this?

I've been practicing law since 1970, and not that long ago it didn't seem that long ago; now, however, it does. At this age, many of my law school classmates are already gone from the law. Some have gone into business, a few into teaching, some have just

*continued on page 12*



# G

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**Daniel Joseph**

# To-Wit: Out of Practice

*continued from page 11*

retired, and others have been elected to the bench.

Whatever had initially motivated them to practice law apparently no longer did so, and I now know that feeling all too well. It's never been just about the money for me. What's caused me to stand up to this profession's relentless cannonading for almost fifty years, what has pushed me to get back up every time I've been knocked down, what has enabled me to stagger to my feet and gesture emphatically, has been the fire in my belly, that yearning for truth, justice and, yes, even though now it's far less recognizable, the American way. Oh, I still have a fire in my belly, sure, but now it's mostly just indigestion.

Why it's gone who knows. Perhaps it's just that the years past have come a'calling for payment. Without that lust to make things better though, without that craving to be the savior of abandoned souls and the architect of the litigation that shelters them, I can't



practice anymore. So I've closed my office, and I'm done.

Let there be no moaning of the bar, I'll still be around. I'll do more pro bono work, I'll still write, I'll teach again, and I'll

enjoy it all. What I won't do is miss the corrosive, adversarial grind of daily practice or the business of running an office or the occasional unease about my secretary's lawyering. It's time for me to go, and the very worst thing I could do is not recognize it.

I'm sure we'll still see each other now and again, at bar association functions, at CLEs, and at the occasional landlord/tenant hearing when your avaricious client tries to throw some poor, struggling family out into the street. It will be good to see you, even if, inexplicably and after my so, so many years, you still fail to yield to the obvious correctness of my position. ■

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it's a boy!



Congratulations to **Allison Thiel** and her fiancé, Lou McQuaide, who welcomed their son, Colton Louis McQuaide, on June 25, 2018. Colton weighed 7 lb 9 oz and was 20 in. long. Colton's big sister, Kinley McQuaide, is six years old. Allison is a law clerk for The Hon. John J. Driscoll.

it's a boy!



Congratulations to **Michael (Stew) Stewart II** and his wife, Samantha, who welcomed their second son, Joseph Regan, on September 24, 2018. Joseph weighed 6 lb 5 oz and was 19 in. long. He joins proud big brother, James Innes, at home. Stew is with Stewart, McArdle, Sorice, Whalen, Farrell, Finoli & Cavanaugh, in Greensburg.



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*Westmoreland Revisited*

# Volunteers

## Westmorelanders in the 10th Pennsylvania Infantry

*by The Hon. Daniel J. Ackerman*

The year was 1898. On July 27, Secretary of State John Hay in a letter to President William McKinley referred to the hostilities in



*The Hon. Daniel J. Ackerman*

Cuba as “a splendid little war.” A light-hearted sentiment, likely shared by most of the country for the U.S. entered into the Spanish-American War with a demonstration of public support greater than that shown for any other war in our history.

The revolt of Cubans against their inept Spanish rulers captured the imagination of Americans, and sympathy for the insurgents was bolstered daily by sensational reports in the press of Spanish atrocities and rebel suffering. For the McKinley administration, the war proved a welcome distraction from the unforeseen economic downturn caused by the enactment a year earlier of the Dingley tariff, the highest protective tariff ever imposed, for the party in power is usually blamed for hard times.

### REMEMBER THE MAINE!

Even after the explosion aboard the *USS Maine* in Havana harbor on February 15, which caused the loss of over 250 crew members, entry of the U.S. into the conflict could have been avoided. The Spanish were immediately blamed; subsequent investigations concluded that the blast was caused by a submerged mine, though it is hard to envision what Spanish interest would have been served by such an attack.

On March 29, McKinley sent an ultimatum to Madrid demanding an

armistice, the release of prisoners, and U.S. arbitration of the dispute, which in turn brought an unsatisfactory reply from Spain.

The American minister in Madrid cabled Washington April 10 asserting that if nothing was done to humiliate Spain, he could obtain a settlement which could result in autonomy or independence for Cuba, and possibly even cession of the island to the U.S.—an avenue which was never explored.

On April 19, Congress passed a joint resolution demanding unconditionally that Spain vacate Cuba, and empowering the president to use military force. Spain responded with a declaration of war on April 23, followed by the U.S.’s own declaration two days later.

### RAISING AN ARMY

While the U.S. Navy was formidable, the army was unprepared, ill-armed and untrained at a time when a call went out for 150,000 recruits. In the initial weeks of the



*The 10th Pennsylvania Infantry's battle flag.*

war, confusion was the norm. Theodore Roosevelt resigned as assistant secretary of the navy to pursue the formation of a handpicked cavalry regiment consisting of cowboys, miners, college students, athletes, and the privileged sons of Park Avenue millionaires. The 500 or so “Rough Riders,” who arrived in Cuba without most of their horses, fought as infantry, and along with their flamboyant

*continued on page 14*



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# Volunteers *continued from page 13*

Lt. Colonel Roosevelt became the most celebrated regiment of the war.<sup>1</sup>

The vast majority of recruits entered the service through state national guard units such as the 10th Regiment, Pennsylvania Volunteer Infantry. While they never obtained the celebrity status of the Rough Riders—which, in fact, was widely resented in some military quarters, particularly by those in the regular army and at the war department—they shared the same sense of patriotism, and faced the same hardships and dangers.

The 10th was composed of companies, each of which had a quota of 106 men, from the counties of Beaver, Washington, Greene, Fayette, and Westmoreland, under the command of Colonel Alexander L. Hawkins. Each company drew recruits from local neighborhoods: for example, Company I recruits were drawn mostly from Greensburg and Latrobe, while those from Mt. Pleasant and Scottsdale were in Company E. But there were exceptions, for the long roster of the 10th Pennsylvania also reveals soldiers from New York, Texas, and California.

The 10th's first stop as a complete regiment was a training camp at Mt. Gretna, a small town in Lebanon

<sup>1</sup> Roosevelt had declined an offer to lead the regiment as its colonel in favor of the more experienced Colonel Leonard Wood.



*1898 Spanish American War Cabinet photo showing the encampment of soldiers from the 10th Pennsylvania Volunteer Infantry at Mt. Gretna, Pennsylvania.*

County, Pennsylvania, where it encamped from April 28 to May 17, when the war department ordered it to proceed to Chickamauga Park, Georgia. Typical of the confusion at hand, the very next day, the orders were changed—the 10th was to go to the Philippine Islands, via San Francisco, to serve under the command of Major General Wesley Merritt.

## THE 10TH HEADS OVERSEAS

In San Francisco, the regiment was fully equipped for its Asian destination, and on June 6, the men of the 10th boarded the troop transport *Zelandia*, one of four transports which would sail together. Throughout the war, such transports generated complaints from their occupants of overcrowding and poor food, and there was no reason to suppose that the *Zelandia* was an exception. Yet there was a bonus awaiting the regiment, for after 17 days at sea, the *Zelandia* entered the bay at Honolulu in the Hawaiian Islands to refuel by taking on coal.

The next day, June 25, the regiment along with other troops of the expedition were invited to lunch at the Palace grounds. The scene was described in the official history of the operations:

*“The regiment was marched into the Royal Gardens, and there, amid the palms and other foliage of the tropics, to the sound of music by the Royal Hawaiian Band, and waited upon by fair women, who did everything in their power to make the day pleasant, the men from Pennsylvania sat down to tables well laden with provisions. The afternoon was spent sight-seeing, letter writing and athletic sports. Here was where the First Nebraska surrendered the baseball championship to the Tenth Pennsylvania to the significant score of 16 to 0.”*

With the boredom of the long voyage broken, the *Zelandia* set out again, arriving at Wake Island on July 4,

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where as part of the day's celebration, a party from a sister ship, the *China*, landed, planting the Stars and Stripes on the atoll. Later Guam Island was sighted, and on Saturday morning, July 17, the *Zelandia* entered Manila Bay to the sound of a salute fired from the warships of Admiral Dewey's fleet. The task for which the men enlisted was now at hand.

### UNDER ATTACK

Of course, the first task was drudgery of the pick-and-shovel variety, for the regiment was assigned to extend the entrenchments at Fort Dewey on the east side of the bay, about four miles north of where they had landed.

Trench warfare had come into vogue as a tactic toward the end of the Civil War at Petersburg, and it would reach its ghastly peak on the fields of France and Belgium twenty years later. Here the U.S. entrenchments were about 1,200 yards south of the Spanish fortifications at Malate.

On the last day of July at 11:30 p.m., four Spanish field pieces opened fire on the camp, and though the bombardment lasted half an hour it produced not a single American casualty. This was promptly followed by rifle fire from a Spanish infantry unit which took the life of one U.S. soldier and wounded four others.

After midnight, in the wee hours of August 1, the Spanish attempted a flanking movement on the American entrenchments, which was rebuffed during a massive exchange of fire. The official report suggested that the Spaniards unleashed about 100,000 rounds of ammunition, and the U.S. about 60,000 rounds, 37,000 of which were attributed to the men of the 10th Pennsylvania Infantry—yet the U.S. casualty numbers were low: 6 killed and 27 wounded. Companies D, E, and K of the 10th Pennsylvania, who were in the most unprotected positions, were praised for their gallantry, as were the hospital units who braved the fire and were credited with saving half a dozen lives.



*The 10th Pennsylvania Volunteer Ambulance Squad removing wounded at Malolos in the Philippines.*

During the next two weeks the 10th Pennsylvania was placed on outpost duty without incident. On August 13, it was recalled to Fort Dewey where each man received two days' cooked rations and 200 rounds of ammunition. With the rest of the army, it advanced upon Manila, which was then under fire from the U.S. fleet, arriving just in time to see a white flag of surrender hoisted above the city.

Hostilities with Spain came to a climax with the Treaty of Paris on December 10, 1898—a treaty in which Spain ceded control of Puerto Rico and Guam to the U.S.; Cuba became a U.S. protectorate without annexation; and the U.S. paid Spain \$20 million to annex the entire Philippine archipelago which had been under Spanish rule for 333 years. The ending of one war, however, spawned another.

### THE PHILIPPINE-AMERICAN WAR

While most of the companies of the 10th Pennsylvania were assigned guard patrol and outpost duties in and around Manila, which was under martial law, Companies A and B were detached for service on the island of Corregidor.

On February 4, 1899, two days after the U.S. Senate ratified the Treaty of Paris, fighting broke out between American forces and Filipino nationalists who were seeking independence in preference to simply a

new ruler. Thereafter, the regiment went on the offensive, driving Filipino insurgents from positions in a Chinese hospital, the La Loma Church, and a blockhouse, followed by the capture of the village of Obando.

On April 14, the regiment was ordered to return to Manila for garrison duty, and on the same day of the next month, Companies A and B rejoined the regiment. The 10th Pennsylvania had taken part in the opening stages of a new, and what would become a longer and more deadly, Philippine-American War.<sup>2</sup>

### HOME AT LAST

On June 22, the regiment received the order every man was waiting for, directing them to board the transport *Senator*. At long last, they were on their way home, to be mustered out of the service in San Francisco, after prior stops at Nagasaki and Yokohama, Japan. There would be few complaints now about cramped conditions or poor rations, and an atmosphere of levity prevailed until July 18 when their commanding officer, Colonel Hawkins, suddenly died at sea.

The *Senator* docked in San Francisco on the 1st of August, and

*continued on page 16*

<sup>2</sup> The Philippine-American War lasted three years (1899-1902), resulting in the death of 4,200 American troops, 20,000 Filipino combatants, and 200,000 civilians.

# Volunteers *continued from page 15*

already in Pittsburgh, preparations were underway for celebrating the arrival of the veterans. A committee from Pittsburgh was sent to California to accompany the regiment on its return to the city, and a hero's welcome awaited the troops who had gone to fight on the other side of the world with parades and speeches, capped by an evening gala in Schenley Park on August 28.

## WESTMORELAND'S OWN

Like all the rest, the Westmoreland County "boys" were anxious, after 15 months in the regiment, to return to their families and civilian pursuits. One of them, William T. Dom, Jr., of Company I, was a lawyer and member of the Westmoreland bar.

A W&J graduate who had studied law in the office of D.C. Ogden, Esq., in Greensburg, he enlisted in the Pennsylvania National Guard at age 22 in 1895, and served as the company clerk. In the Philippines, he was promoted to the rank of corporal, and soon was designated a battalion sergeant-major. On being mustered out of the service he returned to his law practice, later serving as the Westmoreland County District Attorney from 1910 to 1913. He became a judge on

our court of common pleas in 1922 and served in that capacity until his death in 1936 at age 63.

## THE COSTS OF WAR

One must wonder, in retrospect, if he and his comrades viewed their experience as, "a splendid little war," as John Hay described it? When compared to other military conflicts it was a little war, both in duration and casualties: 392 men killed in battle, 2,621 who died of disease, 1,645 wounded, and 8 captured. But such losses can hardly be viewed as splendid. It may have seemed so to the Cuban insurgents who gained their liberty, a condition which unfortunately would not be permanent.

Some Americans would critique it as a step on the path to imperialism, but the overall attitude of the public toward the war was upbeat. Many of the troops who served had fathers and uncles in the Civil

War, and grew up listening to tales of battlefield valor, and viewed this new war as an opportunity to prove themselves. It was also our first war since the conflict of 1861-65, and in facing a foreign foe, people north and south, at long last began to believe that once again they belonged to one country. ■



Wm. T. Dom, Jr., 1900

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# dicta They Want to Have Their Cake and Eat It, Too continued from page 1

Employment Non-Discrimination Act (ENDA). Preventing discrimination in hiring and employment on the basis of sexual orientation or gender identity by employers of at least 15 employees, the ENDA was touted by its opponents as a threat to free speech and religious liberty; free marketers concerned about freedom of contract and government interference in the marketplace; and social conservatives concerned about marriage and culture. As a result, despite being introduced in some form in every Congress except the 109th since 1994, passage has remained elusive.

In 2017, the desire to afford the LGBT community with equal protections crossed party lines when the Equality Act was reintroduced in the House by David Cicilline (D-RI), with a total of 198 co-sponsors, including Ileana Ros-Lehtinen (R-FL) and Scott Taylor (R-VA)<sup>4</sup>; but, opposition to the Equality Act by the current administration and conservative Republicans in the House and Senate assures continued frustration of its passage. Former Attorney General Jeff Sessions had signaled that under his leadership, the DOJ would adopt a narrow interpretation of Title VII of the Civil Rights Act of 1964. In an amicus brief submitted to federal court in July 2017 and in a departmental memo issued in October 2017, Sessions reversed an Obama-era policy and noted that Title VII does not afford employment protections on the basis of sexual orientation or gender identity.

Frustrated by a paralyzed federal government, LGBT proponents have looked to the states as a more productive venue. Bill Pound, executive director of the National Conference of State Legislatures

agrees: “A lot of these issues are more prominent at the state level than the federal level because you know nothing can happen on them at the federal level.”<sup>5</sup>

This could be a good or bad thing depending on the state you live in and on which side of the issue you stand. For the LGBT community, deciding to take a job requires an understanding of the political climate of the employer’s state. Twenty states and the District of Columbia have anti-discrimination laws that protect against both sexual orientation and gender identity discrimination in employment in the public and private sectors.<sup>6</sup> While this is encouraging, it creates confusion and inconsistency for gay and transgender workers who relocate from one state to another and for employers who live in municipalities and counties that have enacted local ordinances with protections not afforded by the state. Regardless of where you stand on this issue, complying with the patchwork of laws that differ from state to state negatively affects the work environment.

Living and working in a state that has anti-discrimination laws does not always guarantee the protections that

were initially intended by proponents of the law, as we have seen in recent Supreme Court cases addressing issues concerning gay rights. The problem that arises under our system of federalism is that the delineation of powers between the federal and state governments is not always clear. Provided by the 10th amendment to the Constitution, powers not specifically delegated to the federal government nor prohibited by the Constitution are held by

the states: a system, Alexander Hamilton argued, that would benefit citizens of all states by offering them redress from violations of their rights at both the state and federal level. Ideal in theory, but not so in practice.

What Hamilton did not anticipate was that as our nation evolved, the line between state and federal authority would blur, requiring interpretation by a Supreme Court whose members have different social and political agendas. The recent U.S. Supreme Court case of *Masterpiece Cakeshop v. Colorado Civil Rights Commission* exemplifies this quandary.

Despite the shouts of “Hallelujah!” by opponents of gay and lesbian rights in public accommodations, the ruling in *Masterpiece Cakeshop* was not the endorsement against gay rights they believed it to be. In fact, the holding took exception solely with the actions of the Colorado Civil Rights Commission, not with the state’s anti-discrimination law. Justice Anthony Kennedy, who wrote the



<sup>5</sup> Greenblatt, Alan. “While Congress Slumbers, Laws Pass Elsewhere.” NPR.org. April 15, 2013.

<sup>6</sup> California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, Utah, Vermont, and Washington. Movement Advancement Project, [lgbtmap.org](http://lgbtmap.org).

<sup>4</sup> H.R.2282 Equality Act.

# dicta They Want to Have Their Cake and Eat It, Too *continued from page 17*

opinion for the majority, and Justices Roberts, Alito, Breyer, Kagan, and Gorsuch saved for another day the issue of whether states' anti-discrimination laws—offering protection against discrimination based on sexual orientation and gender identity—violate the constitutional right to religious freedom and free speech. Contrary to those who claim victory, Kennedy's decision affirmed that there remains protection for same-sex couples and gay rights which states can still enforce through anti-discrimination laws:

*“The outcome of cases like this in other circumstances must await further elaboration in the courts, all in the context of recognizing that these disputes must be resolved with tolerance, without undue respect to sincere religious beliefs and without subjecting gay persons to indignities when they seek goods and services in the open market.”*

When considering the protections afforded by some but not all states, and some but not all municipalities in states that do not have protections, the argument for a singular federal statute covering all LGBT workers becomes even stronger. Federalism fails everyone in the workforce, not just the LGBT community. Consistency and uniformity are the only way to protect gay and transgender workers from harassment and termination and encourage economic growth. States without anti-discrimination laws self-eliminate an entire workforce and marketplace. But, if history is any indicator,

Congressional consensus is not within reach anytime soon, particularly considering the current political climate. At least there are states and municipalities that recognize the value of a person's work regardless of sexual orientation or gender identity.

So, where does that leave gay and transgender workers in Pennsylvania and, more specifically Westmoreland County? Pennsylvania does not have an anti-discrimination statute that protects workers from discrimination in the workplace, housing, or public accommodations. State Rep. Dan Frankel, D-Allegheny, co-chair of the LGBT Equality Caucus in the legislature, believes it's time for Pennsylvania to join the other 20 states, the District of Columbia

and Pennsylvania's residents by affording the LGBT community protection from discrimination. “This is about much more than cake,” Frankel said in an online Pa. House newsletter. “This is about people being denied a job or a place to live just because of who they are ... Many Pennsylvanians are stunned when they learn state or federal law doesn't exist already to protect LGBT people in the workplace, in housing and public accommodations such as being able to eat in a restaurant or get a hotel room like everyone else.”

Frankel noted several municipalities in Pennsylvania, including Pittsburgh, Allegheny, and Philadelphia, that do protect their LGBT communities; however, he lamented the absence of statewide legal protections “that

makes Pennsylvania less competitive for business, especially when all other northeastern states provide these protections already.<sup>7</sup>

Rep Brian Simms, D-Philadelphia, the first LGBT person elected to the Legislature, agreed noting that Pennsylvanians are ahead of the Legislature: “Polls have shown consistent 70% support for this in Pennsylvania for eight years. The Fairness Act has bipartisan support in the Legislature, and there should be hearings and votes on it,” yet it continues to languish. Without a statewide law, it has been left to the municipalities to step up to the plate. Fifty-one municipalities in Pennsylvania have ordinances prohibiting discrimination on the basis of sexual orientation and gender identity; none are in Westmoreland County.<sup>8</sup>

<sup>7</sup> Frankel, Sims: Supreme Court Ruling shows need for Pa. Fairness Act. (June 4, 2018).

<sup>8</sup> City of Philadelphia (1982 SO, 2002 GIE), City of Harrisburg (1983), City of Pittsburgh (1990 SO, 1997 GIE), City of York (1998), City of Lancaster (2001), City of Allentown (2002), Erie County (2002), City of Erie (2002), New Hope Borough (2002), City of Scranton (2003), Swarthmore Borough (2006), West Chester Borough (2006), City of Easton (2006), Lansdowne Borough (2006), State College Borough (2007), Allegheny County (2009), City of Reading (2009), Doylestown Borough (2010), Lower Merion Township (2010), Borough of Conshohocken (2011), Haverford Township (2011), City of Bethlehem (2011), Springfield Township (2011), Newtown Borough (2011), Whitmarsh Township (2011), Jenkintown Borough (2011), Susquehanna Township (2011), Cheltenham Borough (2012), Abington Township (2012), Upper Merion Township (2012), East Norriton Township (2012), City of Pittston (2013), Bristol Borough (2013), Downingtown (2014), Ambler Borough (2016), Dickson City Borough (2016), City of Wilkes-Barre (2016), Carlisle Borough (2016), Kennett Square Borough (2017), Phoenixville (2017), Royersford (2017), Camp Hill (2017), Mt. Lebanon Township (2017), Stroudsburg (2017), Narbeth Borough (2017), Upper Dublin Township (2017), Plymouth Township [Montgomery County] (2018), Bridgeport Borough (2018), Hatboro Borough (2018), Norristown Borough (2018), West Conshohocken Borough (2018).



Shirley McMarlin wrote in the June 7, 2018, edition of the *Tribune Review* that the LGBT community does not feel the same sense of acceptance in Westmoreland County as they do in Allegheny County. Rick Marsili, founder of Connections Counseling of Western Pennsylvania, which provides specialized services for LGBT people in its Greensburg office, described to McMarlin his recent experience with discrimination in Greensburg:

*“At my house, I had a pride flag hanging from the porch and people came in the middle of the night and cut it in half, obviously with a razor. They put the half they cut off in the yard with a stake through it.”*

Jim Galik, a worker with the Westmoreland LGBT Interfaith Network told McMarlin that Westmoreland County needs an anti-discrimination ordinance like Pittsburgh and Allegheny County. “We’re not going to have economic growth or progress if people don’t think they’re being treated fairly.”

And isn’t that the bottom line: treating people fairly. It’s not about politics or which party wins the argument; it’s about fairness in the workplace, housing, and life.

Recognizing the importance of equal rights for the LGBT community, Governor Wolf, on August 6, 2018, formed the only statewide commission on LGBT Affairs of its kind in the United States. He is hopeful that the commission will encourage the Legislature to pass the Pennsylvania Fairness Act, which would include sexual orientation and gender identity in the types of discrimination currently banned statewide in the workplace, housing, and public accommodations.

While gay and transgender Pennsylvanians wait for the state or federal government to treat them fairly, they will have to choose their state or municipality of employment based on the laws in effect and hope that the protections offered are not torn away by court interpretation. As Rep. Cicilline said when introducing the Equality Act of 2017 to the House:

*“Fairness and equality are core American values. But millions of LGBT Americans are still viewed as less than equal in the eyes of the law today. This bill ensures that every LGBT person can live their lives free from the fear of discrimination. Above all, it’s about honoring the values that have guided our nation since its founding.”* ■

## Actions of the Board

### AUGUST 16, 2018

- Accepted Mike Rouch as an associate member.
- Agreed to pursue the increase of Sheriff’s Sales advertising to \$275 from \$225.
- Reviewed feasibility study submitted by Architect Lee Calisti for possible purchase and renovation of AAA building.
- Agreed to obtain bid for renovation of WBA headquarters for September board meeting. Agreed to ask for additional sketches of the AAA building.
- Authorized Treasurer or President to sign the 990 return for 2017.
- Agreed to appoint Imogene Cathey to LLS board.
- Agreed to review furniture proposal as part of the Pa. Insurance Trust Grant for the September board meeting.
- Agreed to look at Greensburg Country Club and the availability for December 1 for the location of the holiday dinner dance.
- Agreed to continue to waive charges for member use of the WBA building for Masters Hearings.
- Agreed to send a test email to each member asking that they verify each email with a reply in the subject line. For any member who does not reply, the board agreed that the staff should phone them to verify the correct email.
- Asked that the WBF consider advertising the Scholarship Award ceremony to our members.
- Agreed to review confidentiality, check signing, and credit card usage policies at the September board meeting. ■

## save the date!

### October 22, 2019: Pennsylvania Superior Court Visit

A three-judge panel will sit at the Westmoreland County Courthouse. Open to the public.



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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**.*

### DECEMBER

- |  |  |
|--|--|
| <p><b>1</b> Holiday Dinner Dance &amp; Silent Auction, 6:30 p.m., Greensburg Country Club</p> <p><b>3</b> [PBI CLE] Criminal Law Update 2018, Noon to 4:15 p.m., 3S 1E</p> <p><b>4</b> [PBI CLE] Representing Physicians and Dentists 2018, 8:30 a.m. to 3:30 p.m., 6S</p> <p><b>5</b> [CLE] The Basics of Finance and the Importance of Coordinating Beneficiary Designations with Your Estate Plan, Noon to 1:15 p.m., 1S</p> <p><b>6</b> [CLE] Bridge the Gap, 9 a.m. to 1:15 p.m., 4E</p> <p><b>7</b> [PBI CLE] Guardianship Practice and Procedure-The Rules Have Changed, 9 am. to 12:15 p.m., 2S 1E</p> | <p><b>10</b> [PBI CLE] Wills of the Rich and Famous 2018, 9 a.m. to 1:15 p.m., 3S 1E</p> <p><b>11</b> Ned J. Nakles American Inn of Court, 5 p.m.</p> <p><b>12</b> [CLE] Death, Disability or Disbarment: Closing the Lawyer Practice, Noon to 1:30 p.m., 1.5E</p> <p><b>13</b> [CLE] Video Compliance</p> <p><b>14</b> [PBI CLE] Employee Handbooks 2018, 9 a.m. to 12:15 p.m., 3S<br/>Family Law Committee Holiday Open House, 4 p.m.</p> <p><b>19</b> Membership Committee, Noon</p> <p><b>20</b> Elder Law &amp; Orphans' Court Committees, Noon<br/>Board Meeting, 4 p.m.</p> <p><b>25</b> Courthouse closed in observance of Christmas Day</p> |
|--|--|



### 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.



**WESTMORELAND  
BAR ASSOCIATION**

JOIN OUR  
ANNUAL HOLIDAY  
GATHERING  
&  
RETIREMENT  
RECOGNITION OF JUDGE  
ANTHONY G. MARSILI



*Friday December 21, 2018  
4:30 - 6:30 PM*

*Lobby & Commissioners Meeting Rooms,  
Westmoreland County Courthouse*

**Complimentary appetizers & refreshments**

RSVP is greatly appreciated  
[westbar.org@westbar.org](mailto:westbar.org@westbar.org) or 724-834-6730

# The Basics of Finance and the Importance of Coordinating Beneficiary Designations with Your Estate Plan

— LIVE — 1 Substantive Credit Available



An accredited provider for the PA Board of Continuing Legal Education

This continuing education session will focus on techniques to help your clients efficiently and effectively accumulate and distribute their wealth.

## Topics of Discussion:

- \*The Most Productive Ways to Save for Retirement.
- \*Tax Efficient Investing
- \*Ensuring your Beneficiary Designations Compliment your Estate Plan
- \*Introduction to Holistic Wealth Planning



## Speakers:

- \***Michael J. Passalinqua, CFP®**  
PWA Wealth Management
- \***Keith Biskup**  
PWA Wealth Management

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

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

**December 5, 2018**

## **The Basics of Finance and the Importance of Coordinating Beneficiary Designations with Your Estate Plan**

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

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

### **Pre-Registration Fees**

#### **CLE Credit:**

- WBA Members - \$35 per credit hour
- Non-Members - \$55 per credit hour
- CJE Credit - FREE

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

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

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

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm December 4, 2018.**

**Wednesday,  
December 5, 2018  
12:00 pm - 1:15 pm  
WBA Headquarters**

Seminar Fees:

### **PRE-REGISTRATION:**

(Must be prepaid & received at the WBA office by 12 pm December 4, 2018)

#### CLE Credit

WBA Members - \$35 per credit hr.

Non-Members - \$55 per credit hr.

#### Non-Credit

\$10 Flat Fee

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 Fee

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.

**Thursday,  
December 6, 2018  
9:00 am - 1:15 pm  
WBA Headquarters**

**Seminar Fees:**

**PRE-REGISTRATION:**  
(Must be prepaid & received at the WBA  
office by 12 pm December 5, 2018)  
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](http://www.westbar.org)  
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arrangements are needed for the disabled,  
please contact the WBA Office at  
724-834-6730, or  
by email at [westbar.org@westbar.org](mailto: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 by their first CLE compliance

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

**PROGRAM FORMAT**

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

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

**Moderated by:**

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

**Four (4) ETHICS Credits are available toward your annual CLE requirements.**

You may pre-register for this seminar by visiting the [westbar.org](http://westbar.org) website. You must "LOG IN" to register.  
OR submit the form below.

**Bridge the Gap — December 6, 2018**

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

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

Address: \_\_\_\_\_

Email: \_\_\_\_\_

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

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Three digit security code on back of card \_\_\_\_\_

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

- I am a Newly Admitted Attorney, WBA Member — **FREE**
- 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 5, 2018.**

# Death, Disability or Disbarment: Closing the Lawyer Practice



— LIVE — 1.5 Ethics Credit Available

An accredited provider for the PA Board of Continuing Legal Education

## Topics of Discussion:

1. Disciplinary Board overview of applicable law.
  - ▶ Disabled
  - ▶ Disbarred
  - ▶ Death
2. Real life problems encountered by conservators.
3. View from the Bench.

### **Speakers:**

- \*Debra L. Cribbs, Esquire
- \*James A. Horchak, Esquire
- \*The Honorable Anthony G. Marsili
- \*Angelea Allen Mitas, Esquire
- \*Denis P. Zuzik, Esquire

One (1.5) Ethics Credit is available toward your annual CLE requirements.

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

**December 12, 2018**

## **Death, Disability or Disbarment: Closing the Lawyer Practice**

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

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

Phone \_\_\_\_\_

### **Pre-Registration Fees**

\_\_\_ WBA Members \$52.50

\_\_\_ Non-Members \$82.50

\_\_\_ CJE Credit - Free

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

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

Card # \_\_\_\_\_

Expiration Date \_\_\_\_\_ 3-digit code \_\_\_\_\_

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

### **Non-Credit:**

\_\_\_ \$10

\_\_\_ 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, 2018.**

**Wednesday,  
December 12, 2018  
12:00 pm - 1:30 pm  
WBA Headquarters**

### **Seminar Fees:**

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

(Must be prepaid & received at the WBA office by 12 pm December 11, 2018.)

#### **CLE Credit**

WBA Members - \$35 per credit hr.

Non-Members - \$55 per credit hr.

#### **Non-Credit**

\$10

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

Waived for Young Lawyers (practicing 10 years or less)

Lunch will be provided.

[Westmoreland Bar Association](#)

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Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

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

# CLE Compliance Period Seminar

— LIVE — 3 Substantive & 1.5 Ethics Credit Available



An accredited provider for the PA Board of Continuing Legal Education

## Session 1— 1 Substantive Credits

9:00 am – 10:00 am (Video from 6/14/18)

### Nuts & Bolts of DUI Ignition Interlock

- \*What an Ignition Interlock is & how it works.
- \*The effectiveness of Ignition Interlock.
- \*Client's requirements for Ignition Interlock
- \*What happens at install and monthly service appointments.
- \*Fees incurred by client.
- \*Act 33 - Current & upcoming changes in 2018.

#### Speaker:

\*Kathleen Riley  
Smart Start

## Session 2— 2 Substantive Credits

10:15 am – 12:15 pm (Video from 5/12/17)

### Mental Health Impacts on Children & Adults

\*The "Mental Health Impacts on Children & Adults" training will cover several areas of focus around how mental health can have an impact on the families served through the Family Court Dependency and the Child Welfare systems.

#### Speakers:

- \*Marie Wolf-Hatalowich, LSW, King & Associates, Inc.
- \*Dr. Paul Niemiec, LPC
- \*Laurie Barnett Levine, LSW

## Session 3— 1.5 Ethics Credits

12:30 pm – 2:00 pm (Video from 10/11/18)

### Preserve the Confidentiality of Your Client

#### Data

- \*Proper Redaction Techniques
- \*Protection of Your Unredacted Data

#### Speakers:

\*Stacey Ivoll  
Vice President, Privacy/Data Breach Unit  
INtegrty First Corporation

### December 13, 2018 Video Compliance

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

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

Phone \_\_\_\_\_

#### Pre-Registration Fees

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

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

\_\_\_ CJE Credit - Free

#### Non-Credit:

\_\_\_ \$10

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

#### Sign me up:

\_\_\_ Session 1 - 1 substantive credits

\_\_\_ Session 2 - 2 substantive credits

\_\_\_ Session 3 - 1.5 ethics credits

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

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

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

To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm December 12, 2018.**

**Thursday,  
December 13, 2018  
9:00 am - 2:00 pm  
WBA Headquarters**

#### Seminar Fees:

##### PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm December 12, 2018.)

##### CLE Credit

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

##### Non-Credit

\$10

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

Waived for Young Lawyers (practicing 10 years or less)

Lunch will be provided.

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# SAVE THE DATE

**Mark your calendars and plan to attend the**

## **Inaugural**

## **Westmoreland Bar Association**

## **Technology Summit\***

**Wednesday, February 27, 2019**

**Location: The Westmoreland Museum of American Art**  
**Greensburg, PA**

**\*Lunch**

**\*3 CLE Credits**

**\*Vendor Show**

**\*Reception**

**One low price for WBA Members**

**More details to follow after the first of the year**

**\*Rule 1.1 of the Rules of Professional Conduct (Competence) states:** "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. **Comment 8 to Rule 1.1:** To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology..."